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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

SENATE—*Thursday, October 17, 1991*

(Legislative day of Thursday, September 19, 1991)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL SIMON, a Senator from the State of Illinois.

PRAYER

The chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us devote a moment of silent prayer for the recovery of Dave Marcos, assistant executive clerk, who has suffered a heart attack.

*Bless the Lord, O my soul: and all that is within me, bless his holy name. Bless the Lord, O my soul, and forget not all his benefits: Who forgiveth all thine iniquities; who healeth all thy diseases; Who redeemeth thy life from destruction; who crowneth thee with lovingkindness and tender mercies * * *.*—Psalm 103:1–4.

Gracious God, our heavenly Father, we pray for a special visitation of healing love—not only in the Senate but in the Nation. These last few days have left many deep wounds—not just Professor Hill and Judge Thomas, but many in the Senate and among the people. Your Word declares, "If any man offend not in word, the same is a perfect man. * * *" None of us is perfect, and words spoken out of deep emotions often hurt deeply. In love may those wounds be healed. May forgiveness be sought and given. Bind us together, Lord, bind us together in love.

In His name who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 17, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL SIMON, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SIMON thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that under the previous order the Journal has also been approved?

The ACTING PRESIDENT pro tempore. The leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, this morning there will be a period of morning business not to extend beyond 12:30 p.m. Five Senators are to be recognized to address the Senate for specific times under a previous order. At 12:30 p.m. today, the Senate will vote on a motion to invoke cloture on the motion to proceed to S. 596, the Federal Facilities Compliance Act. If cloture is invoked, I hope that we will then be able to adopt the motion to proceed and begin consideration of the bill and any possible amendments to that bill.

Therefore, following the cloture vote, if cloture is invoked, and if we are able to proceed to the bill, Senators should be aware that other votes will be possible on various amendments to the bill.

THE FEDERAL FACILITIES COMPLIANCE ACT

Mr. MITCHELL. Mr. President, I would like to speak just briefly about the Federal Facilities Compliance Act since it is a measure of which I am the author.

Most Americans today would be shocked to learn that the Federal Government is not subject to the same enforcement of environmental laws which the Federal Government imposes on others, yet that is the case. Although I believe the law is clearly to the contrary, some courts have held that the Federal Government is not subject to the same laws which it imposes on others. I believe those court decisions to be incorrect. But it is now imperative that legislation be adopted to make that clear beyond any doubt.

I am very sorry to say that the Bush administration opposes this legislation, and I am very sorry to say that our Republican colleagues have refused to permit us to even bring up the legislation and have required that we proceed to invoke cloture on a motion to proceed to the bill. I regret that very much.

I encourage all Senators to vote for the cloture motion on the motion to proceed so that we can begin consideration of this bill. If the administration, or if some Senator does not like a particular provision of the bill, then, of course, he or she has the perfect right to offer amendments to change those provisions or to modify or improve them in any way that the Senator feels appropriate. But to simply say that we cannot even consider a bill which has such a straightforward and, I believe, appropriate objective is most regrettable.

So, Mr. President, all of those Senators who represent States in which there are Federal facilities located—and I think that is most States—ought to be aware that the citizens of those States ought to have the right to demand that those Federal facilities comply with the laws which apply to all other citizens in our society, which

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

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apply to private businesses, private individuals, State and local governments, and other entities.

That is the essence of this bill. It is an important bill. It affects the lives of millions of Americans, particularly those who live near Federal facilities which, unfortunately, have a long and sorry record of compliance with those laws. So I hope that my colleagues will join me in voting for cloture on the motion to proceed and then in supporting the bill once it is brought to the floor for a vote.

Mr. DURENBERGER. Will the leader yield?

Mr. MITCHELL. Yes, I certainly will.

Mr. DURENBERGER. Mr. President, despite occasional appearances to the contrary, the majority leader is a very patient person, and I rise only to clarify that if there was any implication all Republicans were standing in the way of this bill, a number of people on this side of the aisle have at various times supported the majority leader's efforts to get this bill passed. At various times the House counterpart was hung on the Department of Energy bill, making that very difficult to pass through here.

So I say to my colleagues, certainly on the Republican side of the aisle, that there have always been objections from the administration to this bill. The majority leader and those of us who have supported him in this effort have worked very patiently, as the majority leader is working right this minute, to bring this bill to the floor with agreed-upon amendments. I think right now the burden is on the administration, not on the majority leader, the author of this bill, to deal with the final roadblocks that are in the way so that everyone in the body can vote for cloture and can vote this bill out of here this afternoon.

Mr. MITCHELL. Mr. President, I want to make clear I did not intend that implication, and I thank my colleague for his statement and clarification. The bill has more than 50 cosponsors including several Republican Senators. The problem has been, frankly, the administration's objections and foot-dragging. We have been at this bill for several years. It has passed the House three times by overwhelming margins, been reported twice out of the Senate Committee on Environment and Public Works by, I believe, a unanimous vote, the last time being 5 or 6 months ago, at which time I was asked specifically by the Senator from Minnesota, the senior Senator from Virginia, and others, if I would withhold bringing the bill to the floor for a period of time—and we discussed it for about a month or so—to permit discussions with the administration to see if we could resolve the matter.

I agreed. Not only did I hold it back for a month, but I held it back for almost 6 months. But I am sorry to say, Mr. President, that the administration has largely stonewalled the effort. Only now, at the very last minute—it is very clear only because I have now insisted bringing the bill to the floor—it is coming forward through other Senators as their spokesman to say maybe we ought to have this or that changed. Their discussions so far have effectively been stonewalling. Their proposals have been whatever one knew was unacceptable and had been deemed unacceptable over a period of many years before.

So I hope we can get the bill passed. I hope and expect that it will be with substantial Republican support because many Republican Senators are cosponsors of this bill. Every Republican Senator on the Environment and Public Works voted for the bill in the committee.

I hope we are going to be able to pass this bill at an early time, possibly today, or if not, as soon as all of the various amendments are considered.

I thank my colleague for his comments, and for his valuable help and support on this important legislation.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

The Senator from Pennsylvania [Mr. WOFFORD] is recognized for up to 20 minutes.

A RIGHT, NOT A PRIVILEGE: MEETING THE CHALLENGE OF AFFORDABLE HEALTH CARE FOR ALL AMERICANS

Mr. WOFFORD. Mr. President, back in his 1960 campaign, John Kennedy used to say, "My opponent tells you we never had it so good; I say we can do better."

Thirty years later that same choice faces America. But today the crisis that most threatens our future is not in some faraway place—not in Moscow, or Havana, or Berlin—but right here at home. That crisis is as near as the closest doctor's office. It is as frightening as a child's cry of pain.

It is a health care crisis that is bankrupting our families, our businesses, our communities and our whole economy. And the solution is not to be satisfied with things as they are, but to work and fight for change.

There is an old saying that if you have your health, you have got just about everything. But in our country today, it would be more accurate to say, if you need health care, you stand to lose just about everything.

Some people seem to think we have a pretty good health care system as it is. I disagree.

They should listen to the people I have been listening to. They tell a different story. They cannot wait while this administration decides if they should do something to make health care more affordable and available.

On a visit to Philadelphia's Methodist Hospital recently, I spoke with a young woman in a wheelchair named Linda Sherk. She is a 24-year-old Lancaster resident who dropped her insurance coverage because she could no longer afford it. She had to wait a year and a half to have a disc removed from her back so that she could save up enough money for the operation. Instituting national health insurance "is something that needs to be done," she told me. "A lot of people can't afford health care now."

What would this administration say to Linda Sherk? Almost 2 years ago in his State of the Union Address, the President pledged that his Domestic Policy Council would put forward a health care plan. We are still waiting.

And now the latest we hear from the White House is that we cannot have a health care plan until after the next Presidential election. What is the message to the millions of Americans who lie awake at night, afraid of being one accident, one illness, one injury away from ruin? Do not get sick before November 1992.

We spend some $650 billion a year on health care—that is more than twice the Pentagon budget. We spend $30 billion a year in Pennsylvania alone. Americans not only spend far more than other nations, costs are also rising at a much faster rate. If we continue on the present course, by the year 2000 we will spend an estimated $1.6 trillion on health care, or 16 percent of our projected gross national product.

No other industrialized nation pays as much of its income for medical care as we do. And yet we seem to be getting less and less for our money. In 1989, Japan spent $1,035 per person on health care; Germany spent $1,232; Canada spent $1,683. While we in the United States spent $2,354.

Think about that: We are the only major country—except South Africa—that does not have some kind of national health insurance system to make sure that everyone can afford to see a doctor when they are sick. But we still spend so much more.

The numbers are staggering—especially when you see what health care costs working families and employers. The average cost to business of health coverage jumped from $2,600 per employee to over $3,100 in 1990 alone. At the present rate of growth, the average health care premium will top $22,000 per worker in the year 2000.

The fact is that doing nothing is really a health-care inflation plan for the American people.

Businesses will pay more and will find it harder and harder to compete with foreign companies that do not

face such exorbitant health care costs. Chrysler estimates that health care costs the company $700 for every car it builds in the United States, but only $223 for every car it builds in Canada. No wonder we are losing jobs to Germany and Japan and Mexico.

As I found as Secretary of Labor and Industry in Pennsylvania, a growing number of labor disputes turn on the issue of who pays for health benefits and how much—and whether there is any room left for a wage increase.

There is a good reason for this: What American businesses spend on health services today is about equal to their entire after-tax profits. That is double the amount of only a decade ago.

The New York Times recently reported that 3 of 10 workers say that they have stayed put in a job they wanted to leave because they were afraid of losing health insurance benefits. This kind of job lock is hostile to the core American value of economic opportunity and upward mobility. It also means that our Nation's work force is less flexible, and therefore less productive, than those of our competitors.

I have also witnessed, in our Pennsylvania Job Centers, how so many people are afraid to move off of welfare into the work force because they will lose Medicaid coverage. These days an entry-level job rarely provides decent health benefits.

So it is not a matter of altruism, but simple economics: We cannot maintain the unfairness, inefficiency, and staggering expense of our current health care system.

Sometimes it seems as though the only place they do not know we have a health care crisis is right here on Capitol Hill. And so my call for action begins right here.

When a Member of Congress gets sick, he or she does not sit in a waiting room at a doctor's office. Members of the House and Senate can go to the Office of the Attending Physician of the Capitol. There they get free medical care, physicals, blood tests, x rays, lab work, even free prescription drugs.

But they do not get a bill or the half a dozen different bills most people get when they go to a hospital or clinic. It is unacceptable that politicians with free taxpayer-provided health care are delaying or opposing health insurance for working people.

That is why I have just introduced a bill to cutoff all the special health benefits for Members of Congress, until Congress passes a health plan for the country, because I think health care is a right for all Americans, not a privilege for the powerful.

Under my plan, Members of Congress will still be allowed to participate in the Federal Employees Health Benefits Plan, just as other Federal workers do. But until they pass a health care plan for working people, Members of Congress will no longer be able to live by the credit card company's slogan: "Membership has its privileges."

Once we put Congress in the same boat as the American people we will be amazed at how fast they can accomplish this bailout.

That is exactly what happened with the Social Security System. In 1981 Social Security was in deep trouble. In 1982, Congress included itself in the system, and in 1983, lo and behold, the Congress had put Social Security back on sound financial footing.

The next step, it seems to me, is to take action. And action Congress must take. There are certain principles that I believe must guide any plan to make health care affordable and available to all American families:

First. Health care must be recognized as a fundamental right. Our Constitution gives criminals a right to a lawyer. Working people should have the right to a doctor when they are sick.

Second. All Americans must be covered. We need to return to the American belief that programs must serve all the people, not just a targeted few. No one can be canceled, cutoff, or cut out.

Third. National health insurance must save the country money. Any acceptable system of national health insurance should save at least $50 billion a year in administrative overhead, duplication, redtape, and bureaucracy, money that is being wasted today.

Fourth. National health insurance must lower costs for our Nation's working families. Every time your family writes a check for health coverage, part of that check goes to pay for advertising, marketing, underwriting, and other nonpatient care costs. We must reduce those costs and pass the savings on to working families.

Fifth. National health insurance must lead to lower costs for businesses that already provide health insurance. Under the present system, thousands of responsible companies are picking up the tab for those who provide no health insurance. Including all employers will make the system fairer, as well as cheaper.

Sixth. National health insurance must embody the American values of freedom of choice and competition, and it must contain free market principles that improve the quality of care. People must have the right to choose their own doctor and hospital. The system must also have competition built into it to ensure good service and avoid do-nothing government bureaucracy.

Insurance companies must have a new role in a national health insurance system, a role in which they compete for customers based on the quality of the service they provide, and not on the quality of the jingles in their commercials.

Free market principles will raise the level of treatment people can expect. In throwing out the bathwater of inefficiency and skyrocketing costs, we do not have to throw out the baby of free-market choice as well.

Seventh. A national health insurance system must control medical inflation. Health care costs tripled from 1980 to 1990, and experts estimate that they will nearly triple again during this decade. Cost control is essential.

Eighth. National health insurance must address the need for long-term care. Older Americans today face policies which force them to spend their life savings in order to qualify for Medicaid-financed nursing care, and they must wade through a maze of co-insurance policies—many of them unnecessary—in order to feel secure about their coverage. A new system of national health insurance must provide a safety net for long-term care.

Ninth. The new system must use existing public resources more efficiently. Federal, State, and local governments already spend about $260 billion on health care—42 percent of all health care spending. In a comprehensive system, our Government dollars will be used more effectively, especially by focusing on low-cost preventive and routine medical care that the uninsured and underinsured often neglect.

Tenth. National health insurance must spread the burden fairly. A system built on the proven principles of Social Security and Medicare can work, but only if everyone pays their fair share. Under the current system, those with health insurance are paying more than their fair share to subsidize those with no health insurance. We cannot afford any more free riders.

Eleventh. There must be no new taxes on working families. We do not need them. We already have the most expensive health care system in the world. The most important reason we need national health insurance is to lighten the burden on working families. Taxing them any more would be unfair and unnecessary. These principles should guide policymakers as we develop a plan for national health insurance.

Let us turn now to the task of putting those principles into practice. Of course, the administration's Domestic Policy Council had 3 years to study the problem and take action; yet, it has done nothing fundamental about this problem. The government finds billions to help the Kurds and Kuwaitis, to bail out the S&L's and defend Western Europe and Japan. But when it comes to helping working Americans, they say the cupboard is bare. That attitude is proof positive that this administration just does not get it.

Our people know the problem is not that we spend too much for health care; we spend too wastefully. The people of Pennsylvania want to send a message to Washington. We want ac-

tion on national health insurance, and we want it now.

We in this Chamber need to hear that message and act on it. After about 160 days in this Chamber, I have come to realize what Bismarck meant when he said that making laws was like making sausage—it is a grinding process. Many good ideas have already been put on the table by my colleagues, and there will be more to come.

Today I propose seven key ingredients, in addition to the general principles I have just mentioned. I believe these form the heart and soul of a sensible plan for meeting America's health insurance needs:

First, any workable plan must eliminate unnecessary insurance company costs, such as marketing and underwriting. That is one of the reasons that Medicare delivers health care to millions of Americans with less than 3 percent of its cost used for administration, while private insurance companies waste over 12 percent of their cost on administration and overhead.

Second, medical inflation should be controlled by the establishment of a national medical expenditures board. The board would play much the same kind of role that the Federal Reserve plays in our banking system. In the same way that the Fed controls our money supply, a health Fed would help us control our investment in medical care.

Third, a successful plan should reform insurance practices and establish a system of qualified insurance carriers. In order to be a qualified insurance carrier, a company must accept all Americans who seek coverage; eliminate experience rating; cease the practice of canceling policies on people who get sick, and abolish the preexisting condition rule, which tells millions of Americans that when they need insurance the most, they cannot have it.

Fourth, a successful plan would require all insurance carriers to provide comprehensive benefits, including a substantial period of completely covered long-term care.

Fifth, national health insurance should put an absolute limit on out-of-pocket expenses, so that never again will an accident or an illness be a one-way ticket to the poorhouse.

Sixth, all employees should be required to participate.

Seventh, the system should be administered by a nonprofit corporation, which would deal directly with private insurance companies to maximize economies of scale and minimize duplication, waste, and redtape. Individuals and companies that are currently paying premiums to a host of different insurance companies, and so are required to wrestle with a myriad of different forms and requirements, would pay their premiums to a central corporation.

These 11 general principles and seven specific policies can serve as a guide to the fundamental reform we need.

To those who ask first what it will cost, I say they are asking the wrong question. The point is: How much will it save us, especially in the long run?

Let me say this more strongly: National health insurance must not require new Government spending or taxes on working families, because the problem is not that we spend too little; the problem is that we waste too much. But here is how we can spend $50 billion less than the $650 billion a year we are now spending.

Start with the $260 billion that Government already spends on health program, redirect it into our comprehensive system so we can get better care for the same amount of money. Second, add $50 billion cut from the defense budget, which even the President says he wants to cut by $40 or $50 billion. Together, these two sources alone would provide $310 billion, more than half the total cost of a national system.

That leaves $290 billion which would still come from businesses and individuals. That may sound like a lot. It is until you realize that they are spending $390 billion right now, $100 billion more.

Under the current system, families then have to spend about $215 billion a year in skyrocketing premiums, copayments, deductibles and bills for care that insurance companies refuse to cover. At the same time, American companies are paying about $175 billion to provide health benefits to their employees. That is, those companies which can still afford it. We could cut the amount that families spend by $95 billion; reduce the amount business as a whole spends by about $5 billion. Everyone would be spending less, and we could finance this plan without any new Government spending. But the result would be better health care, for more people, for less money.

In his inaugural address, President Bush surveyed our domestic challenges, wrung his hands and sighed: "we have more will than wallet." But in this instance we have too much wallet and too little will. Our challenge is to generate that will.

From Allentown to Aliquippa I have seen that will. We in this body need to discover that will, make it our own, seize this moment and turn national health insurance into an idea whose time finally has finally come.

Health care is a right, not a privilege. And it is time for us to turn that right into a reality for all Americans.

Mr. President, I want to take this opportunity to clarify the health plan I have outlined. I am proposing a national health system which would allow this country to save $50 billion on health care costs by cutting administrative waste, asking everyone to pay their fair share and improving the way we manage patient care.

Under our current system, as a nation we spend $650 billion on health services each year. After instituting the reforms I am proposing, we would spend a total of $600 billion and provide better care for more people for less money. In addition to the savings detailed above, I believe we can redirect about $50 billion in unnecessary defense spending to health care.

The $50 billion in defense savings and the $50 billion in reduced health costs would, under the system I am proposing, be passed on to business and working families who together would spend $100 billion less than they do now.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized for up to 20 minutes.

Mr. DURENBERGER. Mr. President, before I speak, I would like to advance the cause of this body and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 1836 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. GORE. Mr. President, I ask unanimous consent that the period for morning business extend not beyond 12:30 p.m. today.

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

WEAPONS PROLIFERATION

Mr. GORE. Mr. President, one of the main outcomes of the war with Iraq is our subsequent discovery—in a process which is still unfolding and expanding—of the staggering extent of that country's efforts to acquire the full panopoly of weapons of mass destruction: chemical weapons, biological weapons, nuclear weapons, and the means for their delivery including both ballistic missiles and the so-called superguns. The flip side of this discovery is that none of this would have been possible without the help of corporations in advanced industrial countries, operating under the nearsighted and often tolerant supervision of their governments.

With each discovery by the U.N. inspection teams, we are seeing the documented failure of every single mechanism established over the years to try to block the proliferation of these weapons. The Australia Group, which deals with chemical weapons; the MTCR which deals with ballistic missiles; the Zanger and London Groups, which deal with nuclear technology; the International Atomic Energy Agency, and evidently the world's major intelligence services—none of them was a match for Saddam Hussein and his oil money.

Perhaps the world will draw appropriate conclusions about what has happened and will move vigorously to block any such development in the future. Frankly, we cannot assume this will happen and it remains to be seen whether it will or not. Yes, there has been a flurry of activity, and some tightening here and there. For example, the Australia Group met last May and did some constructive things: Notably, by expanding the list of dual-purpose chemicals to be subject to special export control regimes. But time is passing. The anniversary of the Persian Gulf war has already been observed. And where is the new legislation some governments declared they were going to secure? Where are proposals from President Bush to deal with this problem of the exporting of technology, dangerous technology to countries like Iraq?

In this country and elsewhere, usually the legislative proposals are still hung up, blocked by political problems relating to other matters.

The greatest single danger is a return, given time, to business as usual and to collective denial of individual responsibility in this matter. Recently, the New York Times published a portion of a speech I gave here on the subject of Iraq and proliferation, in which there was a reference to the role of Switzerland as a source and conduit of technologies and materials for Iraq's various programs. It was one of a series of speeches, in a number of which I have singled out various countries that have participated in the proliferation of weapons technologies to Iraq. That particular speech, and the article which resulted from it, stung the Swiss and their Ambassador came to see me. To the credit of his government he did not deny the involvement of Swiss firms in providing assistance to Saddam Hussein, but, rather, attempted to put their activities and the responses of his government into context. Subsequently, the Ambassador wrote to the Times in a similar vein, and at the conclusion of my remarks I will include for the RECORD a copy of his letter. I ask unanimous consent to do so.

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

(See exhibit 1.)

Mr. GORE. The Ambassador's point is that Switzerland was not alone, and indeed might be better considered as a junior partner in what took place. I certainly understand his point. Other countries were involved. It is abundantly clear that our own country was involved, to a much greater extent than Switzerland. I also understand the problems inherent in seeking multilateral cooperation so that all exporting countries are exercising restraint. And I understand the problems involved in dealing with ambiguous, dual-purpose technologies, which may as well be used for peaceful as for destructive purposes. But in the last analysis, the only way out of this is for each nation to accept not only such culpability as there may be, but also to accept the responsibility to act alone rather than to defer action, pending multilateral agreement on export policy.

Ideally, national export legislation and controls should be approximately equal to each other in terms of their effectiveness in screening exports, deterring violations, and severity of action in case of violation. The multilateral agreements we have cobbled together are still consensual: They are not treaties; they are not enforceable. And, therefore, they cannot yet substitute for action by individual governments to make these transactions high crimes under each country's legal system; to devote the resources necessary to find those who have violated those laws or who are conspiring to violate them, and to punish the violators so heavily as to guarantee the personal ruin of those who are responsible, and to easily threaten the destruction of any enterprise so engaged.

In the course of taking these steps, we and other advanced industrial governments should be utterly deaf to the outrageous demands of various so-called developing countries who regard these constraints as infringements upon their sovereignty. We do not have to recognize the sovereign right of all governments to acquire weapons of mass destruction if they happen to have the talent and money to waste on that process. The spread of these technologies is manifestly a fundamental threat to the security of the advanced industrial nations and the entire world. In our own self-interest we should act to interdict the flow of these technologies, and the louder other governments protest, the more we will know that we are on the right track.

What is needed ultimately are binding international covenants, similar in nature to the Nonproliferation Treaty, whereby advanced industrial nations undertake to make technologies available to others for peaceful uses, providing the recipients pledge to foreswear the military applications of these technologies, under conditions which can be monitored and verified, by highly intrusive means to the degree necessary. This is particularly necessary in light of the problem of dual capable technologies and materials. The only way to permit international commerce in these products—without accepting the inevitability of further profliferation—is to enforce inspection of end use, to assure that only peaceful applications are made. I would add also that suppliers groups focused on different aspects of proliferation need to be expanded so as to make full members out of not only the Soviet Union but also of key Republics of the former Soviet Union, some of which inherit significant manufacturing and technological assets against the background of desperate financial need.

The alternative to radical surgery of this kind is the further spread of the cancer. We have to learn from our experience. Had Saddam Hussein not backed himself into war, had he laid low and continued his operations for a year or two or three, we would be confronting a nuclear armed, totalitarian state, with the credible ability to annihilate countries hundreds and perhaps thousands of miles from its borders. Whether such a mentality as Saddam Hussein's could be deterred by the likelihood of the reciprocal annihilation of Iraq cannot be known. But there is reason for doubt. He and his supporters might be just as blind to the risks, and just as ready to gamble at that future time as they were a year ago. Perhaps even more so.

That kind of risk is so intolerable that the mind shies away from its consequences. And time is not an ally of those who believe we cannot avert our eyes and must take action. Other concerns take over. Attention is diverted by new crises. Those with political or commercial interests to protect will use this time to lobby against new constraints. And even though the threat is mortal, governments just barely awakened to the reality of the danger may yet again be distracted into inattention and lulled into forgetfulness.

I can think of only one way to push this process and that is to invoke public opinion, and the only way that I can think of to do that is to release as much information as we have on those corporations that were willingly complicit in the Iraqi effort, whether they are in Switzerland or the United States or Germany or Great Britain or France or Italy or wherever, or China—in every country, every company that was sufficiently dull-witted to sell dual-purpose materials and technologies to a customer whose objectives any but the witless and the greedy ought to have suspected.

The director of the IAEA has already said that the inspection process and the subsequent analytic effort is revealing a global network of suppliers, and that in his view, the correct approach to this information is—having first screened out the innocent—to treat the remainder transparently; to let the light shine in; to make it pub-

lic; to expose corporations and corporate leaders who would deal in mass death, in apocalypse, in the destruction of entire nations, for profit.

Why not make it public? Let us see the names of the corporations who were willing to sell this technology to a madman, intent on threatening and destroying his neighbors.

Unfortunately, the IAEA does not feel enabled—given the ground rules established for it by its Board and by the Security Council—to release this information publicly itself. Instead, as it completes the work of assessing the information at its disposal, the IAEA will release that product to governments on a filtered basis: To each government that asks, a list of its own corporations. That may be all that the IAEA can do, but it is drastically inadequate. Any information available to the U.S. Government should be released publicly at once.

Governments are not compelled to ask for information. Having received information, they are not compelled to release it, and some governments, such as that of Great Britain, are clearly opposed to publication because of a fear of severe embarrassment.

Mr. President, I do not have this on official authority, but I am told the Swiss, as one nation, are prepared to be in favor of releasing all this information publicly. I would like to see President Bush take the position that the information on which corporations have sold technologies of mass destruction to Saddam Hussein, the information gathered by these inspectors who risked their lives and were impounded in the parking lot there, be made public for all the world to see. That way we will get a little pressure on the corporations that are selling this technology of mass death; that way we will get some effective pressure to stop this kind of proliferation activity. If they want to make a buck on the possibility of slaughtering hundreds of thousands and tens of millions, then let us expose it to public view and let us see if they want to continue that activity knowing that it is going to become public. It is exactly embarrassment and severe embarrassment that is needed. All governments should be urged to divulge this information and let the chips fall where they may. Ideally, the information should be divulged in its totality on instructions from the Security Council.

I call upon President Bush to take the lead in this matter. And may I say, Mr. President, that I am proud to join my colleague, Senator MCCAIN, in signing a letter, which he took the initiative to draft, to the Secretary of State urging him in this direction. I commend my colleague for his initiative. We must make this information public. To do less is to allow those who were exposed when we lifted up the rock they were hiding under to escape to other shelter. Pending the slower progress of efforts to strengthen national law and improve mechanisms for multilateral coordination among exporter States, exposure of those whose greed could take humanity to the gates of hell and beyond is the nearest, most effective means of self-defense at hand, and it must be used.

Mr. President, I yield the floor.

EXHIBIT 1

SWISS PLAY SMALL ROLE IN IRAQ ARMS DEALS

To the Editor:

In "Defeating Hussein, Once and for All" (Op-Ed, Sept. 26), Senator Al Gore labels Switzerland, among other things, a "well-known haven for arms dealers and proliferators."

It is true that a few companies were found to deal, in violation of Swiss law, with Iraq. Their numbers, however, are far fewer than those in other Western nations. Moreover, indictments were made after each disclosure of unauthorized or shady deals, and a series of legal actions were undertaken well before the imposition of complete sanctions by Switzerland on Iraq in August 1990.

Therefore, I was most surprised that my country had been singled out so as to give the impression we were especially involved in such transactions, when the Swiss have at most been the junior partner of more intimidating powers. I understand that Senator Gore's article, in fact a speech on the floor of the Senate, is part of a series on this same matter, in which he targeted different countries that have dealt with Iraq.

I welcome and commend Senator Gore's initiative to prevent the proliferation of arms and related technology, and I wish we all could learn from errors in this area to avoid repeating them. The Swiss Government has always felt that there needs to be better, more efficient international cooperation in such matters and is willing to increase its efforts in this direction.

EDOUARD BRUNNER,
Ambassador of Switzerland.

WASHINGTON, *October 7, 1991.*

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Louisiana [Mr. BREAUX] is recognized to speak for up to 10 minutes. The Senator from Louisiana.

REDUCTION IN THE CAPITAL GAINS TAX RATE

Mr. BREAUX. Thank you, Mr. President.

Mr. President, it is time for Congress to start listening to the people whom we represent. As is normal, the people are way ahead in their understanding of when something is wrong. Mr. President, in this case, the wrong is the economy of our country.

People all over the United States understand better than all of the economists in Washington that something is not right. They know that when both parents are working and they still cannot pay the house note that something is wrong. Families know that when one of them loses his or her job, our economy is not growing, but is stagnant. People know that when money is not available to start a new business, something needs to be done.

Unfortunately, once again, the people are ahead of most of the elected officials in this country. Is it any wonder why most Americans distrust elected officials to solve their problems when we are unable to even recognize their problems?

Mr. President, it is time to do something more than just to talk about our economic problems and hope that they go away. It is time for Congress to be bold and to propose solutions to get America moving again. The American people are looking to us for solutions and not excuses.

Shortly, I will be introducing a new approach to help stimulate our economy, new in a sense that it addresses one of the criticisms aimed at a reduction in the capital gains tax rate. My legislation will reduce the tax on capital gains in order to stimulate growth and create jobs and reduce our chronic unemployment.

My proposal is simple: Reduce the capital gains tax from the current 28-percent rate to 20 percent for assets held 3 years or longer; to 22 percent for assets held 2 years; and a 25-percent rate for assets held 1 year. Currently, our U.S. capital gains tax rates are among the highest in the entire world. Our major competitors—Germany, Japan, South Korea—either totally exempt long-term capital gains or tax them only lightly. When we talk about lack of competitiveness, one of the first targets must be removing the shackles of an unreasonable capital gains tax rate.

Some argue that a capital gains tax reduction would be a windfall for the very rich. Mr. President, the facts show just the opposite. According to the Internal Revenue Service, nearly three-fourths of all tax returns with capital gains had other income of less than $50,000 and less than 2 percent had other income of $200,000 or more. In addition, nearly one-half of all of the capital gains in dollar terms are received by people with wage and salary incomes of less than $50,000.

Mr. President, in a country where over the last decade middle-income people have suffered the worst of all groups, it is clear that we need to help middle-income taxpayers, and a capital gains tax reduction would do just that.

Yesterday, Mr. President, I voted for extending unemployment benefits for millions of unemployed Americans. It was the right thing to do, and it should have passed over the veto of the President. But make no mistake, unemployment compensation does not create new jobs for people out of work. It does not solve the problem of no jobs. It only puts a Band-aid on the cut. It does not cure the problem.

Mr. President, we need to do more. We need to create jobs, we need to encourage capital formation, and we need to encourage investment in new businesses that will create new jobs. When

we have savings and loans that are in trouble, when we have banks that do not lend, when we have insurance companies that are shaky, it is time that we act to ensure that economic growth and investment in America is not just part of our Nation's history, but rather part of America's future.

Mr. President, I believe that we have not acted on a capital gains tax reduction because no one can agree on whether such a proposal increases tax revenues or loses tax revenues. The Treasury Department tells us that it gains $12.5 billion between 1990 and 1995, but the Joint Tax Committee tells us that, no, it is going to lose $11.4 billion over the same period. Mr. President, that should not tie our hands and create paralysis.

My plan says, let us move forward, but let us do so with a safety net of protection, a safety net of protection in case it does, in fact, lose money. If the Treasury Department is right, we all win. More new jobs are created, more revenues are generated, and less deficits are the result. However, if it loses money, my legislation pays for any loss by creating a new fourth top rate of 36 percent on taxable income of $500,000, a half million dollars, or more. If such a rate was triggered by the loss of revenues, it would affect roughly 200,000 taxpayers out of 115 million taxpayers in this country. Mr. President, that is only two-tenths of 1 percent of the taxpayers in this country.

Mr. President, now is not the time to be timid. Now is the time for action. Let us not have to continue to argue about unemployment benefits. Let us act to create new businesses and new jobs and eliminate unemployment. My proposal should answer the question of what this proposal will do by providing the safety net of protection and the fairness that everyone, I think, should support.

Mr. President, I ask my colleagues to join with me in moving our economy forward by cosponsoring this legislation. I ask President Bush to join us in a bipartisan effort to solve what is a bipartisan problem. It is now time for Congress to move boldly with a plan that can, as President John F. Kennedy said, "stimulate a free flow of investment funds and facilitate economic growth, as well as provide more even-handed treatment of taxpayers across the board."

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wyoming is recognized for up to 15 minutes.

Mr. WALLOP. I thank the Chair.

THE THOMAS-FORTAS NOMINATIONS

Mr. WALLOP. Mr. President, on Tuesday evening the Senate finally voted, to the relief of the Senate and the American people, on the nomination of Judge Clarence Thomas to the U.S. Supreme Court.

No Senator is surprised by this Senator's view that the debate on this nomination seemed endless, and would probably have in fact been so had some on the other side of the aisle prevailed. The Senate must now try to reclaim some of its credibility by moving on to other legislative business and the energy bill would be an excellent option. But I would like to respond to the remarks of the majority leader in his closing arguments before the Thomas nomination vote.

The majority leader began his defense of the indefensible treatment of Judge Thomas by equating this travesty with the Senate's defeat of Justice Abe Fortas in 1968 when President Johnson attempted to elevate him to Chief Justice. The majority leader recounted that in June of 1968 Republican Senators publicly stated that they would oppose any nomination of a new Chief Justice before the 1968 election, arguing that whoever won the Presidency should select the new Chief Justice.

The majority leader, while noting that purely political statement, failed to mention that the retirement of then Chief Justice Earl Warren was a political move timed to ensure Lyndon Johnson the appointment of the next Chief Justice, so the Republicans' clearly political response was entirely understandable under the circumstances.

The leader equates those actions in 1968 with the Democrat majority today taking over 100 days to process the nomination of Judge Thomas, yet missed an important distinction: the opponents in 1968—Republican and Democrat—were honest and straightforward in their efforts to defeat Justice Fortas. The majority leader made a hypocritical pretense of giving Judge Thomas every fair consideration, taking 100 days to move the process forward; in fact giving their allies time to run a nationwide search for dirt and smut.

Further according to Senator MITCHELL, Abe Fortas was opposed in 1968 for reasons having nothing to do with his qualifications, and that, while searching for ammunition to use against Fortas, his opponents "uncovered some financial dealings which ultimately led to his resignation from the Supreme Court."

The majority leader finally noted that Republican Senators in 1968 shouted at Abe Fortas and demanded that he answer specific questions before the committee.

The analogy fails again, Mr. President. Any suggestion that the opposition to Abe Fortas was as scurrilous as the attacks on Clarence Thomas is absurd, and an historical reminder is in order: In 1968 Abe Fortas was accused of serious, continuing, probably criminal financial improprieties. Even Liberal author Bob Woodward, in his book "The Brethren," made no effort to defend Fortas: Abe Fortas was accused in a Life magazine spread of accepting a $20,000 payment from a millionaire named Louis Wolfson who was then under investigation by the Securities and Exchange Commission and who bragged that his friend Fortas was going to help him. Wolfson was later indicted and convicted, and Fortas returned the $20,000.

Wolfson later submitted to the Government documents showing that the $20,000 payment to Fortas from the Wolfson Foundation was not a single payment, but the first of lifetime payments to Fortas, which would continue to his widow for her lifetime. The Government had a copy of the contract specifying these lifetime payments to Fortas, and was about to obtain correspondence between Wolfson and Fortas dealing with the SEC case. These documents were shown to Chief Justice Earl Warren by Government investigators, and a few days later Abe Fortas resigned from the Supreme Court, at the urging not of Republicans but his fellow Justices.

The majority leader's moral equivalency fails as well in their effort to stop the Thomas nomination, the Democrats, their overly aggressive and in at least one case irresponsible staff, and their entire Nationwide Alliance for Justice, People for the American Way, National Organization for Women Leadership Conference on Civil Rights, NAACP Coalition, could come up with one sad individual to accuse Clarence Thomas of wrongdoing. One unsubstantiated claim of sexual harassment, corroborated in its commission or specificity by no one, denied passionately by the accused and dozens of his employees, associates and friends, and the majority leader implies this is on a par with the Abe Fortas accusations.

Last, and perhaps most offensively, the majority leader seemed to suggest that since some Republican Senators behaved badly and without civility or decorum in their treatment of Abe Fortas, the behavior of Democrats today is acceptable. Poppycock! Mr. President. Any Senator who abandoned common courtesy—then or now—should have his judgment condemned.

But let me return to the Thomas nomination specifically.

The majority leader argued that prior Presidents of both parties have sought nominees for the Court who combined excellence with compatible

political views, but that the search for excellence has now been abandoned. Such a patently absurd and inaccurate partisan gibe cannot stand: One of the most indisputably qualified, jurists to come before this body—Robert Bork—was denied approval by the Senate despite excellence and because of a perceived political ideology. When faced with the intellectual power of Robert Bork, his opponents hid behind accusations of arrogance and rigid ideology.

When faced with a qualified, articulate, conservative black like Judge Thomas, they found a new screen behind which to hide: inexperience or underqualification. But that failed, and a clear majority of the U.S. Senate was prepared 1 week ago to cast their votes in support of Clarence Thomas, so a new issue had to be found. Sexual harassment. It is all nonsense.

Judge Bork's taste in rental movies had little to do with either his ideology or his qualifications, yet his opposition researchers pored over that information looking for dirt. Clarence Thomas himself said he would not mind being defeated on ideological grounds but condemned his adversaries for attempting to destroy his character.

If, as the majority leader seemed to suggest in his jeremiad on abortion, Clarence Thomas' ideology would have been enough to defeat the nominee, then this whole sordid scandal would not have occurred. But his ideology was not sufficient, nor seemingly did the majority party wish to fight it or face defeat over it. Thus began the week of terror that came close to destroying two people.

What his opponents cannot accept is the role model of Clarence Thomas to all young people today, especially to minorities and the underprivileged of all races: You can achieve your goals, and you can advance your beliefs, and you do not have to comply with some unwritten rule about accepted behavior of blacks or other minorities or women or any other special interest voting bloc whose votes the Democrats have taken for granted for years.

That is what the majority party has most to fear from Judge—no, Justice, Clarence Thomas, a black man from the deep South and the depths of poverty and racism who did not need—in fact rejected—the patronizing paternalism of the liberal Democrat establishment and still made good.

So that led to claims that Clarence Thomas "lacks the experience and the ability that is essential to service on the Supreme Court." Yet last week, before a criminal leak to the press, enough Members of the Senate were committed to supporting Thomas to have ensured his confirmation. A majority of the Senate felt he was sufficiently qualified.

The majority leader asserts that sexual harassment is a serious charge, and indeed it is. But that harassment was never the decisive factor in his decision to oppose Thomas. Does anyone think he would have changed his vote had there been a clear resolution of that issue? No, sir. Last week the votes committed to supporting Thomas were greater than those finally cast Tuesday evening, so to some Democrats at least a wholly unsubstantiated accusation of sexual harassment did become the decisive factor. How is this fairness?

The majority leader asserted that the White House approved a "typical, and tragic" orchestrated campaign to attack and discredit Anita Hill, though the unsubstantiated 11th hour attempt to discredit Judge Thomas failed to elicit his similar sympathy. He asserted that properly skeptical questioning of Anita Hill turned into a search and destroy mission. In over 100 days of steady inquisition and nationwide search for dirt, the opposition failed to come up with anything more than Anita Hill, and with a mere weekend of hearings forced on the country by a majority party unwilling to graciously accept the inevitability of his confirmation, poor Anita Hill's credibility and poor Judge Thomas' credibility was severely damaged.

What the organized opposition failed to accomplish against Clarence Thomas was accomplished against Anita Hill, and not by George Bush, but by Clarence Thomas' visible and unshakable integrity and honesty, joined by a vast array of men and women of decency who know him and would not stand by and permit him to be smeared.

The majority leader asserted that "what happened to Professor Hill unfortunately sent a clear and chilling message to women everywhere: If you complain about sexual harassment, you may be doubly victimized." This Senator does not know what women the majority leader is speaking about or for. Every public opinion poll this Senator saw, from most of the major media outlets, showed, consistently, that a majority of Americans—black, white, male, and female, by at least 2-to-1 margins, believe Clarence Thomas and supported his confirmation.

This Senator finds that polling data at least as exhilarating as the vote to confirm Clarence Thomas—despite all we do in government to demolish such noble notions—the American people still believe in fair play. God bless them for it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WELLSTONE. Mr. President, I rise to support S. 596, the Federal Facilities Compliance Act of 1991, which I am proud to cosponsor. This is important legislation to close a major loophole in our national system of environmental protection—the failure of previous laws to ensure that Federal Government facilities meet the same Federal and State environmental rules and regulations as everybody else.

It is a tragic fact that many of our Federal agencies and facilities have been among the worst polluters in the Nation. In particular, the nuclear weapons plants managed by the Department of Energy, along with some of our other munitions plants and military bases, have contributed to enormous chemical and radioactive contamination of their sites and surrounding areas. Estimates of costs for cleaning up these facilities run into the hundreds of billions of dollars over the next several decades. There has obviously been a massive failure of our regulatory system.

I am reminded of similar failings in the Soviet Union and Eastern Europe which have received so much publicity. What happened in the defunct Communist systems of that region is not unlike what has happened here: government bodies were allowed to pursue their missions without any incentive to control their pollution. The result was an environmental catastrophe. The same thing would have happened in this country if we had not enacted the Clean Air Act, Clean Water Act, Solid Waste Disposal Act and other legislation to control toxic and hazardous wastes in the 1970's. The lesson is clear: unless there are checks and balances, unless there are controls on public as well as private parties, we will not get effective environmental protection.

The bill at hand is needed to clarify that Federal facilities must comply with the requirements of major environmental laws, including the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act [RCRA]. Courts have given conflicting rulings on the applicability of State solid and hazardous waste laws to Federal facilities under section 6001 of this act, and this bill clearly establishes that applicability. The bill also requires each Federal department or agency to make an assessment, within 12 months of enactment, of all releases of hazardous substances from any of its waste management units, in order to see if it is in compliance with all applicable Federal environmental statutes.

At the Federal level, the Environmental Protection Agency [EPA] must have authority to ensure that other Federal agencies are in fact in compliance with the laws it is charged to implement. This bill therefore gives EPA explicit authority to make a thorough annual inspection of each facility to see if it is in compliance with Federal environmental laws; and, if necessary, to take administrative enforcement actions against Federal executive departments or agencies, or against instrumentalities of the legislative or judicial branches. The record of these inspections must be made public. The public has a right to know if their communities are threatened by toxic substances.

Finally, this bill also waives Federal immunity under RCRA so that States can levy civil fines or administrative penalties under section 6001 against Federal facilities which violate their environmental laws. States are presently handicapped by lack of clear legal authority to enforce compliance with their laws. This provision simply puts teeth into State solid and hazardous waste laws which supposedly apply to Federal agencies.

I don't know of anyone who is opposed to this important legislation other than the Department of Energy and the Department of Defense, the two agencies whose facilities are in greatest need of cleanup. It would be a travesty to postpone this legislation since the cleanups of DOD and DOE facilities are already well behind schedule. We are playing politics with peoples' public health here—we are risking peoples' lives.

This bill has broad support and was reported out of committee by a 16–0 vote. The House of Representatives has already passed similar legislation by voice vote. It is time for the U.S. Government to live up to its own laws; otherwise how can we expect anyone else to comply? People are already cynical enough about public institutions without adding to it. It is time to set an example for the country and the world by enacting this crucial legislation.

TRIBUTE TO CARL WALLACE

Mr. SASSER. Mr. President, I rise today to pay tribute to a true Tennessee volunteer and a staunch defender of democracy, retired Maj. Gen. Carl D. Wallace.

General Wallace served with dedication and distinction for 16 years as adjutant general of the Tennessee National Guard.

During his tenure, the strength of the Tennessee National Guard increased by more than 2,000, and it has maintained 100 percent strength or better during the past 10 years.

General Wallace also served as president of the Adjutant's General Association of the United States from June 1977, until June 1979.

Mr. President, these marks of distinction are the capstone of more than 40 years of military service. General Wallace began his career in 1951 as an enlistee in the U.S. Air Force. Transferring to the Army, General Wallace trained as an artillery officer and was first assigned to the 47th Division Artillery, Fort Rucker, AL, and then, later, to the 189th Field Artillery Battalion, 45th Infantry Division in Korea. In 1975, he was appointed as 70th Adjutant General of Tennessee, and he received Federal recognition as a Brigadier General, adjutant general's corps, on February 4, 1977.

His awards and decorations are many, and include the Legion of Merit, Korean Service Medal with two bronze stars, and the United Nations Service Medal. His Tennessee awards include the Governor's Meritorious Unit Citation with two service stars and the National Guard Commendation Ribbon. He has also received the Distinguished Service Medal from the National Guard Association of the United States.

He has also contributed greatly in the civic arena, as a member of the Lions Club, the American Legion, the Veterans of Foreign Wars, and the National Guard Associations of the United States and Tennessee. He also served as State fund chairman of the American Heart Association and American Cancer Society of Tennessee.

In short, he has consistently striven for excellence, tempered with humanitarian values.

Prior to his retirement as adjutant general, Carl Wallace presided over the deployment and return of thousands of Tennessee men and women during the military operation in the Persian Gulf.

General Wallace's professionalism and his sensitivity to the unique needs of the families who were left tending the home front earned him the admiration and appreciation of all Tennesseans.

Mr. President, we wish General Wallace much success and happiness in his future endeavors.

EXPLANATION OF NOT VOTING

Mr. KERREY. Mr. President, today the Senate will hold a cloture vote on the motion to proceed to S. 596, the Federal Facilities Compliance Act. Unfortunately, I will unavoidably be absent from this vote, though if I were present for the vote, I would vote "aye."

OSBORN ELLIOTT'S CALL

Mr. MOYNIHAN. Mr. President, Osborn Elliott has always been a blessing to us. A former editor-in-chief of Newsweek magazine, deputy mayor of New York City, and friend of many years, he has worked throughout to urge on the public an awareness of the plight of our urban centers. I would like to bring to my colleagues' attention a piece he contributed to Newsweek last spring, and to a statement he gave at the U.S. Conference of Mayors this past August. Both are an urgent call for aid to our cities. Mr. President, we would do well to listen. I ask unanimous consent that the text of these articles be printed in the RECORD.

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

MARCH ON WASHINGTON

(By Osborn Elliott)

Now that the gulf war is behind us, it's time to start planning history's greatest March on Washington, a huge parade of protest by the cities of this land against a national government that has betrayed them. We live in an urban society. Yet, incredibly, our cities have lost their place on the national agenda. Brutal cutbacks in federal aid for schools, housing, food stamps, mass transit and social services have taken a terrible toll. The cuts were deliberate and their effects make daily headlines from Milwaukee to Miami:

A child left by her mother in the trunk of a car for lack of proper day care.

An army of inner-city dropouts honing their entrepreneurial skills by dealing drugs and dodging bullets.

A horde of young mothers and babies who are now the fastest growing group among our homeless millions.

"A Clockwork Orange" violence that has turned our streets and parks into killing fields.

It's high time that urban Americans, as well as suburbanites who depend on the cities for their daily bread, exercise their right "peaceably to assemble, and to petition the Government for a redress of grievances." In communities of 50,000 and in cities of many millions, governmental neglect has caused or worsened all these grievances. It is no concidence that homelessness has soared as federal subsidies for low-cost housing have been slashed by 80 percent. Since the late 1970s, the portion of state and local budgets picked up by Washington has slumped by one third. For New York City, that has meant the denial of more than $20 billion in federal funding over the last decade and $3 billion in the current year alone. That is exactly the size of the budget gap the city is now struggling to close.

No one claims that Washington should take on the whole burden of restoring urban America. Our cities and states, our great corporations and foundations, our academic institutions and our churches must do their part as well. So must ordinary Americans, who already give enormously of their time, effort and money. But all these cannot do the job alone; the federal government has a practical obligation and a moral imperative to assume a much larger role in helping to mend the frayed fabric.

Where should the marchers come from? From East and West, North and South, from cities and suburbs large and small. From San Francisco, where the pestilence of AIDS fights with the homeless for preference and priority. From sprawling Detroit and historic New London, Conn., cities whose downtown hearts barely beat anymore.

Who should join the protest? This march should be nonpartisan—for Democrats and Republicans alike are to blame for the cities' plight. The urban cutbacks started in the Carter administration, accelerated rapidly

under Ronald Reagan and continue with President Bush. And all the while, a Democratic Congress has acquiesced in the butchery. Now bankers and businessmen and labor leaders should join hands, just as they did when New York was threatened with bankruptcy 15 years ago, in this crusade for the cities. Civil groups—Lions and Elks, war veterans, chambers of commerce—should join the line of march. Teachers and students and parents should demand that our crumbling schools be restored. Church leaders should rally their flocks to express outrage about their decaying communities. Civil-rights activists should unfurl their banners and raise their voices against the continuing cruelties of urban discrimination and the pathological conditions of ghetto life.

LOVE-HATE AMBIVALENCE

Who should lead the parade? Given the love-hate ambivalence the country has always displayed toward New York, probably not New York or its mayor. Boston's Mayor Raymond Flynn, an expert on homelessness, who is soon to become head of the U.S. Conference of Mayors, is one likely candidate. So is Cleveland's energetic Mayor Michael White. Or Seattle's Norman Rice. Or Mary Moran of Bridgeport, Conn. Or Lee Cooke of Austin, Texas. Or Kurt Schmoke of Baltimore.

When should this great march take place? Late this summer.

A quarter century ago, when Martin Luther King Jr. rallied 210,000 people in search of "jobs and freedom," many months went into the planning of that event. A. Philip Randolph, president of the Sleeping Car Porters of America, had the idea to begin with, and $110,000 was raised to coordinate and run that march. Randolph reached out to Bayard Rustin, the leading intellectual of the civil-rights movement, to plan the enormous gathering down to the tiniest detail. Marchers were advised to bring two box lunches apiece (hold the mayonnaise, the instructions said, lest it go bad in the summer heat). In Washington, 26 public toilets were set up, each with facilities for up to 40 persons. There were 22 first-aid stations, staffed with two doctors and four nurses apiece. And thousands of District of Columbia police, National Guardsmen and volunteer marshals stood by to maintain order, if needed (they weren't). More than 1,500 chartered buses rumbled into Washington, and on the morning of the march 40 special trains pulled into Union Station at the rate of one every few minutes.

Similar detailed planning, probably over a span of four or five months, will have to go into the great Urban March on Washington. That would bring us to late summer 1991. As it happens, next Aug. 28 will mark the 28th anniversary of that glorious day in 1963, when Dr. King dreamed his historic dream. Not a bad moment for our cities to put on parade their own dreams, so long denied, and to regain their rightful place atop the list of America's most pressing priorities.

STATEMENT BY OSBORN ELLIOTT, U.S. CONFERENCE OF MAYORS, HYANNIS, MA

I am a journalist. For almost half a century I have picked my way through a thicket of opposing views in search of fairness and objectivity. I am neither Republican or Democrat.

Once before, I became politicized. That was in the 1960's, in the heyday of the civil rights movement, when I was the editor of Newsweek. I'm proud to say that Newsweek became America's leading journalistic advocate of civil rights.

Now I have become politicized once again. Why? Because that America of the 1960's, that America of our aspirations, has evanesced. Instead of setting high goals at home, our national government now locks its sights on foreign ventures. Instead of nurturing our cities and our children, it has betrayed them.

As a father, as a grandfather, as a lifelong New Yorker and former Deputy Mayor of that amazing city, I'm mad as hell.

The time has come for history's greatest March on Washington—a huge parade of protest by the cities of this country against the indiffience of our federal governmental. I want one million Americans on parade. And I want you, the mayors of America, to lead that march.

The goal is to put the cities of America, and the children of America, back on the national agenda.

The cutbacks in federal aid for schools, housing, food stamps, mass transit and social services have been brutal: since the late 1970's the portion of state and local budgets picked up by Washington has plummeted by one third.

For New York City this has meant the denial of almost $25 billion in federal funding—$3 billion in the current year alone. That is about the size of the budget gap that my friend David Dinkins has just painfully managed to close.

These cutbacks have devastating effects—from crumbling schools to deteriorating health to sharply rising numbers of homeless. Everyone suffers—and in many places young and old alike live at the edge of the abyss.

The problems are not confined to the inner cities. They extend to surrounding areas, to the suburbs, even to rural America. That's why this event should engage everyone: we are all at risk.

Who should join in this crusade for our cities and our children?

Civic groups must join the line of march—Lions and Elks, Kiwanis clubs, women's organizations, war veterans, chambers of commerce, even the Boy Scouts, the Girl Scouts, the Red Cross.

Teachers and students and mothers and fathers must march, demanding delivery on all those promises of a better education—so that America can compete in the world, and so that America's young people can find decent jobs with a real and fulfilling future.

Labor leaders must rally their troops and join hands with bankers and businessmen, just as they did 15 years ago when New York City was threatened with bankruptcy.

Church leaders and their flocks must denounce the indifference that causes their communities to decay.

Civil-rights activists must unfurl their banners and raise their voices against the cruelties of urban discrimination and the pathological conditions of ghetto life.

Doctors and lawyers, artists and merchants, farmers and pharmacists, civil servants and neighborhood leaders must all be heard.

You might call it a million points of protest.

This march must be nonpartisan, for Democrats and Republicans are both to blame for the neglect of our cities and our children. The urban cutbacks actually started in the Carter administration, accelerated rapidly under Ronald Reagan and continue with President Bush. And all the while, a Democratic Congress has acquiesced in the butchery.

When should the march take place?

Saturday, April 4th, 1992. That's right in the midst of the Presidential primaries. And not so incidentally, April 4th, 1992 is the 24th anniversary of the death of Martin Luther King, Jr.

Who should lead the protest?

That's where you majors come in. Imagine the drama of one million people from hundreds of American cities protesting against the government of the United States! Not just the big cities, like New York. Chicago and Los Angeles, but cities as diverse as Bridgeport, Louisville and Boise, as different as Brownsville, Elkhart and Reno. And for that matter, not just the cities themselves but those surrounding areas and suburbs that simply would not exist without the cities.

You and I know that our cities are the very heart of our civilization. And we know that our children are the only hope for our future.

So my plea to you, the majors of America, is to lead this great protest and force the Congress and the White House to take action against our sea of troubles. Thus will we begin to heal our heart. Thus will we begin to burnish our hope once again.

Join the March!

Save Our Cities! Save Our Children!

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,406th day that Terry Anderson has been held captive in Lebanon.

But I note that U.N. mediator, Giandomenico Picco, is again in the Middle East attempting to effect his release. Mr. President, I ask unanimous consent that an Associated Press report detailing Mr. Picco's most recent efforts be included in the RECORD at this time.

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

U.N. CHIEF SAYS HOSTAGE TALKS "MOVING FORWARD"

(By Peter James Spielmann)

UNITED NATIONS.—A U.N. envoy's efforts to arrange a trade of Western hostages for Arabs held by Israel is moving forward, Secretary-General Javier Perez de Cuellar said Thursday.

The U.N. mediator, Giandomenico Picco, held a marathon 20-hour session of talks in Lebanon with representatives of Lebanese kidnappers and returned to Damacus, Syria, on Wednesday, sources in Lebanon said.

One of the security sources in the Mideast characterized the talks as "tough and complicated," but would not elaborate on the substance of the session, which began Tuesday.

Following the talks, Perez de Cuellar appealed to all parties in the Middle East to cooperate and said the process was "moving forward."

It wasn't known if Picco would return to Lebanon for further talks on his present mission, which began Sunday with his arrival in the Syrian capital.

The sources said Picco was driven Tuesday in a convoy of four Mercedes limousines with Syrian license plates to Nabi Sheet, a village in Lebanon's Syrian-controlled Bekaa Valley 10 miles south of Baalbek. The sources refused to identify the men Picco met with there.

Nabi Sheet is the hometown of two senior officials of the pro-Iranian Hezbollah, which is believed to be the umbrella grouped for the kidnappers: Abbas Musawi, secretary-general of the group, and Hussein Musawi, his distant cousin.

Picco was accompanied by several plain-clothes Syrian security officers, who waited outside as he entered the house where the talks were held, the sources said.

Four groups have claimed the abduction of most of the nine missing Westerners—five Americans, two Germans, a Briton and an Italian.

The longest held hostage is American journalist Terry Anderson, who was kidnapped on March 16, 1985. Another Briton, Alec Collett, was kidnapped in 1985, but British officials say he is presumed dead.

Picco had returned to the region this week after holding separate talks in New York with Iranian Foreign Minister Ali Akbar Velayati and Uri Lubrani, the top Israeli involved in the hostage issue.

The Lebanese kidnappers are seeking the release of about 300 Arabs held in Israeli jails or at the Khiam detention center in the Israeli-occupied enclave in southern Lebanon.

Israel had demanded firm word on the fate of six of its soldiers missing in Lebanon.

Iran, eager to improve its relations with the West, has said it would use its influence with the kidnappers if Israel freed the Arab prisoners.

U.N. intervention in the hostage ordeal was requested by the kidnappers in a letter they sent to Perez de Cuellar via British television journalist John McCarthy, who was freed from captivity on Aug. 8.

American hostage Edward Tracy was freed three days later.

On Sept. 12, Israel freed 51 Arabs and repatriated the bodies of nine Hezbollah guerrillas, saying it was in exchange for receiving proof that one of its missing servicemen, Rahamim Alsheikh, was dead.

Jack Mann, a Briton, was freed on Sept. 24.

Alsheikh was captured in 1986 by Hezbollah guerrillas along with another Israeli soldier, Yossi Fink. Hezbollah has refused to say whether Fink is dead or alive.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12:30 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 596, Federal Facility Compliance Act of 1991:

George Mitchell, Daniel Patrick Moynihan, Quentin Burdick, Paul Simon, John D. Rockfeller IV, Terry Sanford, Max Baucus, Howard M. Metzenbaum, Edward M. Kennedy, Don Riegle, Frank R. Lautenberg, Alan Cranston, John F. Kerry, Albert Gore, Jr., Pat Leahy, Wendell Ford.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 596, the Federal Facilities Compliance Act of 1991, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY], is necessarily absent.

The yeas and nays resulted—yeas 85, nays 14, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—85

Adams	Exon	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Garn	Nickles
Biden	Glenn	Nunn
Bingaman	Gore	Packwood
Boren	Gorton	Pell
Bradley	Graham	Pressler
Breaux	Grassley	Pryor
Brown	Harkin	Reid
Bryan	Hatfield	Riegle
Bumpers	Heflin	Robb
Burdick	Hollings	Rockefeller
Burns	Inouye	Roth
Byrd	Jeffords	Rudman
Chafee	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Seymour
Craig	Kerry	Shelby
Cranston	Kohl	Simon
D'Amato	Lautenberg	Smith
Danforth	Leahy	Specter
Daschle	Levin	Warner
DeConcini	Lieberman	Wellstone
Dixon	Lugar	Wirth
Dodd	McCain	Wofford
Domenici	McConnell	
Durenberger	Metzenbaum	

NAYS—14

Bond	Helms	Stevens
Cochran	Lott	Symms
Dole	Mack	Thurmond
Gramm	Murkowski	Wallop
Hatch	Simpson	

NOT VOTING—1

Kerrey

The PRESIDING OFFICER. The yeas are 85, the nays are 14; three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MITCHELL. Mr. President, I note the presence of the distinguished Republican manager of the legislation and the Republican leader, and the distinguished Senator from Wyoming. I inquire at this time whether, in view of the vote just cast, it will be appropriate to proceed directly to the bill.

As we all know, under the rules, Senators in opposition to taking up this bill could utilize up to 30 hours to delay getting to the bill, which is of course their right. Were that to occur, we would obviously have to just remain in continuous session until we could get to the bill. I hope that we could proceed to the bill now. I merely use this opportunity now to inquire whether or not that will be possible.

Mr. WALLOP. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. WALLOP. Mr. President, as the majority leader well knows, there have been negotiations underway which could bear fruit. It is not my intention to delay ultimate consideration or deny consideration of this, but it is my intention to use some of those 30 hours to allow us to continue these negotiations.

My guess is that, in the long run, that saves time rather than expands it. But if not, ultimately we will have to go to the bill. I would like to use my right to some of that time for the purpose of allowing negotiations to be completed.

Mr. MITCHELL. Mr. President, that is, of course, the Senator's right, and I fully respect it. We will proceed then. Senators will have to utilize their time under the rules, and we will simply remain in session until such time as the time expires, and we can get to the bill.

If we are able to complete action on the bill tomorrow, it is not my intention that the Senate be in session other than—at least that there be no rollcall votes tomorrow. If we are not able to do so, then we will just stay in tomorrow and proceed as best we can.

Mr. WALLOP. Again, if the majority leader will yield, I have been talking to both majority and minority staff on the Senate Energy Committee. And it would appear that a negotiated settlement of the things in the committee is within reach. And if that is the case, I would let the bill go, if we got to that point.

But just to make certain that we have the ability to utilize that time and not get run over, I would again suggest to the majority leader that I would exercise my right and hope others would join me while those negotiations are underway.

Mr. MITCHELL. Mr. President, as I said, I understand that, and I respect that.

As the Senator from Wyoming knows, almost every Member of the Senate regularly inquires of me as to what the schedule is for the day and for remainder of the week, and I merely made that statement for that purpose so that Senators could be apprised of the fact that we will stay in session this week to try to complete action on this bill. Obviously, if we cannot, we will then discontinue and resume next week. But that includes tonight and tomorrow, to the extent necessary. I hope very much we will be able to resolve it in a way that ultimately we will be able to save time.

The Senator from Wyoming has indicated that he does intend to use at

least some portion of the 30 hours under the rule available for further debate on the motion to proceed. I understand that, and we will proceed accordingly.

Mr. DOMENICI. Mr. President, I think the distinguished majority leader, who has been involved in this effort of Federal cleanup, knows that the Senator from New Mexico may indeed represent one of the most affected States in the Union, and that does not mean that I oppose imposing of us, the Federal Government, what the distinguished majority leader wants imposed; to do as we make others do, as I understand it.

I just want the leader to know we are engaged—and I think it is very, very forthright and aboveboard, and leading toward some good conclusions—we are negotiating to, in some ways, help the bill. We are concerned about some parts of it in terms of how it will be implemented. Fines are imposed that go from one Federal pocket to another; fine the Government and put it in EPA's pocket. We are not too sure about how that works.

I want you to know that I do not intend to delay. But this is a very, very serious bill for some of us, and we want to try to make it even better than the majority leader's efforts, as they show up in this bill.

I thank the leader.

Mr. MITCHELL. Mr. President, I appreciate the concerns of the Senator from New Mexico, and I appreciate his contribution to the bill. I hope it can be satisfactorily resolved.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. SARBANES. As I understand it, it is the intention of the majority leader to keep us in session until we go on this bill; is that correct?

Mr. MITCHELL. That is correct.

Let me say, just so we can keep this in some perspective: First, to begin at the end, there are negotiations underway, and I believe and hope that they can result in a resolution of this that will permit prompt consideration and enactment of the bill. That is ultimately my objective.

To move back a little bit, to put it in perspective, I began this effort 5 years ago. This bill has passed the House three times by overwhelming margins, and has twice been reported unanimously by the Senate Committee on the Environment. This is a matter that is not of recent consideration. It has been under intensive consideration for some years.

When it passed the committee, the Environment Committee, earlier this year, I was asked at that time on the record by those who were concerned about some aspect of it, would I withhold bringing the bill to the floor for a period of time—and we discussed specifically a month—to permit negotiations to occur in the hopes of working it out.

I assented to that request, and in fact did not hold it up for a month, but several months—I think it is now 5 or 6 months—in an effort to do that. As so often happens, negotiations do not seem to take on an intensity until the matter is immediately before us. So we finally now brought it up, and I hope we can proceed to it.

I just want to say to my colleagues, this bill has a very simple purpose. All this bill says is that the Federal Government must abide by the environmental laws which it imposes upon others. And the enforcement of those laws will be the same as to the Federal Government as it is to others. In fact, I believe that the original law of some years ago provided for that.

The reason we are here is that courts have disagreed on interpreting that law. Some have said yes, that is what it meant; others have said no, that is not what it meant. So we are here now to clarify that and make it clear once and for all the Federal Government must obey the same environmental laws which it imposes upon States, municipalities, and private citizens.

I hope we are going to be able to work it out.

Mr. SARBANES. Will the majority leader yield further?

Mr. MITCHELL. Yes, certainly.

Mr. SARBANES. Well, of course, no one takes a negative view toward reasonable negotiation, negotiations that might reasonably work out differences. But the legislation is designed to accomplish certain purposes, and I am very frank to say to the majority leader, I do not think that the threat of delay ought to be used as a weapon in the negotiations to obtain adjustments that would otherwise not be seen as being reasonable and proper.

We can stay in session here for 30 hours and at 7 o'clock tomorrow night, when the time on this motion expires and we are on the bill, we can then face another filibuster on the bill, which is actually probably where this should have taken place, when you are actually dealing with the substance of the legislation at that point. But we are being subjected here, I guess, to a double filibuster. And it just seems to me at some point we just ought to say, well, fine, we will stay here and let the time run, and then we will get to the bill in the normal course.

I am not involved in those negotiations, and hopefully they address matters that can be reasonably reconciled appropriately.

I know the majority leader is very much involved in the substance of the legislation. But it seems to me that at some point we have to say, well, fine, people take that position. The procedures provide for the time running. The Senate is prepared to stay here and let the time run rather than have it used as a lever to obtain concessions that would not otherwise, in reasonable discussions, be appropriate.

I do not know where that point is, and we may not be there. But I just want to make that observation. This is a filibuster not on the bill itself. This is on the motion to even get to the legislation. I do not know how you are going to run the Senate if even just to get to a piece of legislation we have to go through this process. Maybe we ought to let the 30 hours run. I am prepared to be here in order to help to accomplish that purpose if it becomes necessary.

I understand it may not be necessary and perhaps the negotiations are dealing within the area of reasonableness. But if this process of just holding this thing up and putting everything into limbo in order to use it as a lever to obtain adjustments that would not otherwise reasonably be done on the basis of the substance is underway, I think we just ought to let the 30 hours expire.

I do commend the majority leader, at least, for his indication that it is his intention, in effect, to do that if we cannot resolve this situation in some other way.

Mr. MITCHELL. Mr. President, I thank my colleague. I wish to make clear two things. First, I have stated that we will, in fact, stay in session if necessary to get to the bill. But, second, it is my strong hope and my expectation that it will not be necessary to do so. There have been discussions. These are difficult issues. There are credible points of view involved on all sides.

The problem has been to get engaged in discussions. And as we all know, until we actually get a bill up and get to that point, it is hard to engage people in serious and intensive negotiations. But I believe we are at that stage. It is my very strong hope that we can work it out in a way that is responsible and that will permit us to pass the bill, hopefully today. So we are doing that.

I am going to yield momentarily to the Senator from Wyoming so that he may begin to utilize his time, even as I say I very much hope we can work it out. My staff has been engaged in such negotiations pursuant to my instructions, pursuant to an effort to arrive at a reasonable accommodation for all concerned.

I merely wanted to state my intentions so that all Senators would be aware of what the prospects will be for the next couple of days on this matter.

I am now pleased to yield to the Senator to use such time of his hour as he wishes, and hopefully the negotiations can continue.

FEDERAL FACILITIES COMPLIANCE ACT

MOTION TO PROCEED

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Wyoming is recognized.

Mr. WALLOP. I thank the majority leader. I find myself in an unusual position. I am not generally one who does spend time delaying the process of the Senate, figuring that the Senate itself provides for its own delays. But there are some serious matters that have not been wisely considered that are contained within this bill. I cast no aspersion on either the proponents of the legislation, its authors, or otherwise, when it has been said that it has been passed by large margins in the House twice and twice been reported by the Committee on Environment unanimously. That does not give this Senator, nor should it give the Senate, the American people, or their Congress a great deal of confidence. Because RCRA is only just becoming known to the American people.

There are enormous budget considerations to this bill, the likes of which cannot be forecast; not by OMB, not by CBO, and not by diviners looking into crystal balls.

Should States, exercising their rights to sue the Federal Government under RCRA, be granted funds? Who can determine, one, what the success rate of the States is going to be; and, two, where the money is going to come from? So this is not an issue about cleaning up mixed and hazardous wastes all by itself. It is a budgetary issue.

It is my belief and the belief of others that a budgetary point of order lies against this bill. It would be my preference not to have to do that because the fact of mixed and hazardous wastes in our States and within our country and within our borders is a serious business which needs addressing. But it ought to be addressed in a rational way which does not eliminate the ability of America, its States, its businesses, or its people to compete in the world.

Our Government is too expensive today to allow one element of our Government to engage another element of our Government in constant lawsuits and the payments of fines of taxpayers' money over which neither has any control. Clearly the poor, benighted taxpayer is the last amongst equals in this issue, whose money is wasted in lawsuits and fines. Appropriations that go to one Department for the purpose of cleanup are now denied that very Department from the funds committed to cleanup.

Where, Mr. President, is there logic in that? There has to be some better solution than to take the money devoted and appropriated for cleanup away from the agency obliged and committed to do that cleanup. It is bizarre, Mr. President. But I guess one has grown used, in this day of actions of Congress, to accepting the bizarre as the normal and accepting inefficiency and incompetence and mediocrity as the standard by which all other judgments and actions are taken.

But we do not have to do it, Mr. President. We absolutely do not have to do it.

Let me address what S. 596 is all about. It makes all Federal facilities subject to fines and penalties to be paid from the Federal Treasury for violations of RCRA. RCRA precludes land disposal of hazardous waste that has not been treated, and it also precludes the storage of such waste.

Problem No. 1: If you cannot store it and you cannot dispose of it, what in God's green Earth is one expected to do with it? What one is expected to do with it is pay a fine for possessing it, and that gets us nowhere near the cleanup, nor, frankly, does it resolve any of the problems.

The Department of Energy, the National Institutes of Health, the Veterans Administration, all of these agencies and others, too, generate mixed waste having both radioactive and hazardous components, and it is not accepted by commercial hazardous waste treatment facilities because of its radioactive component. Mixed waste requires a treatment technology different from hazardous waste. We have become rather skilled as a nation in the dealing with and disposal of hazardous waste.

The technology: Mr. President, here is where the problems come. The technology is being developed, but it does not exist at present for all forms of mixed waste. Go back to the premise of the bill: You are not allowed to store it and you are not allowed to dispose of it, but the technology of dealing with it does not exist. A fine comes, and where does that lead this Nation and what possible competent use of the taxpayers' dollar is encompassed in that action?

It is idiotic. It is a nation wrapped in navel gazing that cannot lift its eyes from its technology--like a fascination with immortality—to the reality of a world where there are some things we do not know how to do yet. So we fine ourselves for not knowing how to do it. We prohibit ourselves from doing it. And we are set up in S. 596 to do just that to ourselves.

How is there logic in that?

What happened to a country that prides itself on technology expertise and a certain modicum of practicality, a certain ability to deal with problems and commit our ingenuity and our technology to dealing with them, but at least managing to cope until we have arrived?

We are saying we cannot cope, so we will fine ourselves and we will fine ourselves out of the money devoted to trying to determine how to cope. We are a brilliant country that has chosen that solution, and it is no wonder that we are unable to compete with the Japanese and Germans in the marketplace because we waste our efforts—technological and scientific—our resources, and other kinds of things, on this silly kind of fadism that one element of Government can fine another element of Government and the taxpayer does not have to pay any of that. All he has to do is sit by and see his resources coming out of his or her pocket for which he or she has worked endlessly through many hours, and see it flowing back and forth between agencies of Government, through the courts, to accomplish what, Mr. President? To accomplish a delay in the very resolution of the problems that bring us to the introduction of such a bill.

As if it were not enough that no such technology exists, and if it were not enough that one agency of Government can fine the other, Mr. President, let me make a point, and let me ask the Senate which just voted to go right to the consideration of this bill, to question their judgment and not their passion for a moment, to slip out from under the bonds of green ratings that bring money for campaigns and other kind of things and look rationally at the problems that exist in America.

Mr. President, there are today no existing EPA regulations regarding mixed waste for which treatment technology does exist. How can we fine ourselves for circumstances which are beyond our ability even to formulate regulations, and yet that is precisely what this bill seeks to do.

What we are seeking to do, in the moments the negotiations are going on, is to provide some element of rationality to this process; that we deal with the problems and hazards of mixed waste not by postponing our ability in technology by denying them resources which we have already appropriated to them, but by proceeding with it and allowing ourselves the means by which we can resolve this problem.

Had Dr. Seuss had any idea of the idiocy of this program, as devoted as he was to the environment and the things in this Nation, he would have been able to concoct a series of characters, as he often did, the ironic inconsistencies of which confuse them inevitably and amuse us into thinking rationally on such a serious issue.

Mr. President, if it is not enough that the EPA does not have the regulations and that one agency of Government can sue another agency of Government, the States can sue the Federal Government under the terms and provisions of this under terms and conditions which they concoct within their own bounds.

Mr. President, there is no greater devotee of States' rights in the Senate, nor with a more consistent voting

record toward States' rights, than the Senator from Wyoming. But it ill behooves a Congress to try to yield the sovereign immunity of the United States to the States over rules and regulations and laws which have yet to be drafted or, if they have been drafted, can be used to sue the United States and levy fines and have the courts collect costs.

How, in an era of budget deficits, are we going to plan for what the courts will give to the States when we do not know the laws that they have, the regulations they possess or might promulgate or might yet pass? How can we sit here uniformly, Republicans and Democrats alike, and say what are we going to do about this deficit, and then toss into the hat something that could cost the Treasury billions for purposes about which we do not know and which will come out of the money to cleanup the waste and the research, the technology that does not exist?

Mr. President, these are the actions of a foolish Nation, not the actions of a Nation devoted to resolving its environmental problems.

Additionally, even though technology does exist for some waste streams, there has not yet been time, Mr. President, to construct enough facilities to process those mixed waste streams. We are on the cutting edge of technology, Mr. President. We are trying and tryig as a nation to advance it, and we are saying it does not matter that you have not arrived there and that you do not have time to build it, you should have put it in place even though it did not exist, and you can be fined for not using what you have not had time to construct. And where does the money come from but the money to construct even those technologies which we now possess that we ultimately can use to resolve some of the problems of these waste streams?

Mr. President, it was not clear until 4 years ago that mixed waste was covered by RCRA. When we say that the House has passed this legislation a couple of times by large margins and the Committee on Environment and Public Works unanimously in previous years, it is because they did not know what RCRA was. It is a law which we are about to reauthorize and even now is causing controversy because it is not clearly developed either in regulations or in law. But until 4 years ago, it was not clear that mixed waste was part of the territory that the intent of RCRA covered.

Again, let me point to the irony of what we are about to do, Mr. President, because it is a level of frustration for this Senator that our impatience as a Nation outruns our judgment sometimes. Mr. President, it takes 6 years after the technology is developed just to gain approval for a site to place the technology and begin to construct it. So here we have put in place an impediment to getting there, a series of laws and regulations which will not allow us to use the technology that is on the cutting edge because we have to have site permissions and approvals and construction permits and all the other kinds of things. It takes us 6 years.

I remind you, Mr. President, only 4 years ago did we know that RCRA covered this stuff. So now we are about to say both to the States and the other agencies of the Federal Government, you can sue the EPA or the Veterans' Administration or the National Institutes of Health or the Department of Defense because these mixed waste streams have not been cleaned up, but we will not give you permission to construct them. Yet we will fine you for storing them because that is not allowed, for not disposing of them because we have not permitted you to build the disposal.

What kind of a nation, Mr. President, does that to itself? What kind of nation is so healthy that it can indulge itself in this kind of idiosyncratic behavior, that it spends billions of dollars passing forth amongst agencies of Government, all of which deny us the efficient approach and conclusion to the storage of these wastes.

Now, the Senator from Wyoming is not denying that the wastes must be dealt with. He is not denying that they are hazardous. He is not denying that hazardous mixed wastes are extremely complicated and a serious part of the Nation's environmental health. But the Senator from Wyoming wants to get to the point where we can do it. And you cannot get to the point where you can do it by simply denying yourself day after day the ways and means of getting there because of a fascination with the courts, because of a fascination with regulations as yet unwritten, laws as yet undrafted in the States, by an EPA that does not know what they are, will not give approval for the technologies to deal with them, will not allow the construction of the technologies that do exist. What kind of nation tells itself that it ought to spend time in court over those kinds of issues? It is idiotic. It is wasteful. And the taxpayers simply ought not to have to put up with that.

Now, Mr. President, NEPA compliance is part and parcel of this program. That is part and parcel of what takes us 6 years to arrive at. So it becomes impossible for the agencies of Government that I have mentioned to comply until the facilities are constructed, and in many instances until the technology is developed, and just within the Federal Government the asinine transfer back and forth of up to $5 billion that is devoted to this very topic by the appropriations of the United States but comes out of the hide of offending agencies and into the coffers of other agencies that sue them.

Now, Mr. President, this is bad enough, as I have described it, but the medical research community has a dilemma as well. How do they deal with mixed wastes containing both radioactive and RCRA hazardous waste? It involves highly technical as well as regulatory issues but was recently well described as follows, and let me quote, Mr. President. "The waste cannot be disposed of without treatment. Treatment is not now available and the storage of waste until treatment technology or capacity can be developed is a violation of RCRA."

So what do we do, Mr. President? Do we stop medical research so that we can fine ourselves? Do we take money from the study of AIDS and other kinds of things so that we can pay fines while we wait for technologies to be developed under a law which prohibits its storage?

That is what S. 596 is all about. The Department of Health and Human Services, like DOE, like the Department of Defense, like the Veterans' Administration, supports the regulation of hazardous wastes, but they have a number of questions about the validity of RCRA regulations as currently written and applied to biomedical waste treatment.

As an example, Mr. President, a 5-gallon carboy of aqueous waste containing tracer levels of carbon 14 and 6 parts per million of chloroform is considered a mixed hazardous waste. There are many safe and practical methods for disposal of this waste but RCRA's regulations deny them to us. So we do not even allow ourselves to use the technology which exists because of a set of regulations developed under RCRA which deny us the ability to do that.

Now, more than 80 percent of all biomedical research, Mr. President, involves the use of radioactive materials. And this alone generates some 30 to 40 percent of the total volume of low-level radioactive waste produced annually in the United States. Much of it is classified as mixed waste. However, it should be noted that this waste stream contains only 1 to 2 percent of the total radioactivity of that generated by utilities in their low-level waste treatments. The 1 to 2 percent figure is the one most frequently quoted and has led many to assume that the problem is trivial for the biomedical community. Unfortunately, nothing could be farther from the truth.

One source has recently estimated that the cost of disposal of mixed waste will reach between $10,000 and $50,000 per cubic foot under the terms and regulations created by RCRA. And the $10,000 to $50,000 wasted on trying to find technology to store that, Mr. President, comes directly out of the hide of advanced medical research, make no mistake about it. And under RCRA and by the regulations of the EPA they are not required to make the slightest judgment as to the hazards

contained in these things, only that they are mixed wastes and cannot be stored and the technology to dispose of them cannot be permitted.

That is what this bill is about, Mr. President. That is why some of us, too small a number of us, have focused on it.

Again, let me point out it is not that we deny the risks and the problem of mixed wastes. There has to come some moment that we, in a nation with a budget deficit as high as ours, with a competitive problem as great as ours, simply cannot afford the luxury of one agency of Government fining another agency of Government, keeping it in court, costing it money for the elimination of no risks at all.

What happens to our lead in technology when we do this to ourselves? What happens to the timeframe in which medical advances can take place, when you have $50,000 a cubic foot for the storage of mixed waste, technology for which and the safe disposal of which exists today but is denied by RCRA?

It is not that RCRA claims that there is public hazard in using current technology. It has simply drafted regulations which do not permit the use of current technology. They make no claim that the public is in some way threatened or endangered by these storage technologies. They have just written the regulations differently, at great expense. And if the expense is too great, the fine which comes out of the hide of medical research, shutting down facilities, shutting down promising technologies, shuts ourselves off from the genius which has led and guided this Nation all the time.

There is a hazard and a threat and a danger to the public health and safety, by all means. That is not what we are talking about. What we are talking about is a set of regulations that do not accommodate safe storage practices today and they are admittedly safe storage practices which somehow or another the words of the regulations got wrapped around the phrases of the English language and the technology of America to deny them to us.

The cost of storing this waste on site at medical facilities in addition to the dangers inherent in that approach are simply prohibited. The assumption under which both Congress and EPA have formulated all radioactive waste disposal laws and regulations is that increases in cost can be passed on to the consumer.

What an assumption? What an arrogant assumption by bureaucracies by which we live within the beltway and could not figure that the consumers—the people that we represent, who work hard for the moneys they earn—and simply pass on a cost to a consumer without telling that consumer that he has one iota of increased safety because of this piece of insanity. Yet that is what we are about to do, absent some modest structure.

Oh, how easy it is to terrify the public by saying radioactive waste. How can you expect the public to gain expertise in what hazard is contained in this language? Dreams of Chernobyl, Three Mile Island, and other kinds of things and low-level mixed waste which has been handled safely, Mr. President, for years until RCRA came along and only 4 years ago discovered that it ought to control hazardous streams of mixed waste—and other laws of the United States protect us from ourselves and prevent us from achieving the safe disposal of these things—so that the courts and the lawyers of the agencies can confront each other, pay moneys into each others' coffers and deny them the very intellectual capacity to resolve the problems which brings us to the introduction of such legislation in the first place.

Mr. President, after May in 1992, when the current national capacity variance expires, mixed wastes can be stored for no more than 90 days, this despite the fact that there are no disposal outlets for most of this type of biomedical research wastes, and the methods to treat them onsite do not exist.

Mr. President, this is not a fairy tale. This is reality. This is what the Senate is about to do to itself. I do not know what it takes to bring us to our senses to examine what it is that we are going to do. We are asking an America that is genius to deny itself genius. We are asking consumers to pay for frivolity that we are developing here on the floor of the U.S. Senate so that agencies can sue agencies. Agencies that deny agencies the ability to store or dispose of these things can sue them for having them.

I mean, this is a Government that belongs to all of us. It does not belong to the agencies. The money that funds them comes out of the pockets of the people in the gallery, the people in Wyoming, the people in Illinois, the people in Hawaii. We are letting them play games with it—not to increase the safety of Americans but to increase the importance of agencies, lawyers that work for them, staffs that write regulations for them, and the Congress that cannot see beyond its nose to what it is about to do to itself and its people.

Under section 3008(h) of RCRA, EPA may shut down a facilities operation or can assess a penalty of up to $25,000 a day for each violation. Is the Senate willing to say this afternoon that medical research will have to cease because we cannot reach a regulatory requirement that we have put on one agency of Government to the surprise of itself and the Congress that wrote it?

Congress really must consider the human costs of following RCRA as currently written, but the human cost of RCRA as currently written falls even greater, and deeper understood are the terms of S. 596 as it is presented to the Senate this afternoon.

Maybe I do not belong in the Senate. But I do not understand how a country can do that to itself. I really do not understand it. I really do not understand the country that has its agencies suing each other, fining each other, and taking appropriated funds, appropriated for one purpose, and put into the pockets of another agency for another purpose, and then complains about its deficits. I really do not understand it.

Perhaps I am not a modern man. Perhaps I do not understand what it is that makes modern government function. I daresay the people in Wyoming do not understand either why one agency of Government should sue another for the disposal of wastes that it, under other laws and provisions, denies it the ability to confront.

Mr. President, I would like to read a letter from the Assistant Secretary for Health, for the Department of Health and Human Services, about this problem of medical wastes. This is not a fantasy that is dreamed up by the Senator from Wyoming. These are the real idiosyncratics of modern American Government whipping itself into a frenzy and not allowing itself to proceed and use the genius of America.

DEAR SENATOR MITCHELL: The Senate will soon consider S. 596, "The Federal Facilities Compliance Act of 1991." Under this Act, all Federal facilities would be subject to state civil penalties and fines under the Solid Waste Disposal Act for failure to comply with solid and hazardous waste laws and requirements. This would have a negative impact on the National Institutes of Health (NIH), particularly with respect to the problem of "mixed wastes," those containing both radioactive and hazardous wastes. NIH would be exposed to potentially costly litigation and penalties for the storage of mixed wastes.

Mixed waste is, unfortunately, an essential byproduct of most biomedical research. Over 80 percent of all biomedical research involves the use of radioactive materials. Included is virtually all genetic research—

From which Americans have one Nobel Prize.

It shows more people with AIDS, Mr. President.

most research on cancer, vaccine development—

Which is one of the things that we hope for in terms of AIDS, cancer, and other diseases that afflict the human existence—

and research on many life-saving therapies.

Mixed waste produced at NIH typically contains an extremely low-level radioactive component which prevents the waste from being neutralized and treated as any other environmentally hazardous waste. On the other hand, the hazardous chemical component of mixed waste prevents it from being transported and stored permanently at a radioactive waste storage site. Therefore, mixed waste is a special category of waste caught in a "catch-22" situation.

You cannot transport it, you cannot store it on site and you can be fined for either.

Mr. President, why are we doing this to ourselves? What is it that the Senator from Wyoming is missing in the equation that will not allow ourselves to do either thing with it and then fine ourselves for standing still?

Because there is no technology for treating mixed waste and no place to transport and store it, there is no alternative but to store mixed waste on site at great expense. NIH-mixed waste is presently stored in a special building on the Bethesda campus, which will reach full capacity within the next year. Until other options become available, NIH has little alternative but to build further storage capacity for mixed waste. S.596 has the potential for exacerbating an already costly problem.

The assumption under which both Congress and the Environmental Protection Agency have formulated radioactive waste disposal laws and regulations is that increases in costs can be passed on to the consumer. However, in medical research, the increased cost only reduces the amount of medical research that can be supported.

If S. 596 prevails in its present form, potential litigation and penalties will add to the cost of mixed waste storage and directly reduce NIH funds available for research grants.

When the Senate considers S. 596, there will be an opportunity to address some aspects of these problems. We support the administration's amendments dealing with mixed waste. It is certain that without some action on the part of Congress, biomedical research conducted at NIH will be impeded.

I might say that at a certain moment in time, the Senator from Wyoming predicts that biomedical research conducted at NIH, or within the continental United States, will come to a stop.

Mr. President, why do we do this to ourselves? Why is it that a Nation that leads the world in medical research would begin to make it so expensive that it cannot compete within its own boundaries for the right and privilege to continue that research?

Why is it that when we know that we can make safe transportation of this, safe storage of this, we sit around and try to figure out a way to fine ourselves $25,000 a day, rather than use what we know and come to a practical solution of the problem? A fine of $25,000 a day from one Government agency to another is not a practical solution, Mr. President, no matter how you try to lay down and view that problem.

It simply makes no rational sense. Americans had the spectacle of the Senate at war with itself over the last week. Not content with that, the Senate is about to set the Government at war with itself, at great cost to the taxpayers, and without a resolution of the problems that we say so proudly that we sit here and try to make ourselves the heroes of.

Radioactive waste scares the pajamas off Americans, and it ought to. But think about this, Mr. President: How long has it been stored out there, these low-level wastes? How long have the people at NIH and other medical research facilities at colleges and universities around America been using this stuff? How many Americans are dead from that, Mr. President?

What risk is worth setting the Government at war with itself over? It is unseemly enough that the Senate wars within its own curtain. Why do we set one Government agency at the throat of another? Especially giving the one agency that is most likely to be at the throat of the other the means to deny the resolution of the problem to the agency being sued. But that is what we are about.

Americans, in their homes, cannot be expected to know what we are about, merely by stating that we have introduced a bill to protect them from mixed waste containing low levels of radioactivity. It is hard for somebody in politics to come up here and suggest that maybe the risk of the waste is far less than the risk of what it is doing to ourselves as a society.

The demonstratable position on this waste cannot be made by science, but it can be made by flamboyance. It cannot be substantiated with statistics. But it can be substantiated in glorious speeches about how "I am protecting you from radioactivity." "No Chernobyl in your backyard," whether it be the great medical universities of America, or the great institutes of the Federal Government and the voters, the resolution of diseases, elimination of them, advancement of the health and well-being of all Americans.

That is why it is worth taking a little time over S. 596, Mr. President. That is why we really ought to pay attention before we leap and maybe for once, for the moment, set aside the war with ourselves and certainly set aside the temptation to put the States at war with the Government, the agencies of Government at war with themselves, and try to get some bang for the bucks that we peel out of the hides of the taxpayer, the working men and women of America.

They do not need to spend it on Government lawyers, Mr. President. They need this money to be spent by the agencies on developing the technologies to take care of whatever risks are out there. They do not need their taxpayer dollars going to pay some State for a new set of laws and regulations that it possesses, to drive out Federal health facilities, or defense facilities, or veterans facilities from within their midst, and ask us, down the road, what are we going to do to replace that lost Federal presence that once operated in their midst.

The Senator from Hawaii well knows how valuable certain Federal facilities are to certain local economies within our boundaries; and when we seek to shut them down, whether they are defense, or research, or Bureau of Land Management installations, you cause severe local economic distortions by moving them; and then you hear that Congress is authorizing the State to sue them out of their existence, and other agencies of Government can do that same thing, creating wars within the boundaries of Government, so that agencies can sue each other and occupy the courts.

Mr. President, we have better uses for our courts, and if we do not have better uses for our Government lawyers, we ought to have fewer Government lawyers so they can occupy their time more efficiently.

The public cannot be expected to shoulder their expense. And the public cannot be expected to be satisfied with a Government that shuts down its medical research facilities or with the imposition of fines or the creation of costs for the storage sites of waste that exceeds any rational threat to either the employees of those sites or the neighbors that surround them.

And as these medical facilities begin to store greater and greater volumes on site, you do finally begin to get around the corner, where they might in fact be a public hazard. But why do you have them in that volume? It is because Congress said you cannot do anything else with them unless you be fined $25,000 a day for having them on site.

Does it not seem to America, does it not seem to the Senate, does it not seem to someone that this is ironically stupid? So, Mr. President, that is what S. 596 is about. I will have more to say on it in another moment.

It is my hope that the negotiations that are going on now resolve a problem that the Senator from Wyoming does not deny exists. But I was merely pointing out the additional problems that are created by the passage of this legislation without resolution of the problems that exist.

The sponsors of this legislation, those who passed it out of committee, and those who voted to proceed, all ought to have one common purpose, and that is to relieve Americans of the risk and hazard of things that really threaten them in the safest and most efficient way possible. And the safest and the most efficient way possible is not to use the funds devoted to the advancement and development of technology and the payment of fines back and forth between States and the Federal Government and agencies within the Federal Government.

Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. SANFORD. Mr. President, I ask unanimous consent to speak for 6 minutes as if in morning business.

Mr. WALLOP. Mr. President, reserving the right to object, I have no objection to the Senator speaking as if in morning business. But I want the time to be consumed from the 30 hours.

Mr. SANFORD. It will be, and I have checked that out.

The PRESIDING OFFICER. The time will come from the 30 hours.

Mr. WALLOP. It will count against the 30 hours?

The PRESIDING OFFICER. Yes.

Mr. WALLOP. I thank the Chair.

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

The Senator from North Carolina is recognized.

Mr. SANFORD. I thank the Chair.

(The remarks of Mr. SANFORD pertaining to the submission of Senate Concurrent Resolution 70 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. DIXON. Mr. President, I understand that my distinguished colleague and friend from Wyoming has permitted people to proceed as though in morning business with the understanding that the time consumed would be charged against the bill or against the 30 hours as presently running. Is that my understanding?

Mr. WALLOP. The Senator is correct; as long as it is charged to 30 hours, I have no objection to those proceedings.

Mr. DIXON. I thank my dear friend for that accommodation.

Mr. President, I would like to make a statement that I do not think will consume more than the time by the hour of 3 o'clock. I want my friend in the Chair to understand that I am the next person in the Chair. If I impose upon him for a minute or two, would he be tolerant of that?

The PRESIDING OFFICER. The Chair finds it easy to be tolerant of the Senator from Illinois.

Mr. DIXON. I thank my distinguished friend, the Senator from Connecticut.

THE INTERIM FINAL MEDICAID REGULATIONS MUST BE WITHDRAWN NOW

Mr. DIXON. Mr. President, on September 12, the Health Care Financing Administration [HCFA] published regulations that will have a serious adverse effect on my own State of Illinois, and more than 30 other States. Because of HCFA's arbitrary interpretation of what State revenues qualify for use to match Federal Medicaid payments, the ability of States to meet rapidly rising Medicaid costs and to provide critical health care services to those who so badly need them are being unnecessarily compromised.

The Omnibus Budget Reconciliation Act of 1990 [OBRA 1990] permits States to use what are called provider taxes as Medicaid matching funds.

The administration, however, wants to restrain the growth of provider donations and taxes, and is therefore working to undermine the authorization for the use of these revenue sources. It has now issued vague and ambiguous regulations regarding these tax programs, and has taken extreme liberties in interpreting congressional intent.

I have learned that the Illinois taxing plan appears not to meet the guidelines. However, HCFA has given some other States with very similar plans informal assurance that their donation or tax programs meet agency guidelines. What makes one State's plan acceptable while another is not, is unclear in the regulations, and continues to be a mystery to me. Frankly, Mr. President, this is troubling.

The Illinois medical assessment plan was unanimously approved by the Illinois House and Senate, signed into law on July 24, 1991, and has been submitted to HCFA for approval. The State plan addresses the rising Medicaid costs, spiraling caseloads, and ever-expanding Federal mandates and insufficient Federal financing.

As a means of helping to cover the costs of medical care, the Illinois plan assesses hospitals, nursing homes, facilities serving persons with developmental disabilities, and community mental health centers according to their Medicaid revenues. This is perfectly legal under current Federal law.

The proposed regulations, however, effectively undo all the work my State has done. The result will be real damage on the State's ability to deliver health care to the most needy Illinoisans—poor families, including children, the elderly, and disabled. In other words, the most vulnerable individuals in our society will no longer receive adequate health care.

Moreover, I am concerned about the adverse impact the Medicaid regulations will have on other programs in the State of Illinois. The fiscal year 1992 State budget began last July. The administration's regulations will become effective on January 1, 1992, midway through the State's fiscal year. This will force Illinois to abruptly end its new reimbursement plans for Medicaid providers before the start of the State's next immediate fiscal year. For this fiscal year alone, I understand that the Federal regulations will cost the State $320 million, revenues which will have to come out of funds now allocated to other State programs.

Mr. President, what makes the situation even worse is the fact that these hurtful regulations come at a time when the Federal Government has been significantly adding to the Medicaid burden that States now face. To cite my own State as an example, according to the Illinois Governor's office, recent mandatory Federal expansions of the Medicaid Program will cost the State approximately $44.8 million in fiscal year 1992. These new programs account for a major percentage of Medicaid spending increases during the past 2 years. And as a result of the new mandatory programs, the State has had to cut back on providing optional medical services to our neediest families.

Mr. President, on September 12, 1991, during Senate consideration of the Labor, HHS, Education appropriations bill, H.R. 2707, Senator BENTSEN entered a colloquy with Senator FORD on these new Medicaid regulations. Senator BENTSEN encouraged States to advise the Senate Finance Committee of the impact the regulatory changes would have on their provider donation and tax programs.

I share the concerns expressed in that colloquy, as do many of my constituents. I ask unanimous consent to have printed in the RECORD a letter from the president of the Illinois State Senate, the Honorable Philip J. Rock, who has written as a board member of the Loretto Hospital in Chicago.

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

STATE OF ILLINOIS,
GENERAL ASSEMBLY,
September 25, 1991.

Hon. ALAN J. DIXON,
U.S. Senate, Washington, DC.

DEAR SENATOR DIXON: As a Board Member of Loretto Hospital in Chicago, I am writing to express my concern over a proposed HCFA rule that would disallow federal matching funds to states participating in a provider-specific tax program to generate additional Medicaid revenues. The effect of such a rule on cities and hospitals serving a disproportionately high volume of Medicaid clients would be devastating particularly since the proposed implementation date of the rule is January 1, 1992, six months into SFY92.

Illinois recently enacted such a provider-specific tax program and anticipates that it will receive $320 million in enhanced federal Medicaid reimbursements in SFY92. The impact of the proposed HCFA rule is threefold. The Illinois Constitution requires the state to enact a balanced budget. The newly enacted program, if deemed invalid, could create a $300 million gap in the budget. Secondly, Illinois hospitals, which have been ab-

sorbing substantial losses due to chronic underpayment, will suffer if a new stream of revenue is not found between now and January. And finally, Illinois will be forced to pay for an estimated $274 million in unfunded federal Medicaid mandates in SFY92 thus further crippling Illinois' ability to generate additional dollars for Medicaid services.

The provider-specific tax program provides a legitimate source of funding that will bring reimbursement rates in line with actual hospital costs and enable the State to maintain its balanced budget throughout the end of SFY92. If the Bush Administration is determined to invalidate such programs nationwide, then I ask that you work to delay the implementation date of the rule until the end of SFY92. This would give the State more time to devise an alternative source of funding. Furthermore, prohibiting HCFA from imposing retroactive disallowance of reimbursements during the extension period would ensure that the State is not monetarily penalized during the extension period. Such penalties are usually borne by hospitals in the form of payment delays or inadequate rates.

Once again, I urge you to act quickly to avert the consequences of HCFA's action. The rule subverts Congress' intent in OBRA-90 to leave provider-specific tax programs intact for the purpose of generating additional Medicaid funds.

Sincerely,

Philip J. Rock.

Mr. DIXON. This letter is representative of the expression of concern raised by many of my constituents. It demonstrates the importance of the provider tax program to the citizens of the State of Illinois.

Mr. President, I urge HCFA to withdraw the unlawful interim final regulations. HCFA's recent proposal to clarify the regulations cannot solve the problem. The current regulations should be withdrawn at once and new ones developed that are based on the statute and congressional intent.

Mr. President, if I could briefly, beyond this prepared text, say this further: My State, like most States in the Union, has a very serious budgetary problem this year. The legislature was in continuous session past the adjournment date. My party happened to be the majority in both Houses, and they met over a long period of time with the Governor, who happens to be of the opposite political persuasion.

And with a great deal of agonizing on both sides, they made terribly deep cuts in our State budget. And they managed to emerge this year without any tax increases.

I recognize that my friend in the chair represents the State of Connecticut, which has been going through similar agonizing experiences—increasing taxes, as I recall, along with highly contentious budgetary cuts and other things.

Mr. President, we are in trouble already, and the Federal Government wants to adopt new regulations that would deprive my State, unbelievably, of $620 million, a tremendous blow to the State, Mr. President.

Let me say that at our congressional delegation luncheon today we had representative some of the well-known names in this Congress: My distinguished colleague, Senator SIMON, from the Senate, as well as this Senator; and on the other side, some of the giants of the House, like the Honorable DAN ROSTENKOWSKI, chairman of the House Ways and Means Committee, and BOB MICHEL, Republican leader of the House, who are all terribly concerned about this.

This is a matter of major import. There is nothing very exciting about this. This is not going to get the attention of the public, like what we have been through in the last few days on the question of the confirmation of the now Justice Clarence Thomas. But this is terribly important to the States.

I hope the administration is listening. I hope the administration understands that if they go through with this regulation in its present form, to the derogation of what we have done in the Congress, and deprive States in this country of substantial sums of money—$620 million in my State, with 30 other States affected—many of the great States of our Union are going to have tremendous fiscal problems, and are going to require special sessions of the legislature, terrible cuts in the budget, grievous cuts to the disadvantaged, the already disadvantaged people of the State, the possibility of tax increases, and other things.

I hope the administration understands that this is not a matter of no consequence, and that this is a terribly important matter.

I urge my colleagues on both sides of the aisle, representing States that will be impacted—and I am told a majority of the States of the Union will be—to make some remarks here about this subject before it is too late.

Mr. President, I see that discussions are still going on. I will talk about one other matter very briefly before I take the chair.

Mr. President, I just want to call the attention of my colleagues to the Washington Post of October 17, 1991, a column by William Raspberry. The whole column is subject to some debate, but I will read the closing part into the RECORD.

It is about the whole confirmation process regarding Clarence Thomas, and I want to read it, because it perfectly states the feelings of this Senator and reflects the point of view that led me to my vote. And while it is not precisely what I said, it is very similar, and it is interesting to note that a distinguished columnist would express this view in his column.

Here is what he says:

We don't know—we can't know—whether Thomas did or didn't do the things he was charged with, and the question is what is the fairest thing to do in the face of such doubt.

I don't think the Senate took sexual harassment lightly or believe Prof. Hill to be delusional or assume Thomas spoke only God's truth.

A deadly serious allegation was made against Justice Thomas. The allegation was not proven, either by witnesses or by patterns of behavior or by a preponderance of evidence. On what basis, then, should Thomas have been denied the seat that, absent the accusation, would have been his?

It is a tragedy of major proportions that two splendid lives have been tarnished and that, absent some dramatic confession, they cannot be restored.

But let's be clear about what happened Tuesday night. The Senate did not convict Anita Hill of perjury; it merely found itself unable to resolve the unresolvable.

Mr. President, that statement by a distinguished columnist, William Raspberry, in the Washington Post on October 17, 1991, states the view of this Senator, explains the dilemma of this Senator, and I say that it is worthy of being in the RECORD for the further fact that it will enlighten people in this country about the views of many Senators such as this Senator from Illinois.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, several Senators have contacted me in the last few hours inquiring as to the current status of consideration of the matter and the prospects for the Senate's schedule for the remainder of today and tomorrow. And I thought, rather than engaging in 75 or 80 individual conversations, I would make statement here on the floor and thus inform all Senators at the same time of where the situation stands and what the alternatives are and what I believe the prospects are.

As we all know, under the rules of the Senate any one Senator can object to the Senate proceeding to even consider a bill, and it therefore requires a cloture motion to be filed on a motion to proceed to a bill. that is what occurred in this case.

I sought to obtain unanimous consent to proceed to this bill. Objection was made, which is the right of any Senator. Objection was made by our Republican colleagues, and we are unable to even begin consideration of this bill.

A cloture motion was filed and under our rules, it takes 60 Senators to vote for cloture or to terminate debate on the motion to proceed; that is, not to get to the bill but just on the motion to proceed to the bill. That vote occurred at 12:30 today and 85 Senators voted in the affirmative, 14 in the negative.

So an overwhelming majority of the Members of the Senate have expressed an interest in proceeding to consideration of this bill. However, under the Senate rules, notwithstanding the vote of 60 or more Senators, those who opposed proceeding to the legislation may continue to discuss the motion to proceed for an additional 30 hours before we even get to the bill.

That is the status which we are now in. The 30 hours commenced to run at 12:50 p.m., and if it runs its full course, the Senate would stay in session continuously until 6:50 p.m. tomorrow, at which time we would be in a position to take up the bill. After the vote on the cloture motion, request to take up the bill was denied. As is the right of any Senator, objection was made.

In the interim, negotiations are underway, and are continuing at this time, in an effort to resolve the matter in a way that will permit the Senate to proceed to consideration of the bill and to receive amendments and to express its will one way or the other on each of the amendments and on the bill itself. I am advised that the negotiations are continuing in good faith between Senators who support the bill, those who oppose the bill and who are acting in behalf of the Department of Energy and other administration agencies who have an understandable and appropriate interest in this legislation.

I hope that those negotiations will in the very near future reach a point of decision so that either we will know that we are able to reach agreement or that we cannot reach agreement and we will simply have to proceed to resolve the matter on the Senate floor.

Once we reach that point of decision, we will then confront the question of whether to do that today and obviate the need for the 30 hours until tomorrow evening or whether those Senators opposed to the bill who have been effectively filibustering to prevent the Senate from considering the bill will permit us to do that or will insist on exhausting the full 30 hours.

My hope and my expectation remains that we will reach agreement. Even though we may not reach agreement on every issue, we will reach agreement on the central issue or issues that will be sufficiently satisfactory to permit us to proceed to the bill.

I am unable to state that with any certainty, of course, because negotiations are continuing. I cannot firmly or conclusively predict or judge what the outcome will be.

Senators should be aware, therefore, that several possibilities exist.

It is conceivable that in a short time we could reach agreement and be in a position to proceed to consideration of the bill, and there may be one or more votes today.

It is conceivable—I hope not likely, but nonetheless conceivable—that we cannot reach agreement. The opponents will insist on using up all of the 30 hours, and we will then stay in session continuously until 6:50 p.m. tomorrow, at which time we will take up the bill and proceed to start voting on it at that time.

I hope we do not have to do that. Obviously, it will inconvenience a lot of Senators. That is not my desire. But I am making the statements so as to respond to the inquiries of a large number of Senators over the last several days as to what is occurring and what is likely to occur.

So what I have done is state the two outside possibilities in terms of what may occur, and there is, of course, a range of possibilities within those. The long and short of it is, the matter remains under negotiation. I hope it will be brought to a conclusion soon.

I am advised that negotiations are continuing in good faith on both sides and that it is possible that a point of decision one way or the other will be reached in the very near future.

Mr. WALLOP. Will the majority leader yield?

Mr. MITCHELL. Yes, certainly.

The PRESIDING OFFICER (Mr. DIXON). The distinguished Senator from Wyoming is recognized.

Mr. WALLOP. I say to the majority leader that it is also my understanding that a good many of the outstanding problems have been resolved and the remainder probably can be resolved.

I would say to the majority leader—without criticizing anybody—that we waited for a response that was to have been delivered at 6 o'clock last night and did not get delivered until 12:30 today which did not advance the cause of negotiations. That now is eliminated. Negotiations are fully engaged, and it is my expectation that there will be a resolution of that, and that if such a thing is obtained, and I believe it will be, we ought to easily be able to finish this bill this evening.

Mr. MITCHELL. I thank my colleague.

Mr. President, just so there is no misunderstanding on the part of Senators, I will repeat what I said earlier today but did not restate during my most recent statement here and that is, it is my intention that if we complete action on this bill today that the Senate will not be in session tomorrow. It is my hope that we can do that.

I stated earlier, and I repeat now, that if we can complete action on this bill today, the Senate will not be in session tomorrow. If we are not able to complete action on this bill today, The Senate will be in session tomorrow throughout the day and proceed to the extent we can in an effort to finish it then.

So I hope we will be able to do that and complete action today.

Mr. WALLOP. Mr. President, could I seek recognition on my own?

Mr. MITCHELL. Mr. President, I yield the floor now.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me just state for the record that while it is I who has insisted that some of the 30 hours run, that this has not been solely a Republican reaction to the contents of this bill. There have been, as well, some severe reservations on the majority leader's side which also are part of what is currently going on. I fully claim that it is I who has been undertaking this activity, but it is not fair to say that it is only Republicans who have reservations about certain provisions of this bill.

Mr. MITCHELL. Mr. President, will the Senator yield just to respond to that?

I never said it is only the Republicans who have reservations about the bill. What I have said is it is Republicans who have objected to proceeding to the bill, which I think is accurate.

Mr. WALLOP. Which is what I just said.

Mr. MITCHELL. No Democrat has objected to proceeding to the bill and no Democrat has interposed an objection when we sought to go to it.

I agree with the Senator there is clearly reservation on both sides and negotiations involve Senators on both sides. Every one of the Democratic Senators are agreeable to permitting us to go forward and consider the bill and resolve it on the floor.

I thank my colleague for that clarification.

The PRESIDING OFFICER. The distinguished Senator from Wyoming.

Mr. WALLOP. Mr. President, that is precisely right. It is I, and acting on behalf of others, who have insisted that some portion of this 30 hours run.

I will not go into the whole series of arguments that I have iterated on the Senate floor before. But just so we can put some perspective on what it is we have been trying to resolve, it is the belief of the Senator from Wyoming that medical research is important to America. It is the belief of the Senator from Wyoming that the resources of America, footed by the taxpayers in deficits, are sufficiently scarce that we ought to strive to use them in the most efficient way possible.

While it may be comfortable for the Senate to be at war with itself, as it was last week, it ought not to be comfortable for the American people for us purposely to set agencies of the Government at war with each other; namely, the Environmental Protection Agency with the Department of Defense or the Department of Energy or the National Institutes of Health.

We need better use of America's resources than to set Government lawyers against Government lawyers and waging fines back and forth within agencies, taking money out of appropriations that the Congress has authorized for the cleanup of these wastes.

Nobody involved in the struggles over the fine wording of this bill believes that there is no problem for the disposal of hazardous waste, but some of us believe that it is an inexcusable waste of effort and resources to set agencies at war with each other on the idea that moneys that are devoted to the research for technologies which do not now exist for the disposal of these wastes ought to be diverted to paying fines. That is simple logic of the Senator from Wyoming.

Second, under the terms of RCRA, criminal penalties against employees of the Department of Defense or their contractors or departments of the Government, not just the Department of Defense, but the Department of Energy and others, can be levied. And what is happening is that contractors that are trying to do for the Nation what it wishes to be done are saying, "If I get out of this contract with none of my employees under criminal indictment, nothing will persuade me to reenter that contract because I do not wish to subject my employees to that."

But, Mr. President, I would ask the Senate if anyone here thinks that advances cleanup, where agencies which do not have either the employees or expertise to do what is required of them under the law lose the skills and capabilities the private contractors possess to do just that.

Where do we go? Where does that advance the safety of Americans, the enhancement of our environment? The fact is that it does not. And so what some of us are trying to do is, one, have time to develop the technologies, which do not exist, to resolve this problem of Catch-22, where the Environmental Protection Agency can say it is an offense to store it and it is an offense to transport it, so it must be disposed of, but the technology does not exist to dispose of it.

On top of that, Mr. President, for those few areas under which the technology does exist, the same agency, the Environmental Protection Agency, forcing them to go through the other laws of America, the Endangered Species Act, NEPA, and all of those things, they cannot get their permits to construct the facilities which, if there, would be able to dispose of this waste and relieve them of the fine. And what do we do? We say "You cannot build it, you have not got the permits, so I am going to fine you $25,000 a day until you have the permits." And to fine you $25,000 a day until you have the permits." And they say, "Well, I can transport it."

You cannot transport it because it is a fine to transport it. You leave it in the States which have just developed new laws and regulations and the State can sue the Federal Government. That does not advance the safety of people. It is not efficient use of resources of the American taxpayer. And it does not get us to the goal that all of us seek, which is to somehow or other try to find the means to deal with the hazards of modern technology, engineering, science, and medicine.

I am concerned, Mr. President, that in doing this we just literally put the great medical institutions of America out of business, those that have been giving us Nobel Prize after Nobel Prize, those that are engaged in the research on AIDS, on heart disease, on cancer. Eighty percent of that research creates mixed waste which has some hazardous chemicals and some level of radioactivity, low levels.

If the Senate in its wisdom decides that medical research is no good for America, so be it. But this Senator does not want to agree to it just for the convenience of a few hours on the floor of the Senate. And my guess is we can resolve that problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Wyoming suggests the absence of a quorum, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. HELMS. Madam President, I ask unanimous consent that it be in order for me to proceed as if in the morning hours.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. HELMS. I thank the Chair.

SENATE RESOLUTION 198 REFERRAL TO RULES COMMITTEE WAS CLEAR VIOLATION OF SENATE RULES

Mr. HELMS. Madam President, yesterday, about 5:30 p.m., my colleague from North Carolina [Mr. SANFORD] submitted Senate Resolution 198, "a resolution amending Senate Resolution 62 of the 102d Congress to authorize the Committee on Rules to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran." This matter is commonly referred to, as the distinguished occupant of the Chair knows, as the investigation of the "October surprise."

Madam President, this resolution (S. Res. 198) was immediately referred to the Committee on Rules and Administration. I will emphasize that I am a member of that committee, the Rules Committee. I submit that referring this resolution to the Rules Committee is contrary to rules XXV and XXVI of the Senate. The resolution concerns matters which fall within the substantive jurisdiction of the Committee on Foreign Relations, on which I happen to serve as the ranking member, and provides substantial new authority to make additional expenditures. Under the Senate rules, as I shall detail in a moment for the RECORD, the resolution should have been referred to the Committee on Foreign Relations.

Rule XXVI 9 says:

> . . . each committee shall report *one* authorization resolution each year authorizing the committee to make expenditures out of the contingent fund of the Senate.

Madam President, we have, of course, already adopted such a resolution, Senate Resolution 62, on February 21, 1991. And I might add that, as a result of the unorthodox procedure of allowing carryover funding from past years, the Committee on Foreign Relations has at its disposal over $800,000 more than in previous years.

But let me go back to rule XXVI 9. It goes on to say:

> After the annual authorization resolution of a committee for a year has been agreed to, such committee may procure authorization to make additional expenditures out of the contingent fund of the Senate during that year *only* by reporting a supplemental authorization resolution.

Madam President, this makes it crystal clear that additional authorization for spending taxpayers' money may be procured for the committee in question, only if the committee in question reports out a supplemental authorization resolution.

Now the Committee on Foreign Relations has not reported out a supplemental authorization resolution. It has not even discussed supplemental authorization. The question has never—repeat, never—been raised at any meeting of the committee whatsoever. There has been no hearing on the matter, and no discussion at any business meeting. As ranking member of the committee, I have not signed, I have not approved, I have not been asked to sign any request to the Rules Committee for additional authorization.

Moreover, Madam President, it is equally crystal clear that the Rules Committee has no jurisdiction whatsoever over a supplemental authorization that has not been reported from the committee seeking such a supplemental.

Rule XXV 1(n) of the Senate, in setting forth the jurisdiction of the Rules Committee, states in paragraph 8 as follows:

> 8. Payment of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall be *first* referred to such committee).

And that means the Foreign Relations Committee, not the Rules Committee. And I happen to belong to both of them.

So once again, for the purpose of emphasis, it is clear that the Rules Com-

mittee has no jurisdiction over Senate Resolution 198, because the aforementioned resolution relates to substantive matters within the jurisdiction of the Foreign Relations Committee. In such cases, as the rules states, the resolution "shall first be referred to such committee." And in this case, the Foreign Relations Committee.

Therefore, on its face, Senate Resolution 198 was improperly referred, contrary to the rules and procedures of the Senate.

Now I am going to propound a unanimous consent request which I shall withdraw, but I want it to be included in the RECORD so that the leadership of the Senate, the majority leader and the minority leader, can confer on this matter with the Parliamentarian and see if I am not right. So I am going to propound it, and just as the Chair says, "Is there objection?, I am going to withdraw it.

Madam President, I ask unanimous consent that the referral of Senate Resolution 198 be vitiated and that it be properly referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I will withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. HELMS. I will further state, having put the Senate on notice, that I intend to pursue this. And if I am proven wrong about my understanding of the rules, I do not claim any authority on them; I am just a country boy who looks at the rule book every once in a while. But I think this is a serious mistake involving the expenditure of a relatively enormous sum of money chasing a rabbit around a ballpark. And if we are going to start that process, let us at least do it under the rules.

I thank the chair.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. ROBB). Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator is recognized as if in morning business for up to 15 minutes.

NAMING NAMES: THE KEY LESSON OF IRAQ'S PROLIFERATION EFFORTS

Mr. McCAIN. Mr. President, it is only now some 6 months after our victory in the gulf, that we begin to see the full range of dangers that Iraq has posed to world peace. There were many before the war that claimed that Iraq's nuclear effort was being exaggerated and was a decade or more away from threatening Israel and Iraq's neighbors. There were many that claimed Iraq did not have chemically armed missiles, and that Iraq's efforts to develop biological weapons were little more than a matter of American propaganda.

We now know, however, that Iraq's efforts to develop chemical, biological, and nuclear weapons were far more advanced than even our best intelligence efforts suggested. We have learned that Iraq was actively developing a missile for the specific purpose of delivering nuclear weapons. We have learned that Iraq's efforts to develop "super guns" that could hurl projectiles hundreds of kilometers had advanced in spite of the efforts of Britian and the United States to deny Iraq key components.

THE MILITARY LESSON OF IRAQI PROLIFERATION

We have learned that even though coalition air power had unprecedented freedom of action during the gulf war, it could neither find enough of Iraq's facilities and weapons to destroy them, or prevent repeated missile attacks on Israel and Saudi Arabia. We have learned that today's best air and tactical antimissile defense are not leak proof, and that we cannot deal with proliferation by military means in time to ensure that it will not devastate an allied or friendly country.

THE INTELLIGENCE LESSON OF IRAQI PROLIFERATION

We have learned that Iraq successfully concealed major buildings and programs like those at Furat and Al Atheer from United States intelligence, and from the other intelligence services of the world. We have learned that it altered the shape of its buildings to fool satellite reconnaissance, and highly sophisticated filtering systems to fool on site intelligence collection efforts. It even conducted an indoor explosion at its rocket testing complex at Al Qaqa so that part of its nuclear weapons development tests would appear to be an exploding missile.

THE ECONOMIC AND TECHNICAL LESSONS OF IRAQI PROLIFERATION

We have learned that Iraq was willing to use virtually every aspect of its civil industry and ministries to disguise its efforts. That its petrochemical projects included nuclear weapons, that its national electric power system was altered to support uranium enrichment activity, and that its Ministry of Minerals and Industry was used as a front to obtain the materials for weapons of mass destruction and for their delivery systems.

We have learned that other such fronts include Iraqi Airway, Iraqi Reinsurance, and the Iraqi State Enterprise for foodstuffs, trading, and maritime transport. We have learned that dummy corporations, pass-throughs, and Iraqi agents set up operations in Austria, Bahrain, Bangladesh, Brazil, Britain, Czechoslovakia, Egypt, Germany, Honduras, India, Italy, Japan, Jordan, Lebanon, Morocco, Netherlands, Poland, PRC, Saudi Arabia, Soviet Union, Tunisia, Turkey, UAE, and the United States.

We have learned that Iraq first began to build up this vast effort in the 1970's and that it had the patience to go on in spite of Israel's successful attacks on Iraq's nuclear reactors. We have also gradually learned just how vast Iraq's network of international suppliers became.

We have learned that Iraq was willing to spend sums ranging from $4 billion to $8 billion to acquire weapons of mass destruction. We have learned that it built up a global network of suppliers, and that it drew on virtually every high technology power in the world for equipment, supplies, and skills. We have learned that it imported over 4,400 foreign employees, and employed up to 20,000 workers—including as many as 7,000 scientists.

THE SIZE OF THE IRAQ SUPPLIER NETWORK

If we consider recent press reports, we find that companies or individuals in the following countries have played a major role in shaping Iraq's capabilities:

Nuclear technology came from France, Italy, Egypt, the PRC, and URENCO, a British-German-Dutch consortium. Iraq obtained industrial vacuum equipment from Britain and Liechtenstein, power supply units and technology for the high explosive lenses for nuclear weapons from the United States, metal casings from Switzerland, copper coils from Finland, and electrical equipment from Yugoslavia.

Uranium ore came from Brazil, Britain, Germany, Niger, and Portugal; centrifuge magnets, and uranium feedstock and lithium hydride from the PRC. Centrifuge magnets, smelting furnances, special steels, electrical components for nuclear weapons, and other technology came from Germany; special hexagonal high explosives for nuclear detonators from Czechoslovakia; technology and machine tools for centrifuges from Switzerland; centrifuge parts from Brazil; small amounts of Plutonium from Britain, and a Plutonium separation facility from Italy. The full range of sources for Iraq's calutrons are not yet clear.

Super gun technology for Iraq's Project Babylon came from Belgium—particularly the Advance Technology Institute of its Space Research Corp., Britain, and Canada.

Test equipment for missiles, missile technology, and production equipment and parts came from Argentina, Brazil, France, Italy, Germany, Japan, the PRC, Switzerland, the U.S.S.R., and the United States.

The full range of sources for biological weapons technology—which now seem to include efforts to develop weapons based on anthrax, brucellosis, botulism, gas gangrene, and tularemia—are unknown, but they seem to have included Belgium, Britain, France, Germany, Italy, the PRC, and the United States.

Chemical weapons technology, equipment, and feedstocks came from a wide range of nations, including Belgium, Germany, Italy, the PRC, Romania, Soviet Union, and United States.

STOPPING PROLIFERATION AT THE SOURCE: THE KEY LESSON OF IRAQI PROLIFERATION

All of this experience makes it clear that we cannot rely on either intelligence or military action to solve the problems created by years of neglect in preventing proliferation. If we are to succeed in protecting our forces, our allies, and our friends we must stop these networks of suppliers long before they reach the point where they can create another Iraq.

This is the most important single lesson we should learn from Iraq's actions and successes. Yet, it is a lesson that we and the other supplier nations of the world have only begun to act upon. It is a lesson that no current or currently contemplated arms control agreement will properly address, and it is a lesson that has only begun to interfere with the actions of other proliferating nations like India, Iran, Libya, North Korea, Pakistan, and Syria.

SLOW AND LIMITED ACTION BY SUPPLIER STATES

Many supplier nations are beginning to tighten their export policies, but no one can seriously claim that these efforts begin to approach the kind of concerted crack down necessary to halt the process of proliferation. In many cases, national laws and policies are weak, poorly enforced, or contradictory. In others, governments have proved to be more concerned with exports and profits than the threat to peace.

INADEQUATE ARMS CONTROL EFFORTS

The main arms control agreements affecting proliferation—the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, the Missile Technology Control Regime, and the draft Chemical Weapons Convention—are all important measures that have considerable value. None, however, place adequate controls on any major form of proliferation. None involve tight controls on the sales of technology and equipment that contributes to proliferation. None affect the wide range of different national interpretations of what the agreements mean and how they should affect sales and arms transfers. None involve adequate mechanisms for policing and inspecting the kind of sales that took place to Iraq.

CONTINUING PROLIFERATION

The countries that were actively involved in proliferation at the time Iraq invaded Kuwait have at best been forced to be somewhat more discrete. During the period since Saddam Hussein first invaded Kuwait, India and Pakistan have virtually come out of the nuclear closet. They have been identified as nations who are actively involved in developing or producing chemical weapons by the Director of Naval Intelligence, and they have continued to expand their efforts to develop long range missiles.

While the world's attention has been focused on Iraq, Iran has continued with its own efforts to develop chemical, biological, and nuclear weapons. It has joined with Syria to acquire, and possibly produce, long range North Korean missiles with far greater range-payloads than any of the missiles that Iraq used against Israel and Saudi Arabia. At the same time, Syria has expanded its chemical weapons efforts, and many experts believe its efforts to develop chemical weapons as well.

While Libya may have stumbled in its efforts to develop weapons of mass destruction, there is no question that it has built a massive chemical weapons production plant, has acquired a refueling capability for its long range strike aircraft, and is seeking long range missiles. North Korea has successfully deployed long range missiles, has chemical and biological weapons, and is rapidly nearing the point where it can produce nuclear weapons.

PUBLIC RELEASE OF THE NAMES OF IRAQ'S SUPPLIERS

We can hope that supplier states take stronger action. We can hope that arms control agreements are strengthened, and given teeth. We can hope that proliferating states turn away from proliferation. In the long run, we must turn such hopes into realities, or we will see more Iraq's and eventually we will see nations and peoples die because of our neglect.

We cannot, however, rely on hope or wait years to make a start. We cannot wait for other nations to act. We cannot wait the 5 to 10 years it would take to force major changes in today's arm control agreements. We cannot wait for proliferating states to renounce proliferation—a process that might well take forever without external pressure.

As a result, I believe that the United States must begin to take unilateral action, and that this action should take two forms:

EXPOSING THE SUPPLIERS

Until adequate national and international controls exist, the only major force that controls the actions of private individuals and companies is the threat of international exposure by a free press. The United States should take full advantage of this force for truth, and against proliferation, by ensuring that a comprehensive list is published of all companies and individuals who contributed to Iraq's efforts to produce and deliver weapons of mass destruction. It should ensure that no element of the information obtained by the United Nations is kept classified unless this classification is absolutely vital to the identification and prosecution of other suppliers.

This exposure should take place without regard to nation of origin. U.S. suppliers should be exposed as well as those of all other nations. It should take place even when the firms and individuals involved may well have not known the ultimate use of their services. The world can easily understand that many suppliers were unwitting, but we must force those involved to show they did not participate willingly and we must warn others of what Iraq has done.

Further, the United States should find ways to broaden this exposure to include proliferation by the other nations that threaten world peace. Exposure should become the rule, not the exception. Companies and individuals should understand that they risk becoming the subject of investigation by the world's media even if their home or host nation will not act.

This is why I developed legislation this year—which was cosponsored by Senator GORE, Senator BINGAMAN, and my other colleagues on the Arms Services Committee—that would require the first comprehensive U.S. report on proliferation, and reporting that would identify the suppliers that have become merchants of mass destruction. It is also why I have joined with Senator GORE in writing Secretary Baker to make sure that the fullest possible disclosure is made of the names of all the individuals and companies that are listed as suppliers in the material being uncovered in Iraq by the United Nations.

We must not let any individual or company hide behind the shelter of classification. We must not rely on national laws that often produce no penalties or a mere slap on the wrist. We must not rely on diplomatic courtesy. No supplier—deliberate of inadvertant—should be immune to the ruthless spotlight of world opinion.

TRADE SANCTIONS

Second, as I have said before in this body, we need legislation that will confront foreign nations and companies with the reality that they must make a choice between proliferation and access to the U.S. market, and U.S. individuals and companies with the reality that they face both serious criminal penalities and the loss of export licenses.

We are making slow progress in legislating such sanctions. They exist for missile technology, but they do not exist in meaningful form for chemical, nuclear, and biological weapons. Even within the United States, the entire system of export controls errs on the side of permissiveness—if not negligence. In other nations, controls are

often deliberately ignored or do not exist.

This is why Senator GORE, Senator D'AMATO, and I have sponsored legislation that would establish comprehensive export sanctions for all forms of proliferation to match the reporting and disclosure legislation now being considered in the House and Senate conference on the fiscal year 1991 Defense Authorization Act. This bill is called the Non-Proliferation and Arms Transfer Control Act (S. 309), and clearly is even more urgent today than it has been in the past.

THE NEED FOR CONGRESSIONAL ACTION

Mr. President, there are many other Members of the Senate and the House who have supported the kind of legislation I advocate. Many Members have developed creative and useful legislation of their own. At the risk of seeming Cassandra-like, however, I must conclude by noting that we are making extraordinary slow progress and that our arms control efforts are faltering and incomplete.

The basic issue that this body, this Government, and our world must eventually come to grips with is that proliferation is the greatest single threat we face now that the cold war has ended. If we remain indifferent, or continue to confuse rhetoric and half-measures with forthright action, we or our friends will pay dearly indeed. I pray that we and the world will not have to pay the cost of such neglect.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator's time has expired. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. RIEGLE. Mr. President, I ask unanimous consent to speak for as long as 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for up to 10 minutes as in morning business.

EXTENDED UNEMPLOYMENT BENEFITS

Mr. RIEGLE. I thank the Chair. Mr. President, as everyone knows, the President just vetoed the extended unemployment benefits legislation that we passed here in the Congress. Unfortunately, that veto, by a very narrow margin, was upheld in the U.S. Senate.

The veto of the extended unemployment benefits now prevents that emergency assistance from getting out to the unemployed workers in this country and to their families. In my home State of Michigan, where the unemployment rate has just gone up to 9.7 percent, we have 170,000 unemployed workers out there who need these extended benefits, who will not get them because of that veto. Of course, the President argues that we just cannot afford to help people in this country; we just cannot afford to help the unemployed workers.

Actually, there is $8 billion sitting in the unemployment extended benefits trust fund that should be used for that purpose, but the President is unwilling to allow that money to be released to these unemployed workers at a time of desperate need on their part.

But there is an item this afternoon on the ticker tape outside the Chamber that I just read that I want to bring to the attention of my colleagues, because the President today did decide that it was time to take an economic initiative to really step out there and do something to deal with the economic problems. So I want to just read to my colleagues what he has decided to do. This is from the UPI wire service, and the first paragraph reads as follows:

> The administration said Thursday it would offer economic aid to Cambodia after the four warring factions marked the end of the country's civil war by signing a peace accord next Wednesday in Paris.

This is not help for Michigan. It is not help for Pennsylvania. It is not help for West Virginia. It is not help for any of the other 47 States where there are unemployed workers today needing help. But it is help for Cambodia.

It goes on to say:

> The official, Richard Solomon, Assistant Secretary of State for Asian and Pacific Affairs, added that the White House would also finance projects designed by the World Bank and other lending institutions to modernize Cambodia's moribund economy, marked by more than a decade of fighting.

So we are going to go to work now to put a little life into the moribund economy of Cambodia. How about the moribund economy of the United States? How do the areas in this country with high unemployment get on the foreign aid list so they can get a little help? Every day it is another country.

There is a jobs program now that the administration has for Mexico. They have a jobs program for China. China is going to have a trade surplus with the United States this year of $15 billion. Imagine that: Communist China, where they just mowed down the students who were seeking democracy in Tiananmen Square, will have a trade surplus with the United States this year of $15 billion. And that means that $15 billion is leaving this country, and the jobs that are attached to that money are leaving America and going to China.

The estimates are next year that the trade surplus that the Chinese will have with us will be $20 billion. So the Bush administration has a wonderful economic program for China, and it is helping China. Of course, it is hurting America. They have a plan for Turkey and a plan for Kuwait. It is hard to keep track of all the countries, but there is a new one today: Cambodia. Now we have help for Cambodia.

It says here:

> In addition, the administration expects to offer $25 million in humanitarian aid in fiscal '92 for civilians in areas controlled by the non-Communists.

There was just this terrible incident that we all have read about where this deranged man went into the restaurant down in Texas and shot all these people, 23 of whom have died. We have a lot of problems in this country to deal with. We do not seem to be able to do much about that. But boy, we are right on top of the problems in Cambodia. We have a program for Cambodia. Here it is. Here is another paragraph:

> In its first step to formalize ties with Cambodia, Solomon said the United States would soon establish a U.S. mission in the capital of Phnom Penh.

Well, I can imagine the Cambodians are probably pretty happy today that they have this economic help coming from the United States. The President has found time to work up a program for the Cambodians. I wonder about unemployed workers in this country who have been unemployed now 6 months and whose jobs have not come back and who cannot find another job, who are running out of money, who are having difficulty feeding their families, having difficulty keeping a roof over their head, and just having difficulty meeting the basic necessities of life. The President says no, we cannot afford extended unemployment compensation benefits. We cannot afford to help the unemployed workers in this country; it is not important enough. But here we learn today we have money for Cambodia. They got on the list. It was an emergency problem.

The people of this country do not understand this. They do not understand how this administration can spend so much time and so much effort and so much attention and so much money all around the world and cannot see the problems here at home. They just cannot see them.

Congress, for its part, has seen the problem of the unemployed workers who have exhausted their benefits because we have now passed that legislation, passed it with overwhelming majorities, and sent it down to the President. The President does not want to spend the money on our people, but he has no problem spending it on the Cambodians. It is just not right. In this country today, there are children of unemployed workers who will go to bed hungry tonight. It is just a cold, hard, mean fact, because there just is not the income in those families to meet the basic needs.

What has gone wrong in this country that in our executive branch of Govern-

ment the priorities have been turned upside down, so that we care more about the economic problems of other nations and other people around the world than we do about our own people?

The President the other day went out to visit the Grand Canyon. It was a wonderful scene, a great photo opportunity. It is a wonderful natural resource in our country. We are lucky to have it. I am glad he drew some attention to it.

But we have a grand canyon of unemployed people in this country, millions and millions of them. They need help. They want their jobs back. Quite frankly, that is what they want most. They do not want to have to receive extended unemployment benefits. Oh, yes, they want them as an emergency measure until their jobs come back, but they really want their jobs back.

But there is no jobs program in this country to really get this economy going. One of the reasons that there is no jobs program for America, no economic strategy for America, is all the time is spent coming up with an economic program for other countries—today Cambodia. I have nothing against the Cambodians. I want them to do well. But why do they come ahead of our people when you have people in our country in desperate need?

This is the worst recession that we have had in years. There is a need for these extended unemployment compensation benefits. In fact, of the money that might go to our own unemployed workers the President is saying let us send it over to the Cambodians because they need it more than our people do. That is in effect what is happening here.

It is just not right. We have gone down the list of countries. This administration has an economic program for Kuwait, has one for Turkey, has one now for the Soviet Union, what is left of it. Its communism has collapsed. It has fallen apart. So the administration has gotten very busy to come up with an economic program to try to help Gorbachev and the others over there. All this interest in the rest of the world, helping the Kurdish people—certainly they face problems—but what about the people in Saginaw or Pontiac or Flint or Detroit or Pittsburgh or Cleveland or Los Angeles or other cities across this country, or people out in the rural areas?

There was a story the other day that the rate of suicide among men who are farmers in this country has jumped way up in recent years. Why has that happened? The analysis that has been done indicates the reason more farmers are committing suicide is because they are under tremendous economic pressure and they are afraid they are going to lose their farms.

This administration shows no concern about that problem. They are totally detached from that problem, just like they are totally detached from the problems of the unemployed workers but no detached from Cambodia, no sirree. Cambodia is important, so the administration announces today that there is a program for Cambodia and there is money for Cambodia.

The other day, the Census Bureau came out with statistics on what has happened to the living standard of a family of four in the United States over the last year. What the Census Bureau has found in their data is that the median income in this country for a family of four dropped last year. It did not go up; it went down. It went down, as I recall, about $570. People are sliding backward in this country. The middle class is shrinking. The underclass is growing. Reaganomics and the economic strategies over the last decade are hurting the middle class, squeezing the middle class, grinding it down. That is what the census data shows.

Any concern about that in the administration? Any plan to do something about that? No. They have an idea they want to do something now in the area of the capital gains tax to help people who have assets—and the more assets the more help they would get from a capital gains tax improvement. That certainly would be of some benefit to people fortunate enough to be in that situation. Most people in this country do not have capital gains year to year. They are living on their income, and they are living on less and less income, and they are living less well because the deck has been stacked against them by the economic program of this administration, Reagan-Bush/Bush-Quayle.

And now we see all this focus on the rest of the world—trips here and there, aid programs here and there. Today, it is Cambodia. Today, Cambodia is up on the radar screen. That is what they are talking about down in the White House today: Let us get in there and really give old Cambodia a hand. Cambodians really need help.

I wish somebody down there would pipe up, some staff member in the White House, and say: "Mr. President, what about doing something for the unemployed in this country? There are a whole lot of them out there. Millions of them out there cannot find work. They have exhausted their benefits. There is $8 billion sitting in the unemployment extended benefits trust fund. Why don't we take some of that money that was collected precisely for this problem of serious recession and put it out there so these families can hold their lives together?" Why doesn't somebody say that? Is there anybody down there with courage enough to slip a note under the door of the Oval Office and say, "Look, it is time to help the people of America because they need help, they deserve help"? Frankly, they are more deserving of help than the people of Cambodia or the people of Kuwait or the people of Turkey or the people of Mexico or the people of China, all of whom this administration has an economic plan to help.

It is time to help America. We did not elect a President to be a President of the world. We elected a President to be President of this country and to look after the needs of this country, some 250 million out across this country. They need somebody to pay attention to what is happening in the United States of America.

We need a health care program. More and more people are losing their health insurance every day. The estimates are somewhere in the range of 35, 37 million people in American today are without a penny of health insurance. A million of them live in my home State of Michigan, 300,000 of which are children.

There was a story the other day in the Detroit News about a working mother, a single women, Cynthia Fyte. She has about $3,000 in medical bills she cannot pay. She lives in a house-trailer. But there was with her in the picture in the paper her 6½-year-old son, a little fellow wearing a pair of eyeglasses. He has no insurance, no insurance whatsoever, no health insurance. If he gets sick, how do his bill get paid? Does he get to the doctor on time? Does he get the care he needs? Does he matter?

He matters to me, and he ought to this administration. But they cannot see that young boy because they are too busy coming up with a program for Cambodia. Let us help the Cambodians. Well, that little fellow in Michigan and the others, the 300,000 other children in Michigan who have no health insurance today, they need to get at least a minute or two of the President's thinking and concern one of these days.

It is time we do something about it. If the health insurance which is in place for the top officials of our Government—for the Senate, the President, the Vice President, the Cabinet officers, their families—if the health insurance that is in place that covers all the top officials of our Government disappeared this afternoon, how long do you suppose it would be before the administration would be in here with a plan to reestablish health insurance coverage? I would say maybe an hour or two. They would have a plan down here so fast it would be here in a matter of minutes. But can they come up with a plan—they have only been in office now, what, 8, 9, 10, 11 years? Eight years of Reagan and Bush, 3 years now of Bush and Quayle, 11 years. Is that long enough to study the health care issue and come up with some kind of a health care plan? They say they need more time. They want to do it after the next election. It is too tough, too difficult to tackle that problem.

I will tell you this: if that crowd lost their health insurance, they would tackle that problem today, and they would come up with an answer today. Cynthia Fyfe's son deserves health care coverage just as much as the child of any top official of this Government. We ought to do something about it.

If you ask yourself the question, why do they not come forward with a plan? One of the reasons is they are too busy coming up with a plan for Cambodia. It is Cambodia today. Who knows what country it will be tomorrow? But if you want a sure bet, the plan tomorrow will not be for America because they never seem to be able to come up with a plan for America even though they can find one for all these other countries. I am tired of spending money on other countries and ignoring the problems of our own people. It is just not right. It is just not right.

People are asked in public opinion polls, is the economy of the United States on the right track or the wrong track going into the future? Over 60 percent in public opinion polls are saying the country is on the wrong economic track going into the future.

We need to plan to do something about it. We can come up with a plan. We have put a plan out. We put any number of elements of a plan out on this side of the aisle.

Folks downtown do not think there is a need for a plan. Their view is, "If it ain't broke, you don't fix it." Well, that is not true if it is Cambodia, If it is Cambodia, then you fix it; if it is Kuwait, you fix it; Mexico, you fix it; China, well, we will fix that; Soviet Union, let us fix that; Turkey, let us fix it.

We have plans for everybody under the sun except our own people in real need here in the United States of America; the ones that build the country, fight the wars, pay the taxes, raise the children to go off and fight the next wars. They need some consideration, and they need some attention. They need an administration that comes down off that high elite plane and gets down there where the problems are and where people are struggling to make it through each day and each week.

Today our emphasis ought to be on our unemployed workers. Imagine being a worker unemployed for 6 consecutive months, exhausting your unemployment benefits, exhausting your savings, you are not called back to work, you are in an area of high unemployment so there are no other jobs, your kids are hungry. You know, school is starting again, they probably need clothes for school, new shoes and things of that kind. There is no money.

These are people with a work history. This administration has turned its back on that group of people. They say we cannot afford to help them even though there is $8 billion sitting in the extended benefits unemployment trust fund; just cannot afford to help them.

So when I see something like this today, that Cambodia deserves help, that the administration has decided to lend a helping hand to Cambodia, and the deal with Cambodia is for its moribund economy, they want to get their mission opened up there in Phnom Penh, getting this money flowing to Cambodia, it is just not right.

One of these days there is going to be a real backlash in this country against this insensitivity, this elite view, this preoccupation with foreign policy, this failure to address the problems of people in America, and this disinterest in what is really going on in the lives of everyday people in this country.

It is the reason we have a Government—to be there to help when the situation really becomes desperate. It has become desperate for so many of our unemployed people.

So, I do not know what country it will be next. There will probably be another country tomorrow, because there are an awful lot of countries out there, and they all want to get on the gravy train. And they are all getting on the gravy train. It just happens to be Cambodia today, but something needs to be done about it.

I hope that the new unemployment extended benefits program that we are able to put together will come through here. You know, the other day on the veto override, there were 65 votes—65 out of 100 Senators. You say to yourself, I thought we had majority rule in this country; if a majority of the Senators thought that there should be extended unemployment benefits, that would be enough to make the benefits happen and go out there. We had more than a majority. A majority would be 51. We had 65, both sides of the aisle. We had a substantial majority, but one person said no. The President said no for the second time. So no unemployment benefits, extended benefits, are flowing to the workers of this country who desperately need them. Instead, we are sending the help to Cambodia.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI] is recognized.

Mr. DOMENICI. Mr. President, I really have difficulty understanding why we hear the same speech every day. Today we have changed it from other countries to Cambodia.

Let me repeat. I really do not know who is listening, but since it has been said I assume someone is and maybe I can set the record straight. In fact, I believe I will ask the Congressional Budget Office to give us a letter just in preparation for the next time the facts are presented improperly. It will not be a Republican answering a Democrat. It will be the independent Congressional Budget Office.

Mr. President, the President of the United States has not used the emergency powers under this agreement to give aid to Cambodia and all the other countries that are spoken of. What he did is the following: Immediately after the war, the Democrat and Republican leaders of the Congress—not the Senate, the Congress—and the President agreed that we ought to help Turkey and Israel because they were in big trouble because of that war. That we did. If anyone wants to complain about that and say the President should not have done it, then remember it was Turkey and Israel, and Democrats and Republicans joining.

Other than that, all the other ones, the foreign programs, the job programs overseas, are absolutely unequivocally untrue. If one is seeking to tie those to the emergency provisions in the Budget Act, they are not emergencies under the Budget Act. The money that was used came from a separate pot of money that came to us from foreign countries who are our allies. This was money left over from the war in either accumulations or interest, and it was used for those countries that the President thought and the Congress thought it was necessary to assist. So that is one.

The gravy train that is being spoken of in that regard just is not true. But I assume there are some who think that if they say it enough times on the floor someone will believe it. Perhaps it takes another two or three opportunities on the part of someone from that side of the aisle to say it, and then maybe they think someone will believe it.

Let me talk about the trust fund again. The only thing we did not see today, and those who are watching and listening on C-SPAN television, the only thing they did not see, Mr. President, was the worn-out chart that has been here so many times it is no longer usable. I assume that is why it is not here. Maybe we ought to mark on it how many times we use the chart. That one would have marks all over it.

Every time they bring it up, they bring this poor chart. Maybe we ought to leave it here permanently on the floor since it is used about every day. The trust fund, and the fact that it has accumulated money, is totally, absolutely irrelevant to extended unemployment benefits.

And I repeat what I said yesterday, not because I do not think those who are listening understand me; I believe they do, but apparently some did not believe that one time is enough or two times is enough. We need maybe 10 times. So maybe 10 times stating the thing wrong, some people think that it will be believed.

The trust fund that is set up for unemployment compensation is not being

restricted for use by the President of the United States. It is being restricted for use by 75 U.S. Senators, who voted on this floor from that side and this side and who said: We are not going to use the accumulated trust funds for the unemployment compensation, for the highway trust fund, or any of the others. If you are going to use them, you have to replenish the amount used from some other source, such as new taxes or from programs you are going to have to restrain or cut. In other words, it is fill the trust fund with another source of income.

And we agreed to that. It is in the law of the United States, and the only way to get around it is to declare an emergency. I repeat: An emergency is a two-way street. The President and the Congress must declare it.

The President of the United States said: Pay for an extension, and I will sign it. So I do not think we need any more discussions.

I do not think we need any more air around the Senate. What we really need is Democrats and Republicans to get together and produce a bill that is budget neutral and extends the benefits, like the Dole-Domenici bill, or some other like it, where we pay for it with new revenues that we get into the Treasury of the United States that count under our budget process and replenish the used-up funds from the trust fund, or wherever.

I think that is what they want. That is what our people want. They do not want any more speeches, or any more accusations; they want a bill. And the bill that will get them benefits must pay for itself, must be budget neutral. That is what the problem is all about.

Senator DOLE, myself, and others have such a bill. They may be interested on the other side in looking at it, discussing it, or perhaps modifying it here or there. There is even another bill, a Durenberger bill. Then perhaps the unemployed working men and women would get some unemployment compensation. That is when it will happen. It will not happen with more speeches and charts. In fact, I submit it is time for a new chart, instead of a new speech.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed as in morning business.

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

SALUTE TO SENATOR THURMOND

Mr. DOLE. Mr. President, tomorrow at 2, Clarence Thomas will be sworn in as an Associate Justice of the U.S. Supreme Court.

The swearing-in will be a moment of great pride—great pride for Clarence Thomas and his family and friends;

Great pride for Americans, who called their Senators in record numbers, indicting their support for Judge Thomas;

And it will also be a moment of great pride for a colleague of ours, who, from the day Judge Thomas was nominated, played a leadership role in ensuring his confirmation.

I speak of the ranking minority member of the Senate Judiciary Committee, Senator STROM THURMOND.

There was one thing that Americans could count on throughout both the initial 8 days of hearings and the subsequent 3 days of additional hearings—and that is the fact that Senator THURMOND would be in attendance—listening carefully to the witnesses, treating them with courtesy, and asking questions that got to the bottom line.

In fact, I do not think the Senator from South Carolina missed one minute of the hearings—a remarkable record of endurance and diligence.

And during the difficult days this past weekend, committee members from our side of the aisle turned to Senator THURMOND for leadership. It was Senator THURMOND who appointed Senators SPECTER and HATCH to serve as Republican questioners.

It was Senator THURMOND who worked with Senator BIDEN in deciding who would testify, and the order and duration of their testimony.

It was Senator THURMOND who called the Republican members together for a meeting in his office the night before the recent hearings for a discussion of what was at stake.

It was Senator THURMOND who led the efforts to have all Republicans on the committee sign a letter to the Acting Attorney General, requesting an investigation as to who leaked information from the FBI reports.

And it was Senator THURMOND who was the floor leader for the Republican side when the nomination was at last considered and confirmed by the full Senate.

Tomorrow, Americans will say "Thank you, Clarence Thomas. Thank you for remaining true to yourself, and for having the courage to fight the good fight."

And this Senator also hopes they will be saying "thank you, Senator THURMOND. Thank you for your leadership in seeing that this courageous man got what he so richly deserved."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

THE LIBRARY OF CONGRESS: FOSTERING DEMOCRATIZATION

Mr. PELL. Mr. President, in my capacity as chairman of the Joint Committee on the Library, I want to share with the Senate one of the truly remarkable, but largely untold stories behind the democratization of the former Soviet bloc of nations; namely, the influential role played by our own Library of Congress in helping to bring to life effective legislatures to assume the burden of representative government.

The process began in 1988 when a senior adviser to President Gorbachev suggested a continuing association between the Library's Congressional Research Service [CRS] and the Supreme Soviet, reflecting a desire on the part of the Soviets to establish a legislative research service on the model of CRS.

In 1990, the Joint Committee on the Library approved a proposal by the Library for a cooperative venture between CRS and the Secretariat of the Supreme Soviet, and later that year, an agreement in principle was negotiated between the two bodies. Exchange visits ensued, during which substantive discussions began on such topics as legislative research and analysis, constitutional foundations of legislation, executive-legislative relations and economic and budget policies.

The results of these cooperative efforts were very positive. The staff exchanges provided valuable insights for specialists on both sides, especially during a period of rapid change in the Soviet Union. In addition, the exchanges of documents have provided rapid CRS access to Soviet legislative information. The program resulted in the establishment of a direct electronic mail connection for more effective communication.

The dramatic events that have occurred in the Soviet Union since the failed coup in August, while virtually placing the central legislature on hold, have served to broaden the probable arena for constructive action. While the future of central Soviet institutions like the Supreme Soviet and its Secretariat may be uncertain, many of the individuals with whom Congress and CRS have worked closely, have become central figures in the democratization process. These include Georgii Shaknazarov, one of President Gorbachev's leading foreign policy ad-

visers; Konstantin Lubenchenko, opposition candidate for chairman of the Supreme Soviet and a leader of the democratic movement, as well as a number of other prominent reformers.

Moreover, we now face a remarkable new era in which the Library may be called upon to deal with the fragmented remnants of the Soviet state. As the Soviet center dissolves, the legislatures of the 3 Baltic States and the 12 constituent republics will require the types of information and support that was previously provided by Congress to the center. Representatives of the Baltic States, the Russian, Ukrainian, and other republic legislatures have indicated a strong interest in establishing programs with Congress and CRS, similar to those existing with the Supreme Soviet.

While we must be cognizant of the limits of our own resources, I believe that we should offer our help to the legislatures of the Baltic States, the Russian, and possibly other republics. The staff time and resources that go into these projects are considerable, but I believe that the returns are immense. The success of the democratic revolutions in formerly Communist countries can strengthen and revitalize our own democracy and help promote a more just and stable world.

The extent and types of assistance we provide might vary from case to case, just as they have in our dealings with the Supreme Soviet or, more particularly, in two concurrent efforts to assist democratic evolution in Eastern Europe. Following the democratic revolutions in Eastern Europe in 1989, separate but complementary congressional initiatives, each utilizing the services of CRS, sought to provide resources necessary to building stable and effective parliamentary institutions.

The first of these, the Senate's Gift of Democracy to Poland Program in 1989, resulted in an allocation of $1.5 million to provide computer and office equipment, library and other assistance to the Polish Legislature. The second, in 1990, was the House of Representatives' bipartisan task force to provide support for the new parliaments of Eastern Europe, focusing on Hungary, Czechoslovakia, and most recently Bulgaria, as well as supplementing the efforts of the gift of democracy in Poland.

Congress appropriated $6 million for these parliamentary assistance activities for fiscal year 1991, as part of the funding for the Support for Eastern European Democracy Act [SEED]. The House task force has recommended another $6 million for direct congressional assistance to the parliaments of Eastern Europe in fiscal year 1992.

I am convinced that these unprecedented congressional assistance programs are instrumental in building our relations with the new democracies. We are helping to equip the parliaments of Poland, Czechoslovakia, Hungary, and Bulgaria with computers, printers, copiers, and other machinery necessary to the efficient operation of a legislature, years ahead of when they might have been able to do so with their own resources. By providing library and information resources, and advice in establishing research and analysis capabilities, we are strengthening the ability of these parliaments to rely on their own independent information systems—a prerequisite for any strong independent legislature.

Maybe we cannot implement programs as extensive as those for Eastern Europe in all the Soviet Republics. But we should do what we can to help the transition to democracy by providing technical assistance on difficult legislative, procedural, and infrastructure problems of new legislatures. These initiatives provide an American vote of confidence and strong moral support during the difficult democratic transition. What stronger statement could we make than helping to strengthen the most important yet fragile pillar of any democracy—namely, its freely elected legislature. I can think of no better form of foreign aid and no better investment in the future of world peace and security.

It is important to note that the U.S. Congress is the only Western legislature providing significant, direct assistance to the East European parliaments on an institution-to-institution basis. I can only say that this is a most appropriate area for the United States to take a leading role. I commend the dedication put into this effort by Members and staff of both Houses, as well as CRS, the Library of Congress, and House Information Systems Office.

I ask unanimous consent to place in the RECORD an article from the March issue of the CRS Review, by William Robinson, Deputy Director of CRS, describing ongoing congressional activities with the Soviet Union and Eastern Europe.

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

[From CRS Review, March–April 1991]

PARLIAMENTARY DEVELOPMENT IN CENTRAL EUROPE AND THE U.S.S.R.

(By William H. Robinson)

According to a recent review by Freedom House, 1990 was a year of profound transition for the world's governments. For the first time since World War II, the people living in relatively free societies outnumbered those living under governments denying basic political liberties to their citizens. Nowhere was the process of change more striking than in Central and Eastern Europe; nowhere was the possibility of change more enticing and uncertain than in the Soviet Union.

Partially competitive parliamentary elections were held in the Soviet Union in 1989 for the first time since the election of the Constituent Assembly in 1917. Following in short order were the more genuinely open and competitive elections which ended Communist rule in Poland (June 1989), Hungary (March and April 1990), and Czechoslovakia (June 1990), and the formation of a united Germany (October 1990) less than a year after the dismantling of the Berlin wall in November 1989. Bulgaria and Romania also began moving, albeit slowly and unsteadily, down the road to reform.

The world watched these dramatic changes with some wonderment and considerable hope. There probably were few people who had witnessed the aftermath of World War II who thought they would live to see the end of the division of Europe, with the lifting of the Iron Curtain, the dissolution of the Warsaw Pact, the reunification of Germany, and the launching of significant political changes in the Soviet Union. Yet it began to happen swiftly and, for the most part, peacefully. For the first time since the beginning of the Cold War, people could actually conceive of a stable and peaceful world order built on hope rather than fear. Events of 1991 in the Persian Gulf and the Soviet Union have tempered that initial euphoria and the Asian communist bloc still exists, but the record of dramatic change in Europe remains largely intact.

Congress is not only monitoring developments in this important region of the world; it also is actively encouraging the development of political pluralism, market economies, and human rights programs. Congress also is directly supporting the evolution of effective legislatures in Central and Eastern Europe—especially in Poland, Hungary, and the Czech and Slovak Federal Republic and has launched two initiatives to strengthen democratic institutions in the area. The Congressional Research Service of the Library of Congress is assisting in these efforts and, at the encouragement of Congress, has entered into exchanges and cooperative efforts with the Supreme Soviet of the Soviet Union.

CONGRESSIONAL CONCERN

Congressional interest in helping to strengthen the nascent democratic institutions in Central Europe found its first formal legislative expression in the "Gift of Democracy to Poland" program. Senate Concurrent Resolution 74, submitted by Senator Pete Domenici (R-NM) in September 1989, authorized a staff delegation representing the House and Senate leadership to visit Poland to assess ways in which Congress might assist the new Polish Parliament through a "Gift of Democracy." The resolution directed that staff were to have "expertise in legislative systems management, legislative research, parliamentary procedure and related legislative matters." John Hardt and Walter Oleszek of CRS were invited to join representatives of the leadership of the House and Senate as members of the delegation.

The delegation was in Strasbourg, France, during February 8–11, 1990, to promote a coordinated effort with whatever assistance might be forthcoming from Western European nations. It then traveled to Warsaw for a fact-finding mission on February 11–17, 1990. On March 20, 1990, the delegation proposed the implementation of a three-phased technology assistance program for Poland's National Assembly (providing modern office equipment, microcomputers, word processing systems, and appropriate software); the organization of training programs for Polish parliamentarians and staff; and the development of research and information support for the Sejm (Poland's lower house) and the Polish Senate, including enhancement of its parliamentary library.

The spring of 1990 also witnessed the creation of a second congressional initiative, which came to be called the Frost Task Force. On April 6, 1990, Speaker Thomas Foley appointed Representative Martin Frost (D-TX) as Chairman of the Special Task Force on the Development of Parliamentary Institutions in Eastern Europe. The membership of this bipartisan Task Force was drawn from the House Rules Committee and the House Foreign Affairs Committee and included Representatives Jim Leach (R-IA), Bart Gordon (D-TN), Douglas Bosco (D-CA), and Gerald Solomon (R-NY). Aided by Francis Miko of CRS, the Task Force visited Poland, Hungary, and Czechoslovakia in May 1990 to assess the needs of their parliaments and to recommend initiatives to help build strong legislative institutions that can function effectively in a multiparty democratic environment. An in-depth needs assessment was conducted for the Czech and Slovak Federal Republic and Hungary later in the summer of 1990. The Task Force reported its recommendations to the Speaker on June 28, 1990.

The process for securing funds for these initiatives in Central and Eastern Europe had been launched earlier. In November 1989, Congress passed the Support for East European Democracy Act (SEED). The Act authorized almost $1 billion of assistance to Eastern Europe for FY90-FY92. Of that amount, $12 million was to go toward building democratic institutions, including democratic national legislatures. The FY91 appropriation for foreign operations increased the amount for that year alone for strengthening democratic institutions to $19 million. It was agreed that $6 million of that amount would be made available to implement the parliamentary support programs discussed above. In January 1991, $4.25 million was transferred by AID to the Library of Congress and CRS to purchase equipment (working closely with the expert technical staff of House Information Systems), books, and library materials, and to provide training and technical assistance to the parliaments of Poland, Hungary, and the Czech and Slovak Federal Republic as recommended by the Frost Task Force. Another $750,000 was to provide for continuation of the Gift of Democracy program in Poland. The remaining $1 million was held in reserve by AID for other parliamentary support programs consistent with activities already undertaken in the region. In addition, CRS sought and obtained private funds totaling nearly $600,000 from a combination of philanthropic foundations including Ford, MacArthur, IREX (International Research & Exchanges Board), and the German Marshall Fund of the United States.

The idea for a program of continuing cooperation between CRS and the U.S.S.R. Supreme Soviet was raised initially in October 1988 by Georgii Shakhnazarov, currently a close foreign policy advisor to Mikhail Gorbachev. The proposal was regularly repeated by high-level Soviet officials who wished to develop legislative research services for the Soviet parliament independent of the Communist Party and government bureaucracy. Seeing CRS as the major model in this regard, Soviet officials requested that the Service consider establishing formal ties with its nascent counterpart in the Supreme Soviet. As part of this effort, a delegation from the Soviet Union visited CRS in February 1990. With congressional support and approval, CRS engaged in joint staff working sessions in Moscow in May and November. These staff exchanges should continue to provide valuable insights for specialists from both nations, especially during a period of crisis and uncertainty in the Soviet Union. An agreement outlining various possible modalities of cooperation at the legislative staff level between CRS and the Supreme Soviet Secretariat is currently being negotiated under the guidance and with the approval of the Joint Committee on the Library.

At the same time, congressional leaders asked the Service to play a coordinating role in U.S. Soviet interparliamentary exchanges. CRS has received and provided briefings for high-level parliamentary delegations, including one headed by Yevgenni Primakov, then Chairman of the Supreme Soviet, and another headed by Konstantin Lubenchenko, the democratic opposition's candidate for Chairman of the Supreme Soviet in March 1990. CRS has also been visited by scores of other deputies from the U.S.S.R. Supreme Soviet and from republic legislatures.

PROGRAM PRINCIPLES

Although the Gift of Democracy of Poland program and the Frost Task Force began by taking independent paths, they arrived at strikingly similar conclusions—in terms of findings, philosophy, and programs.

The delegations representing both of these congressional initiatives found that the legislatures of Central and Eastern Europe shared comparable problems that stemmed from decades of totalitarian rule. The effects of this legacy obviously were felt even more acutely in the Soviet Union. In all four countries, national legislatures had been preserved as nothing more than symbolic shells; they were parodies of democratic government, having no real responsibility other than to rubber-stamp whatever decisions the Communist Party leaders made. These vestigial legislatures had no need for, and hence no capacity to gather, the kind and quality of information and analysis required to make independent policy assessments. These bodies had inadequate space and staff, sometimes no offices or equipment, insufficient library resources, and a pressing need to educate and inform new members, most of whom were coming to government positions for the first time.

The Representatives and Senators participating in the Gift of Democracy program and the Frost Task Force have tacitly agreed on several basic principles and approaches. They have concluded that any congressional assistance program should:

Be conducted on an institution-to-institution basis, with national-level legislatures in the region, but not including direct assistance to political parties or subnational governments.

Focus on building the capacity of the legislature to participate effectively in an open and pluralistic political system, drawing on a wide variety of sources, techniques, and institutions for information and analysis.

Encourage coordination and cooperation among the many possible sources of assistance (governmental and nongovernmental; U.S., foreign, and international) to these legislatures.

The programs also share some common features:

Office equipment and automation

The legislatures in Budapest, Prague, and Warsaw simply lack the basic requisites for functioning as modern, effective legislatures. Many of their needs are basic—for example, copiers, computers, telefacsimile equipment, and telephone answering machines. The Gift of Democracy program has already provided about $1.5 million worth of equipment to Poland. The Library of Congress serves as the agent for congressional efforts to provide appropriate equipment for the parliaments in Hungary and the Czech and Slovak Federal Republic—including technical assistance, installation, and maintenance.

Library collections and resources

Parliamentary libraries in the region have had neither the funds nor the freedom to develop adequate collections of books and periodicals or to take advantage of the automated services and technologies that are so valuable to modern libraries. CRS is cooperating with other departments of the Library and with the U.S. Information Agency to begin remedying these deficiencies.

Research and analysis capabilities

Effective and independent legislatures need direct access to objective research and analysis. CRS has begun working with leading members and officials of the Central European and Soviet national legislatures to explain the principles and methods that guide the process of informing a complex modern legislature, so each national institution can develop approaches that suit its circumstances and resources.

Consultation on policy and operations

CRS also will be working with legislative leaders in Czechoslovakia, Hungary, and Poland to arrange staff exchanges on subjects of critical importance to their parliaments. These may be urgent policy matters or questions of legislative organization and procedure on which the Central and Eastern European legislatures would like to consult with CRS experts. Assistance has been requested in preparing training programs for new members of these parliaments after impending elections. CRS also will continue a series of joint seminars begun in November 1990 with the Soviet national legislature.

The congressional support for the three parliaments of Central Europe is unique. To date, no other government has launched such a comprehensive program of assistance. During the coming months, articles in the CRS Review will explore these developments in greater depth.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. Is there further debate on the motion?

If there is no further debate on the motion, then the motion to proceed is agreed to.

The motion was agreed to.

FEDERAL FACILITIES COMPLIANCE ACT

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 596) to provide that Federal facilities meet Federal and State environ-

mental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate now proceed to S. 596, and that no amendment or motion be in order regarding Alaska wilderness.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. BAUCUS. Mr. President, I am pleased to bring before the Senate the Federal Facilities Compliance Act. The issue of Federal facilities compliance is really quite simple. Should the Federal Government be subject to the same environmental laws as everyone else?

Quite frankly, I had thought this question had been settled a long time ago—as far back as 1976—when Congress first enacted the Resource Conservation and Recovery Act. Section 6001 of RCRA states that—

> Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government * * * shall be subject to, and comply with, all Federal, State, interstate and local requirements, both substantive and procedural * * * in the same manner, and to the same extent, as any person is subject to such requirements.

Clearly, congressional intent in 1976 was to make sure that the Federal Government complies with all RCRA requirements. In 1976, Congress placed Federal facilities on an equal basis with private firms, municipalities, States, and individuals who violated RCRA. But that is not the case today.

Despite this clear language, the executive branch has continued to insist that it is not subject to the same environmental laws as everyone else.

Despite this clear language, three Federal courts of appeal have read congressional intent differently.

In cases before the 6th, 9th and 10th circuits, each court ruled that States could not seek civil penalties from the Federal facilities violating RCRA.

In these cases, the U.S. Department of Justice argued, and the courts agreed, the RCRA has not clearly and unambiguously waived sovereign immunity with respect to civil penalties. With all due deference to these courts, I think they plainly misinterpreted the law.

I agree with the U.S. District Court for Maine—which is the highly esteemed court on which the majority leader once served. This court has held that:

> Any intelligent person reading the statute would think the message plain. Federal facilities will be treated the same as private institutions so far as enforcement of the solid waste and hazardous waste laws are concerned.

Mr. President, we need to make sure that all courts interpret congressional intent as it was meant to be; as the U.S. District Court in Maine has done. We need to clarify the law so that RCRA clearly and unambiguously waives sovereign immunity with respect to civil penalties.

That is the purpose of S. 596, the Federal Facilities Compliance Act. Senator MITCHELL, who has been fighting for this legislation, is to be commended for his leadership, his patience, and his persistence on this issue.

I am convinced that fines and penalties for violations of the law are a necessary and effective method of enforcement. This is as true for environmental law as it is for any other type of law.

The EPA itself testified to the Environment and Public Works Committee that:

> Penalties serve as a valuable deterrent to noncompliance and to help focus facility managers' attention on the importance of compliance with environmental requirements.

It's no wonder then that in May 1986 the General Accounting Office concluded that the Federal Government has been slow to comply with hazardous waste laws.

In its 1986 report, the GAO reviewed RCRA compliance at 17 Federal civilian agencies in 12 States. GAO found that almost half of the hazardous waste handlers inspected by EPA were cited for violations. Over one-quarter were out of compliance for 6 months or more. Some had been out of compliance for more than 3 years.

Similarly, in February 1991 the Office of Technology Assessment in a report on cleanup, stated that Federal weapons facilities have produced widespread contamination of the environment from toxic chemicals and radionuclides.

Mr. President, without this legislation, recalcitrant Federal facilities will continue to violate the law.

S. 596 will change that. It will ensure that the Federal Government must play by the same rules as everyone else. It does so in three fundamental ways.

First, according to some courts, RCRA is the only major Federal environmental statute that does not clearly waive sovereign immunity. S. 596 specifically states that it does.

Specifically, it provides that administrative orders, and all civil and administrative fines and penalties may be imposed for violations by Federal agencies.

Second, the bill rejects the Department of Justice position. It specifies that EPA may take enforcement actions against other Federal agencies.

Finally, the pace of cleanup at Federal facilities has been too slow. To speed it, this bill will require each Federal facility to conduct an environmental assessment and annual inspection.

Mr. President, the Federal Facility Compliance Act will without question, give States what the Federal Government now has—the ability to enforce against violations of the law.

Some have argued, however, that this legislation is a budget buster. Critics have argued that fines and penalties will drain the Federal budget and divert limited funds for cleanup into State coffers.

This criticism is unfounded.

First, the Congressional Budget Office does not believe that the legislation will bust the budget. CBO said in a letter to Senator BURDICK:

> * * * the long-term cost of compliance would not change substantially as a result of this bill.

Second, in cases where sovereign immunity is clearly waived, under the Clean Air Act, for example, the size of fines and penalties collected has been minimal.

In Ohio, a $25,000 penalty was assessed for 10,270 days of violations under the Clean Air Act. It cost Ohio $30,000 to litigate that case.

In Tennessee an administrative penalty of $10,000 for a clean air violation is being assessed by the State.

According to CBO, in 1990, DOD paid about $150,000 in fines and penalties to EPA and various States. Since 1979, DOE has paid about $1 million in environmental fines and penalties. Typical assessments against Federal facilities ranged from $1,000 to $250,000.

History demonstrates that States will not impose fines and penalties to raise money from the Federal Treasury. So this criticism is a red herring.

Other critics have argued that they can support this legislation but only if we eliminate some of the RCRA requirements that Federal facilities must meet.

Now this doesn't make sense. It's like agreeing to pay a speeding ticket but only after we raise the speed limit.

The standards are based on protection of health and the environment. We can't afford to change the requirements for the Department of Defense, the Department of Energy or for other Federal agencies. Federal facilities are among the worst offenders of the law.

The Department of Energy's Rocky Flats facility in Colorado, and the Fernald site in Ohio, for example have had a long history of environmental violations.

DOE has admitted full knowledge, since 1951 of pollution at Fernald. Moreover, DOE has conceded that it has released more than 300,000 pounds of radioactive uranium particles into the air at Fernald.

At DOE's Rocky Flats facility, the Federal Bureau of Investigation and the EPA have found numerous violations—including the illegal disposal and burning of hazardous waste and radioactive waste, and the illegal discharge of such wastes into nearby rivers.

The track record at the Department of Defense is not much better. DOD has

94 Superfund sites, and over 17,000 contaminated sites in every State in the Nation.

All told, some 63 percent of Federal facilities have serious RCRA violations for failing to protect ground water. But only 38 percent of all private facilities have similar violations.

This is wrong. The Federal Government should be the leader in compliance with our Nations environmental laws. But the fact is we are laggards, not leaders.

The reason is quite clear.

When three courts rule that RCRA fines and penalties do not apply to Federal facilities, there is little to force compliance. That is why this legislation is absolutely necessary. It will ensure greater compliance by Federal facilities with our solid and hazardous waste laws.

Finally, Mr. President, let me point out to my colleagues that last year, the Environment and Public Works Committee unanimously reported similar legislation. Unfortunately, there was not enough time at the end of the session for the Senate to consider the legislation.

We are fortunate, that we now have time to consider this legislation. And I urge all of my colleagues to support it.

AMENDMENT NO. 1263

Mr. BAUCUS. Mr. President, I send to the desk a series of managers' agreed-upon amendments and technical amendments, and I ask unanimous consent that it be in order to proceed to the immediate consideration of these amendments en bloc; that the amendments be agreed to; and that the motion to reconsider the adoption of these amendments be laid upon the table en bloc; further, that any statements relating to these amendments appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Reserving the right to object, and to my knowledge there is no objection at this point on our side.

The PRESIDING OFFICER. Are there further reservations to the unanimous-consent request?

Without objection, it is so ordered.

The amendment (No. 1263), was agreed to.

The text of the amendment follows:

On page 2, strike subsection (a) on lines 7 through 23.

On page 2, line 24, strike "(b)".

On page 4, line 23, insert "(b)" before "Federal".

On page 5, line 14, strike "(b)" and insert in lieu thereof "(c)".

On page 6, line 9, strike "(a).

On page 6, line 9, insert "of the Solid Waste Disposal Act" before "is amended".

On page 6, insert at the end the following new section:

"SEC. 5. (a) STORAGE OF MIXED WASTE.—Section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) is amended—

"(1) by striking "In" and inserting in its place the following:

"'(1) Except as provided in paragraphs (2) or (3), in'; and

"(2) by inserting at the end the following new paragraphs:

"'(2) Until December 31, 1993, where technologies do not exist or sufficient treatment capacity is not yet available for treatment of mixed waste generated at facilities owned or operated by a department, agency, or instrumentality of the United States, or by a person acting as an authorized agent of such department, agency, or instrumentals, such mixed waste shall be stored in compliance with all applicable regulations promulgated under this subtitle except those promulgated to implement paragraph (1). After December 31, 1993, the regulations promulgated to implement paragraph (1) shall apply to all mixed waste except as provided in paragraph (3).

"'(3) If the Administrator determines that compliance for a particular type of mixed waste is not possible by December 31, 1993, the Administrator may grant a variance from the regulations promulgated to implement paragraph (1) to any department, agency, or instrumentality of the United States, in accordance with the following procedures.

"'(A) Where sufficient treatment capacity is not yet available, the Administrator, after notice and opportunity for comment and after consultation with appropriate State agencies in all affected States, may on a case-by-case basis, for a particular type of waste, grant an extension of the effective date contained in paragraph (2) for up to one year, if the applicant demonstrates that treatment capacity cannot reasonably be made available by the effective date in paragraph (2) due to circumstances beyond the control of the applicant. Such extension may be renewed by the Administrator for additional periods of up to one year. In no case, however, shall the December 31, 1993, deadline for compliance with paragraph (1) be extended beyond July 1, 1997.

"'(B) Where technologies do not exist, the Administrator, after notice and opportunity for comment and after consultation with appropriate State agencies in all affected States, may on a case-by-case basis, for a particular type of waste, grant an extension of the effective date contained in paragraph (2) for up to two years, if the applicant demonstrates that treatment technology cannot reasonably be developed by December 31, 1993 due to circumstances beyond the control of the applicant. Such extension may be renewed by the Administrator for additional periods of up to one year. In no case, however, shall the December 31, 1993, deadline for compliance with paragraph (1) be extended beyond July 1, 1997.

"'(C) Any variance granted by the Administrator under this paragraph shall be considered a final agency action and shall be subject to judicial review.

"'(b) TREATMENT OF MIXED WASTE.—Section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)) is amended by adding at the end the following new paragraphs:

"'(3) Not later than 90 days after the date of enactment of the Federal Facility Compliance Act of 1991, the Administrator, after notice and opportunity for comment, shall issue a list of mixed wastes for which the Administrator determines treatment technologies do not exist or sufficient treatment capacity is not yet available. The Administrator shall update this list annually.

"'(4) Not later than December 31, 1992, the Administrator, after notice and opportunity for comment, shall amend, as necessary, regulations promulgated under this subsection specifying those levels or methods of treatment which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized and exposure to radioactivity during treatment is minimized.

SEC. 6. Nothing in this Act shall alter, modify or change in any manner any agreement or consent order regarding the management of mixed wastes in effect on the date of enactment of this Act and to which an agency of the Federal Government is a party.

SEC. 7. Any State may comment on any determination made by the Administrator pursuant to this Act with respect to the commingling of radioactive and hazardous waste.

On page 6, after line 9, insert the following:

SEC. 8. MIXED WASTE.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6902) is amended by inserting the following new paragraph at the end of the section:

"'(41) The term "mixed waste" means waste that contains both hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).'.

SURETY BONDS

SEC. 9. (a) SURETY CONTRACTOR RELATIONSHIP.—Any surety which provides a bid, performance, or payment bond in connection with any contract for hazardous substance response with any department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, and begins activities to meet its obligations under such bond, shall, in connection with such activities or obligations, be entitled to any indemnification and standard of liability to which its principal was entitled under the contract or under any applicable law or regulation.

(b) SURETY BONDS.—

(1) APPLICABILITY OF THE MILLER ACT.—If under the Act of August 24, 1935 (49 Stat. 793 et seq., chapter 642, 40 U.S.C. 270a–270d), commonly referred to as the "Miller Act", surety bonds are required for any direct Federal procurement of a contract for hazardous substance response with a department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, and are not waived pursuant to the Act of April 29, 1941 (55 Stat. 147 et seq., chapter 81, 40 U.S.C. 270e–270f), the surety bonds shall be issued in accordance with such Act of August 24, 1935.

(2) LIMITATION OF ACCRUAL OF RIGHTS OF ACTION UNDER BONDS.—If, under applicable Federal law, surety bonds are required for any direct Federal procurement of any contract for hazardous substance response with a department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, no right of action shall accrue on the performance bond issued on such contract to or for the use of any person other than the obligee named in the bond.

(3) LIABILITY OF SURETIES UNDER BONDS.—If under applicable Federal law, surety bonds are required for any direct Federal procurement of a contract for hazardous substance response with a department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, unless otherwise provided for by the procuring agency in the bond, in the event of a default, the surety's liability on a performance bond shall be in accordance with the plans and specifications less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond. The surety shall in no event be liable on bonds to

indemnify or compensate the obligee for loss or liability arising from personal injury or property damage whether or not caused by the breach of the bonded contract.

(4) NONPREEMPTION.—Nothing in this section shall be construed as preempting, limiting, superseding, affecting, applying to, or modifying any State laws, regulations, requirements, rules, practices, or procedures. Nothing in this section shall be construed as affecting, applying to, modifying, limiting, superseding, or preempting any rights, authorities, liabilities, demands, actions, causes of action, losses, judgment, claims, statutes of limitation, or obligations under Federal or State law, which do not arise on or under the bond.

(c) APPLICABILITY.—This section shall not apply to bonds executed before October 1, 1991, or after December 31, 1992. This section also shall not apply to facilities that are included on the National Priorities List as described in section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605). For the purposes of this section, the terms "hazardous substance" and "response" shall have the same meaning as given such terms under paragraphs (14) and (25), respectively, of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

SEC. 10. (a) This section may be cited as the "Federal Recycling Incentive Act".

(b) Subtitle F of the Solid Waste Disposal Act is amended by adding at the end thereof the following:

"FEDERAL GOVERNMENT REQUIREMENTS

"SEC. 6005. (a) FEDERAL AGENCIES.—Prior to the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency in consultation with the Administrator of General Services, by regulation, shall establish, and from time to time modify, a program pursuant to which each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government shall be required to separate materials to be collected for the purpose of recycling from solid waste generated by such department, agency, or instrumentality. Such material shall not be collected if the Administrator determines that inadequate markets exist for such materials. The program established pursuant to this section shall seek to incorporate existing Federal programs to separate materials from solid waste for the purpose of recycling but in no case shall interfere with existing programs.

"(b) PUBLICATION IN FEDERAL REGISTER.—Within 60 days following the establishment or modification of a program pursuant to subsection (a), the Administrator of the Environmental Protection Agency shall submit a copy of such program or modification to the Congress and publish a copy thereof in the Federal Register.

"(c) EFFECTIVE DATE.—180 days following such publication in the Federal Register, each department, agency, and instrumentality of the executive, legislative, and judicial branches shall take action as may be necessary to carry out the program established pursuant to subsection (a) as published in the Federal Register.

"(d) PROCEEDS FROM SALE—Any moneys received by any such department, agency, or instrumentality from the sale of materials collected for the purpose of recycling shall be available for use by the department, agency or instrumentality of the Executive, Legislative and Judicial branches of the Federal Government for activities which promote recycling. Nothing in this Act shall be construed to prohibit any agency from directing funds received from the sale of materials collected for the purpose of recycling for morale welfare or recreational purposes.

"(e) REPORT.—Prior to the expiration of the 15-month period following the date on which such program takes effect, and annually thereafter, the Administrator of the Environmental Protection Agency shall report to the Congress with respect to the extent of compliance by each department, agency, and instrumentality of the executive, legislative, and judicial branches with the program established pursuant to this Act for the preceding 12-month period. Such report shall identify any such department, agency, and instrumentality which fails to comply, in whole or in part, with such program. A copy of the report shall be published in the Federal Register.

"(f) AUTHORIZATION.—For the purpose of enabling the Administrator of the Environmental Protection Agency to carry out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 11. The Chief Financial Officers, of affected agencies, pursuant to 31 U.S.C. 501 shall submit an annual report to Congress on the activities of the Federal government regarding the disposal of mixed waste, subject to the Solid Waste Disposal Act. The report shall include, to the extent practicable, an estimate of the time required to develop adequate storage, treatment or disposal capacity for each mixed waste listed under the Solid Waste Disposal Act, an estimate of the costs expected to be incurred by the Federal government for such storage, treatment or disposal, a detailed discription of the compliance activities expected to be accomplished by the Federal government during the period covered by the budget submission, and an accounting of the fines and penalties collected pursuant to the Solid Waste Disposal Act."

On page 2 line 6 strike line 6 and all that follows through line 14 page 3.

SEC. 12. PUBLIC VESSELS.

(a) Any solid of hazardous waste generated on a public vessel shall not be subject to storage, manifest, inspection, or recordkeeping requirements under the Solid Waste Disposal Act, until such waste is removed from the public vessel on which it was generated. Nothing in this section shall affect, or in any way change the intention, implementation or applicability of 10 U.S.C. 7311, or the term "generator" as defined in 40 C.F.R. 260.10.

(b) for purposes of this section:

(1) the term "public vessel" means a vessel owned or bareboat chartered and operated by the United States or any other sovereign.

(2) waste transferred directly from one public vessel to another shall not be considered "removed from the public vessel on which it was generated" for as long as such waste remains on a public vessel.

SEC. 13. FEDERAL WASTEWATER TREATMENT WORKS.

(a) APPLICABILITY.—Subtitle F of the Solid Waste Disposal Act is amended by adding at the end thereof the following:

"SEC. 6006. FEDERAL WASTEWATER TREATMENT WORKS.

(a) IN GENERAL.—Except as provided in subsection (b), any wastewater treatment works owned by a department, agency, or instrumentality of the Federal Government shall be considered to be managing a solid waste, but not a hazardous waste, if:

(1) such wastewater treatment works receives and treats wastewater, the majority of which is domestic sewage;

(2) no solid waste in any unit that is part of the wastewater treatment works exhibits any hazardous waste characteristic as determined pursuant to test methods and criteria established by the Administrator under Subtitle C of this Act unless such waste is removed from the treatment works and is managed as a hazardous waste pursuant to subsection (b) and other applicable requirement of this Act;

(3) the wastewater treatment works has a permit issued pursuant to section 402 of the Federal Water Pollution Control Act and such permit includes conditions requiring that any individual wastewater received by the treatment works is pretreated (A) in accordance with national pretreatment standards promulgated by the Administrator pursuant to section 307(b) of such Act and applicable to each specific category of industrial wastewater received by the treatment works or (B) in the absence of national standards in accordance with local limits established pursuant to section 402(b)(8) of such Act, and (C) any solid waste rendered hazardous by any pretreated or non-compliant wastewater has been removed to the extent practicable;

(4) such treatment works complies with any other permit conditions as may be established by the Administrator or an authorized State pursuant to section 402 of the Federal Water Pollution Control Act.

(b) Notwithstanding subsection (a), the owner of a wastewater treatment works described in subsection (a) shall be required to—

(1) remove and manage as a hazardous waste any solid waste present in any unit of the treatment works that exhibits any hazardous waste characteristic as established by the Administrator under subtitle C of this Act; and

(2) take corrective action with respect to any release or threatened release of hazardous waste (including any solid waste present at the treatment works which exhibits any characteristic of a hazardous waste) or hazardous waste constituents from the treatment works in accordance with corrective action requirements under subtitle C of this Act.

(c) Subsection (a) does not constitute a waiver of any requirement under subtitle C of this Act with respect to any unit that is part of a wastewater treatment works that pretreats industrial waste prior to discharge to a treatment works described in subsection (a).

(d) Relationship to Federal Water Pollution Control Act.—Nothing contained in this section shall be construed, interpreted, or applied to include a wastewater treatment works owned by a department, agency, or instrumentality of the Federal Government within the definition of an "eligible treatment works" or "publicly owned treatment works" for purposes of Title II or Title III of the Federal Water Pollution Control Act.

(e) TABLE OF CONTENTS.—The table of contents for such subtitle F, of the Solid Waste Disposal Act is amended by adding the following new item at the end:

"Sec. 6006. Federal wastewater treatment works."

SEC. 14. MUNITIONS.

SEC. 6. Munitions, Section 1006 of the Solid Waste Disposal Act is amended by adding the following new subsection:

(d) MUNITIONS.—The Secretary of the Defense shall have the responsibility for carrying out any requirement of subtitle C of this Act with respect to regulations promulgated relating to the safe development, handling, use, transportation, and disposal of military

munitions. The Secretary shall, with the concurrence of the Administrator, promulgate such regulations as may be necessary to carry out the purposes of this subsection.

SEC. 15. AMENDMENT TO THE FEDERAL FACILITY COMPLIANCE ACT OF 1991.

In carrying out the provisions of Sec. 2 (a)(b), the administrator of the Environmental Protection Agency may utilize the Mine Waste Treatment capabilities operated by the Environmental Protection Agency and the Department of Energy at DOE's Pittsburgh Energy Technology Center's Component Development and Integration Test Facility. The treatment and assessment technologies will be supplemented and upgraded as required.

SEC. 16. ESTABLISHMENT OF SMALL TOWN ENVIRONMENTAL PLANNING PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency (hereafter referred to as the "Administrator") shall establish a program to assist small communities in planning and financing environmental facilities.

(b) SMALL TOWN ENVIRONMENTAL PLANNING TASK FORCE.—(1) The Administrator shall establish a Small Town Environmental Planning Task Force shall be composed of representatives of small towns from different areas of the United States, Federal and State governmental agencies, and public interest groups.

(2) The Task Force shall—

(A) identify areas of environmental and public health regulations developed pursuant to Federal environmental laws which pose significant problems for small towns;

(B) identify means to improve the working relationship between the Environmental Protection Agency (hereafter referred to as the Agency) and small towns;

(C) review proposed regulations for the protection of the environmental and public health and suggest revisions that could improve the ability of small towns to comply with such regulations;

(D) identify means to promote regionalization of environmental treatment systems and infrastructure serving small towns to improve the economic condition of such systems and infrastructure; and

(E) provide such other assistance to the Administrator as the Administrator deems appropriate.

(c) IDENTIFICATION OF ENVIRONMENTAL REQUIREMENTS.—(1) Not later than 6 months after the date of the enactment of this title, the Administrator shall publish a list of requirements under Federal environmental and public health statutes (and the regulations developed pursuant to such statutes) applicable to small towns. Not less than annually, the Administrator shall make such additions and deletions to and from the list as the Administrator deems appropriate.

(2) The Administrator shall, as part of the Small Town Environmental Planning Program under this section, implement a program to notify small communities of the regulations identified under paragraph (1) and of future regulations and requirements through methods that the Administrator determines to be effective to provide information to the greatest number of small communities, including, but not limited to, any of the following:

(1) Newspapers and other periodicals;

(2) Other news media;

(3) Trade, municipal, and other associations that the Administrator determines to be appropriate; and

(4) direct mail.

SEC. 17. SMALL TOWN OMBUDSMAN.

The Administrator shall establish and staff an Office of the Small Town Ombudsman. This Office shall provide assistance to small towns in connection with the Small Town Environmental Planning Program and other business with the Agency. Each regional office shall identify a small town contact. The Small Town Ombudsman and the regional contacts are also authorized to assist larger communities provided assistance is provided, on a priority basis, to small town.

SEC. 18. MULTI-MEDIA PERMITS.

(a) The Administrator shall conduct a study of establishing a multi-media permitting program for small towns. Such evaluation shall include an analysis of (1) environmental benefits and liabilities of a multimedia permitting program; (2) the potential of using such a program to co-ordinate a small town's environmental and public health activities; and (3) the legal barriers, if any, to the establishment of such a program.

(b) Within three years of enactment, the Administrator shall report Congress on the results of the evaluation performed in accordance with subsection (a). Included in this report shall be a description of the activities conducted pursuant to this Act.

SEC. 19. DEFINITIONS.

For the purposes of this Act, the term "small town" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 2,500 individuals.

SEC. 20. APPROPRIATIONS.

There are authorized to be appropriated such sums as may be needed to implement this title.

In an appropriate place in S. 596 insert the following:

SEC. 21. SHORT TITLE.

This Act may be cited as the "Metropolitan Washington Waste Management Study Act".

SEC. 22. PURPOSES.

The purposes of this Act are—

(1) to require an environmental impact statement prior to the expansion of the I-95 Sanitary Landfill, at Lorton, Virginia; and

SEC. 23. FINDINGS.

The Congress finds that—

(1) the I-95 Sanitary Landfill, in Lorton, Virginia, is located on Federal land, and the ultimate responsibility for maintaining environmental integrity at the I-95 Sanitary Landfill is on the Federal Government, as well as the signatories to the July 1981 Memorandum of Understanding, as amended;

(2) operators of the I-95 Sanitary Landfill, in Lorton, Virginia, may seek to expand the landfill by 148 acres in the so-called "Site C";

(3) there are concerns that the I-95 Landfill may be discharging leachate into the surface waters of Mills Branch, a tributary of the Potomac River;

(4) the Potomac River empties into the Chesapeake Bay, recognized by the President of the United States, Congress, the Governors of Virginia, Delaware, Pennsylvania, and Maryland as one of the Middle Atlantic region's environmental priorities;

(5) possible sources of pollution affecting the environmental integrity of the Chesapeake Bay must be fully investigated, and eliminated if possible;

(6) operators of the I-95 Sanitary Landfill established an enterprise fund with the tipping fees charged for the dumping of waste on this Federal land;

(7) the Washington metropolitan area's local governments, while aggressively pursuing integrated solid waste management, including recycling, are facing a serious problem with regard to landfill space;

(8) much of the waste generated by Federal facilities in the Washington metropolitan area is disposed of at the I-95 Sanitary Landfill and other municipal landfills in the same area;

(9) few Federal facilities in the Washington metropolitan area have waste management plans, and the plans that do exist are not coordinated with the local governments in which the facilities are situated; and

(10) Federal facilities in the Washington metropolitan area have no cohesive waste management and recycling program.

SEC. 24. ENVIRONMENTAL IMPACT STATEMENT.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Except as provided in subsection (b)(1), in order to assure environmental integrity in and around properties owned by the Government of the United States, no expansion of the I-95 Sanitary Landfill shall be permitted or otherwise authorized unless—

(1) an environmental impact statement, pursuant to the National Environmental Policy Act, regarding any such proposed expansion has been completed and approved by the Administrator; and

(2) the costs incurred in conducting and completing such environmental impact statement are paid from the landfill's so-called enterprise fund established pursuant to the July 1981 I-95 Sanitary Landfill Memorandum of Understanding entered into by the jurisdictions utilizing such landfill, or some other payment formula based on past and projected percentage of the jurisdictional usage of the landfill.

(b) CONDITIONS.—(1) Notwithstanding the provisions of subsection (a), such landfill may be expanded for the purpose of the planned ash monofill which can be used solely for the disposal of incinerator ash from the parties of the July 1981 Memorandum of Understanding.

(2) After December 31, 1995, the I-95 Sanitary Landfill, including any expansions thereof, shall not be available to receive or dispose of municipal or industrial waste of any kind other than incinerator ash.

(3) After December 31, 1999, the I-95 Sanitary Landfill, including any expansions thereof, shall not be available to receive or dispose of any incinerator ash.

(4) Notwithstanding any other provision of this Act, the parties of the July 1981 Memorandum of Understanding, together with the Federal Government, shall continue to be responsible for maintaining environmental stability at the I-95 Sanitary Landfill, including any expansion, in accordance with applicable laws of the United States, and the Commonwealth of Virginia (including any political subdivision thereof which is a party to the July 1981 Memorandum of Understanding).

SEC. 25. DEFINITIONS.

For purposes of this Act, the term—

(1) "expansion" includes any development or use, after May 31, 1991, of any lands, other than those lands which were used as a landfill on or prior to May 31, 1991, in accordance with the July 1981 I-95 Sanitary Landfill Memorandum of Understanding, owned by the Government of the United States in and around Lorton, Virginia, for the purpose of, or use as, a sanitary landfill. The term also includes variances or exemptions from any elevation requirements relating to landfill operations established by the laws of the Commonwealth of Virginia, or any subdivision thereof, in connection with any such lands used on or prior to May 31, 1991;

(2) "lands owned by the Government of the United States" includes any lands owned by the United States, and any such lands with

respect to which the Government of the District of Columbia has beneficial ownership; and

FEDERAL RECYCLING INCENTIVE ACT

Mr. McCONNELL. Mr. President, I offer my amendment to the Federal Facilities Compliance Act gives Federal facilities an economic incentive to recycle.

Mr. President, we push a lot of paper in this town. It is about time we started recycling some of it.

How often we sit here from our pulpits and point the finger at the American people: Blaming them for our Nation's environmental problems. It's time to point the finger at ourselves, and the huge Federal bureaucracy we've created.

The Federal Government is already required by law to recycle but less than 200 of the nearly 6,000 Federal facilities nationwide had documented recycling programs in 1990.

The reason these facilities don't comply with the current law is that they simply do not have an economic incentive to do so. They obtain no benefit from recycling, and no punishment for wasting.

Federal facilities must spend money separating garbage to be recycled, but when this separated material is sold, the revenues are swallowed up in the abyss of the general fund of the Federal Government.

Managers of Federal facilities see no direct link between their efforts to recycle and the financial returns that recycling produces. So the bureaucracy continues to waste.

My legislation gives Federal facilities an economic incentive to recycle: It allows the managers of Federal facilities to keep the moneys derived from the sale of waste materials to be recycled.

My legislation also requires the Environmental Protection Agency to compile a list each year of those Federal facilities that do not comply with recycling regulations currently on the books. This list will be printed in the Federal Register for the public to see. It holds Federal bureaucrats accountable for their wasteful ways.

Mr. President, the impact of this simple legislation will be substantial. The Federal Government uses nearly 2 million tons of paper each year. This is 2.2 percent of all the paper consumed in the United States. Eighty-five percent of this paper is recyclable.

According to a 1989 General Accounting Office analysis, if the Federal Government recycled all of the paper it uses, it would save over 5 million cubic yards of landfill space, 3 million barrels of crude oil, and 26 million trees each year.

In 1989, the Federal Government received $778,000 from the sale of source separated materials. The General Services Administration estimates that a comprehensive waste management recycling program would increase revenues to GSA managed facilities by $1.8 million per year.

My legislation provides the incentive for comprehensive waste management.

By returning this money to participating Federal facilities, I am convinced that the incremental costs of expanding the current Federal recycling program will be dwarfed by revenues generated from the expansion of recycling. Thus, my legislation will lead to a net increase in revenues to the Federal Government.

It is not often that legislation is introduced in Congress that will increase revenues, reduce the deficit and, in the process, helps save our Nation's natural resources.

Mr. President, I would like to thank the managers of this bill for accepting my amendment as a part of the Federal facilities compliance act. I look forward to working with them on solid waste in the future.

Mr. BAUCUS. I want to take a moment to explain some of the context of this amendment.

This amendment requires Federal agencies to recycle, and allows agencies to keep the proceeds from the sale of recyclable materials. Let me be clear that I support Federal recycling efforts. In fact, I have included provisions like this amendment in my comprehensive RCRA legislation that requires Federal facilities to prepare waste reduction plans and to purchase recycled materials.

I have just completed 10 days of hearings on RCRA. It is clear from those hearings that recycling will succeed only if we address three interrelated issues. The first is the development of a collection infrastructure for recyclable materials. Second is the quality of that supply. The last is the development of an infrastructure for purchasing recovered materials and their sale for processing and recycling. All three parts are necessary for recycling to succeed.

It must be understood by those supporting this amendment and by those affected by the amendment, that this amendment only addresses the first issue, that of collection. The comprehensive RCRA legislation that I am now working on will correct this by addressing all aspects of recycling.

It must be further understood that by adopting this amendment we will be requiring recycling Federal facilities to collect recyclables without providing recycling markets. This will lead to a glut of materials, lower prices for recyclable materials, and frustration by all involved in recycling.

Let me make a couple more points that illustrate the problem with this amendment. There are some 2,700 communities serving 40 million people which recover paper, glass, plastics, and other materials for recycling. Municipal and State representatives that testified at hearings on RCRA convinced me that unless someone is available to purchase these materials, they will pile up or end up in landfills or incinerators. What I have learned is that comprehensive legislation is needed to address both supply and demand. If we only require collection as this amendment does, it will add further glut to the market place without resulting in greater recycling.

Increasing supply of recyclables absent a comprehensive approach which increases demand, as this amendment does, will have little or no effect on recycling at Federal facilities or elsewhere.

Without developing demand, like S. 976 does or by some other means, prices for recyclables will be depressed or markets will not be available. Supply may be sold for little or nothing. In some cases, Federal facilities may actually have to pay for their disposal.

Federal facilities unable to sell recyclables will have handling, management, and perhaps, storage costs. In some cases, collected recyclables may have to be dumped in landfills for lack of a demand-side market. In such a case there would be a net cost to the Federal Government.

In fact, we have evidence that without markets, material collected for recycling can end up in landfills.

At the hearing on recycling on June 5, city, State and waste management officials echoed these concerns.

Jane Witherige, a vice president of Waste Management Inc., the Nation's largest waste management company, who testified at the hearing said:

> To focus recycling mandates on the collection of recyclables without a corresponding mandate or, at a minimum encouragement to industry and government to use recycled materials is, in short, a recipe for disaster * * *.

Ms. Witheridge went on to say:

> The fact of the matter is that a number of commodities that we now collect and process do not have their costs covered by market prices, even counting in avoided costs for disposal.

New York City's commissioner of sanitation, Steve Polan, who testified at the same hearing echoed similar views. The Commissioner said:

> The underlying premise of the program—and that of many recycling programs—has been that if a supply of recyclables is created, investment dollars will flow to manufacturing facilities that process and utilize recyclables.* * * It is clear that for several materials there will be at best a substantial time lag—several years, in some cases—between success in our collection programs and the development facilities that makes productive use of recyclables.

Furthermore, Mr. Polan went on to say:

> As New York's collection programs expand dramatically, and other area localities do likewise, the problem of limited demand and consequent additional costs will be exacerbated.

Finally, an article in the Los Angeles Times last year, May 8, 1990, perhaps

best illustrates the problem with this amendment. In that article, city contractor said that "1,000 tons of glass that has been carefully separated by homeowners could end up in landfills." In fact, California's Conservation Department director, whose agency oversees the States bottle redemption program said that "7,000 tons of glass beverage containers * * * collected for recycling last year, were sent to landfills because of the market glut."

Another concern with this amendment is that it is silent on the collection of plastics, tires, used oil, scrap metals, batteries and yard wastes for recycling. These make up a significant portion of the Federal Government's waste stream. If we are going to truly address Federal collection, than these too should be covered, and in the comprehensive RCRA bill I intend to cover these materials.

It would be my preference to maintain a consistent policy by not passing this amendment, which addresses recycling in a piecemeal way. Because recycling issues like collection of materials, the quality of materials collected and the availability of markets for recycling are interrelated and are very complicated, this amendment is best addressed as part of the comprehensive RCRA legislation that I am now considering. I have, however, reluctantly agreed to the amendment with the understanding that the proponents of the amendment recognize our intention to correct the deficiencies with this amendment.

EFFECTIVE OPERATIONS OF CLEANUP PROGRAMS

Mr. LAUTENBERG. Mr. President, I have an amendment, which has been cleared on both sides, to assure the effective operation of Federal facility cleanup programs across the country. Based on a similar provision enacted last year on Superfund, the amendment would assure that cleanup contractors can obtain the required bonding they need to move forward in addressing the serious threats at Federal facilities.

The amendment is designed to prevent any bottlenecks in the cleanup effort, and to foster greater competition among contractors bidding for cleanup work.

Mr. President, the provision before us today would extend the improvements provided by S. 3187 in the last Congress, and enacted as Public Law 101-584. The goal with that legislation was to remove existing impediments to cleanups at Superfund National Priorities List [NPL] sites. This provision responds to the same problem, but does so for the many seriously contaminated Federal sites, not on the NPL.

For federally funded cleanup construction contracts exceeding $25,000, the Government, pursuant to the Miller Act, requires cleanup contractors to obtain bonding from sureties. Sureties which provide such bonding, in effect, guarantee the proper performance of the contract, as well as the payment of subcontractors.

After hearings in my subcommittee last year, we confirmed that we had an immediate problem facing Superfund sites. According to cleanup contractors, environmentalists, and the laborers who do the actual cleanup work, the lack of bonding was resulting in very few contractors being able to bid on certain contracts. And an EPA-commissioned report by the Corps of Engineers documented the concerns many had raised about the effect this can have on the Superfund Program.

EPA and others confirmed that we were already seeing less competition for Superfund cleanups. Less competition means higher prices for a program whose funds are already stretched too thin, and for a nation struggling to deal with a massive budget deficit.

Following up on the report EPA commissioned from the Corps of Engineers, and based on extensive staff discussions with all interested parties, the Environment and Public Works Committee on October 4, 1990, reported S. 3187, which was designed to allow contractors and the Government to obtain the necessary bonding protections they need.

The bill—which was supported by the Sierra Club, the Environmental Defense Fund, the Laborers International Union of the AFL-CIO, the National Constructors Association, the Associated General Contractors of America, and the American Insurance Association—essentially clarified two principles. First, where a surety steps into the shoes of a cleanup contractor, and takes over the cleanup work, the surety's liabilities and access to indemnification should be the same as the contractor's. Second, a surety's contractual liabilities should be only those obligations for which the surety contracts.

The consensus among the diverse groups supporting the bill last year suggested that these are two sensible, noncontroversial principles, consistent with the intent of currently applicable laws. These measures provided sureties with the certainty they needed to reenter the market, and provided the Government with the protections it needs.

The bill did this in a way that narrowly addresses the essential issues, without upsetting the scheme of current Federal or State law. My amendment would apply these same improvements and clarifications to cleanup work at Federal non-NPL sites.

Mr. President, I am pleased to report that last year's provision is working. It is my understanding that in the single contract let for bids governed by the Miller Act since the enactment of S. 3187, seven contractors were able to submit bids. Prior to enactment of this new law, only two contractors had been able to obtain the legally required bonds to bid on this project.

However, in the case of non-NPL sites, the necessary clarifications of the law do not yet exist. But as cleanups move forward at non-NPL Federal facility sites, the same impediments will arise and jeopardize the remediation effort.

This amendment, however, will prevent a repeat of the same bottleneck we were seeing at NPL sites. And it will provide the same benefits, of greater competition and resulting lower costs for Federal facility cleanup.

Mr. President, last year Senator METZENBAUM, offered amendments that limited the application of Public Law 101-584 to the period starting October 17, 1990 and ending December 31, 1992. That amendment was designed to afford redress for the immediate problems facing cleanups over the next 2 years, but envisioned that we would revisit this approach based on the provision's implementation. The current amendment, consistent with last year's measure, preserves the sunset.

Mr. President, the amendment takes a sound approach necessary to respond to an immediate threat to the environmental cleanup effort, and I ask for its immediate adoption.

SMALL TOWN ENVIRONMENTAL PLANNING ACT

Mr. JEFFORDS. Mr. President, I rise today to speak on two issues. The first is on Senator MITCHELL's Federal Facilities Compliance Act of 1991. I strongly support this bill. In spite of the importance of environmental compliance, the message has still not been received by some at our Government installations. Several contractors have told me of the difficulties they have experienced at Federal facilities in trying to get the facility personnel to assist them in reaching compliance. The frequent reply is, "Federal laws don't apply to us." No longer shielded from liability, I believe this perception will rapidly change.

I am also pleased to see that an amendment I made to the bill in the committee process is still an important part of this bill. EPA is to inspect Federal facilities. To ensure that budget constraints are not used to inhibit or stop EPA inspections, DOD and DOE are to reimburse EPA for their costs. Thus, EPA's budget will not have to be stretched to do quality inspections.

While we address liability at the highest levels of government, we must also remember that the lowest levels of government are also struggling with liability. That is the second issue I would like to address, the problems our small towns are facing. Last June, several of my colleagues and I introduced the Small Town Environmental Planning Act of 1901. Twenty-one cosponsors supported this effort. Since introduction, my staff and I have talked to numerous municipal officials and have written to all of the States seeking their counsel. What this effort has

made clear is that small towns and the State agencies overseeing their activities need help in two areas. The first is financial assistance. Regulations that cost $5 per household per year for large cities can cost $1,000 or more for our smallest cities. The second area is in implementation of regulations. Many of our colleagues have recognized the importance of financial assistance and have supported Senator BURDICK's efforts in this regard. I, too, support the senior Senator from North Dakota in this effort. Money alone, however, will not solve our small town's problems.

When my colleagues and I put together the STEP Act, one of our goals was to create a process in which a small town could prioritize their compliance activities so as to achieve the maximum environment benefit for the available funds. However, what became clear from the comments I received is that many small towns felt uncomfortable with trying to prepare such a plan. Technical support from the States would be needed, and the States felt they had inadequate resources to provide this assistance. Thus, in practical terms, only the largest of the small towns would be able to participate in this process.

I also learned a great deal about how our small towns work with the Environmental Protection Agency. I believe there is room for improvement in this area. Many small towns frankly expressed hostility toward EPA, feeling that they only hear from the Agency when they're in trouble. All levels of government need to have a good working relationship if we are to reach our goal of a clean environment.

With this background and numerous other comments, my colleagues and I reevaluated our proposal. We came to the conclusion that, at this time, we should concentrate our efforts in four areas. First, we need to foster a dialog between EPA and small towns as to the problems each face. Second, we need to identify the requirements to which small towns are subject more clearly. Third, small towns need a friend within the bureaucracy. Right now, many small town officials feel afraid to even contact the Agency, seeing them more as prosecutor than friend. Fourth, we need to develop a mechanism for small towns to coordinate their compliance activities. With these goals in mind, we sought the counsel of Senators MITCHELL, BURDICK, BAUCUS, and CHAFEE. Together, we developed a revised Small Town Environmental Planning Act. I propose that this act be included as a separate title of this bill and would briefly like to describe the purpose of my amendment.

First, the act authorizes the creation of a Small Town Environmental Planning, or STEP, Task Force. This task force is to be composed of representatives of small towns, States agencies, and public interest groups. We had envisioned the representatives of the small towns being actual small town residents. While the number and selection of these individuals is at the discretion of the Administrator, we had envisioned that the Administrator should consider selecting one individual from each Federal region. Perhaps one State agency from each two Federal regions could be represented. Last, representatives of public interest groups should be included. At a minimum, representatives of the environmental and public health communities should be part of this task force.

This task force is to evaluate a number of areas including how EPA and the towns can work together better. In addition, many small towns have complained to me that they have difficulty understanding how to implement various regulations. One goal of the task force is to evaluate significant proposed regulations and suggest modifications that could improve a town's ability to comply without reducing protection of public health or the environment.

Many towns have also complained to me that they do not know about regulations until after they have been effective for some time. In this act, the Administrator is thus tasked with finding better ways to communicate new, proposed, and existing regulations to small towns.

Another section of the act requires EPA to issue a list of regulations to which towns are subject. The Administrator is required to notify the towns of the availability of this document through an appropriate mechanism as determined by the Administrator. I recognize that distributing this listing to all towns could pose significant hardship on the Agency's resources. This is not our intent. The Agency can use the National Technical Information Service as a means to distribute this listing. I envision that such a listing will help us determine the requirements we have placed on our larger towns.

In this act, we require the Administrator to establish an Office of the Small Town Ombudsman. This Office is to be the designated friend of our small towns. Many towns feel overwhelmed by the bureaucracy. The small town ombudsman can be their initial contact for information as well as a contact to explain procedures and provide assistance should the town get in trouble. Each regional office shall designate a small town contact to provide assistance at the regional level.

The last major element of this act is an evaluation of multimedia permits as an enforceable means to balance a town's compliance activities. Several States wrote to me saying that they have a process in place to consider a town's situation when setting compliance deadlines. Thus, I know it is possible to look at the big picture and prioritize a town's activities. The permit process has several advantages over our earlier proposal. First, it does not add an additional burden on our small towns. They must go through the permit process already. Second, a multimedia permit offers the advantage of one-stop shopping. All of their environmental requirements can be negotiated at one time. Thus, a town need not negotiate a wastewater permit one year, and a drinking water permit the next, and a solid waste permit still another year. The small town could conclude all of its business at once. Another advantage is that public notice and comment is part of the permit process. Thus, an opportunity exists for the public to express its concern. Last, the permits are enforceable.

These steps alone will not solve all of our small town's problems, but they are a step toward solving the problem. In taking this course of action, my colleagues and I feel it best to make what progress we could rather than to wait. We appreciate Senator MITCHELL'S assistance in this regard. The information developed pursuant to this act can then help us identify new ways to assist our communities.

Before closing, I would like to again thank Senators MITCHELL, BURDICK, CHAFEE, and BAUCUS for their assistance in developing this amendment. I would also like to recognize the cosponsors of the STEP Act: Senators AKAKA, BOREN, BREAUX, BURNS, COCHRAN, COHEN, CONRAD, DASCHLE, FORD, GARN, GORTON, HATCH, JOHNSTON, LOTT, PRESSLER, SIMPSON, SPECTER, STEVENS, SYMMS, WALLOP, and WOFFORD. Their contributions to this effort are greatly appreciated, and I hope they will be recognized by their constituents. Senators CONRAD, DASCHLE, and COHEN should be noted, in particular, for their assistance. Last, I would like to acknowledge Representative TIM JOHNSON for his efforts on our behalf in the House of Representatives.

Mr. MITCHELL. Mr. President, I rise in support of the amendment by Senator JEFFORDS to assist small communities in planning projects to protect public health and the environment.

Many small communities in my home State of Maine are working hard to plan and finance infrastructure projects. The provisions of this amendment will assist these communities in this difficult effort.

I hope the amendment we are considering today will be only the first step in addressing the many problems small communities face in planning and financing major environmental infrastructure projects.

I am a sponsor of legislation introduced by the chairman of the Environment and Public Works Committee, Senator BURDICK, to provide financial assistance to small communities. This legislation, S. 729, is very similar to

legislation developed and reported by the Environment and Public Works Committee last year.

S. 729 proposes a significant loan and grant assistance program for environmental and public health projects in small communities with funding of over $2.5 billion over 5 years. Projects for sewage treatment, drinking water quality, and solid waste disposal would be eligible. The bill also authorizes the Army Corps of Engineers to assist financially distressed communities with these projects.

I expect that the Burdick small communities bill will be reported from the Environment and Public Works Committee as part of the clean water legislation now under development. This legislation will complement and support the authority included in the amendment we are considering today.

Mr. CONRAD. Mr. President, I am pleased to rise today with my colleague, Senator JEFFORDS, in support of the Small Town Environmental Planning Act [STEP Act]. The amendment we are offering today, along with Senators DASCHLE, COHEN, GORTON, and BURNS is a modified version of S. 1226, legislation to provide smaller towns with relief from the crushing weight of environmental mandates. S. 1226 would allow towns to prioritize environmental compliance activities to achieve the greatest health and environmental benefits within limited resources.

At the beginning of this year, I wrote to all of the mayors of communities in North Dakota and asked them to share with me the challenges they face in the years ahead. For smaller communities, meeting environmental requirements within very limited resources topped the list of urgent needs.

These communities do not have the resources to employ an office full of regulatory experts to keep them apprised of the latest regulatory requirements. Many towns are strapped for resources and have limited ability to raise necessary funds and have restricted access to credit. They see the Environmental Protection Agency [EPA] as uninterested in the special challenges they face. Because of their size, they face tremendous household-by-household costs to meet environmental requirements. EPA has reported that small communities pay the highest user charges for environmental protection, and will continue to do so.

Small communities need assistance in order to comply with Federal requirements. Mr. President, I joined Senator JEFFORDS to introduce the STEP Act to bring flexibility and reasonableness to the process of environmental compliance. After a great deal of comment on this legislation and advice from the Senate Environment and Public Works Committee, we have concluded that some changes in the legislation were warranted. The amendment we are offering today is the result of extensive comment on the STEP proposal.

The amendment requires the EPA, which administers most Federal environmental laws, to establish a program to assist small communities in planning and financing environmental facilities. The amendment establishes a small town environmental planning, or STEP, task force within the EPA to address the needs of small towns and make certain that the Agency is responsive to the needs of small towns. This task force will include representatives from small towns, State agencies, and other interested parties.

Furthermore, the amendment requires that EPA prepare a list of Federal environmental requirements and public health statutes applicable to small towns. The EPA will be required to establish a program to make certain small towns are notified of regulatory actions. This will be of special assistance to towns which lack full-time regulatory staffs. I have been informed that some towns do not know of a proposed requirement until much too late in the process to comment, and sometimes do not know of requirements until long after their effective date.

A small town ombudsman will also be established to assist small towns in their interactions with the EPA. This office will be the initial point of contact for small towns with the EPA, and the office can act as a friend and advisory to small towns.

Finally, the amendment calls for a study of multimedia permitting program for small towns. Such permitting would allow towns to receive one permit for all the various requirements they must meet, which would allow the development of a plan to prioritize actions which must be taken to meet Federal requirements. A town will have one-stop shopping if such permitting is adopted, and towns and States will have the ability to look at the big picture when determining compliance priorities. I understand that some States are already looking at a town's whole situation when establishing compliance plans, so I hope such a proposal will be given very serious consideration.

I want to thank members of the Senate Environment and Public Works Committee, especially Chairman BURDICK and Senators MITCHELL, BAUCUS, and the ranking member, Mr. CHAFEE. Senators BURDICK and BAUCUS have long worked to improve the ability of small towns to meet environmental mandates. I am strongly supportive of their efforts, and I appreciate the advice and assistance of the whole committee.

I also want to thank my colleague, Senator JEFFORDS for his tremendous work on this legislation. He has been a tireless advocate for small towns' needs. I would also like to give special thanks to Senator DASCHLE, who understands the plight of small towns so well, and has worked hard to see that the Federal Government is responsive to smaller communities' needs.

Finally, I would like to thank Senator MITCHELL. His willingness to entertain this amendment on this legislation is greatly appreciated.

Mr. President, this legislation is a first step, a very important step, to addressing the needs of small communities in this country.

Mr. BAUCUS. I want to thank the distinguished Senator from Vermont for developing this amendment to assist the Nation's small communities around the country in planning projects to protect public health and the environment. This amendment will be valuable to many communities in my home State of Montana, and I fully support it.

I expect to further address the environmental needs of small communities in legislation to reauthorize the Clean Water Act. Clean water legislation is now before my Subcommittee on Environmental Protection in the Environment and Public Works Committee.

The clean water legislation I plan to report from my subcommittee will include major provisions of S. 729, introduced by the chairman of the Environment and Public Works Committee, Senator BURDICK. S. 729 is very similar to legislation developed and reported by the committee last year.

Senator BURDICK's bill authorizes a major loan and grant program totaling over $2.5 billion over a 5-year period for environmental and public health projects in small communities. The bill authorizes the Army Corps of Engineers to assist financially distressed communities with these projects.

I look forward to working with the Senator from Vermont in developing provisions in the clean water legislation to assist small communities.

Mr. JEFFORDS. I thank the Democratic floor manager for his support. I share his determination to enact legislation to provide financial assistance to small communities. I support Senator BURDICK's bill, S. 729. It is an important and necessary complement to the amendment we are considering today, and I look forward to reporting it from the Environment and Public Works Committee at the earliest possible date.

Mr. BAUCUS. I thank the Senator from Vermont.

Mr. BURDICK. Mr. President, I rise in support of Senator JEFFORD'S amendment to help small towns plan and implement projects to protect public health and the environment.

Many small communities in my home State of North Dakota are in the process of developing plans to build needed infrastructure for environmental protection and public health. This amendment is an important step forward in

addressing the needs of these communities.

I am the sponsor of legislation which would go beyond the amendment we are considering today to provide direct grant and loan assistance to small towns to finance environmental projects. This legislation, S. 729, is very similar to legislation developed and reported last year by the Environmental and Public Works Committee, which I chair.

The Environmental and Public Works Committee held hearings on small community environmental financing in May 1990. At the hearings, we heard compelling testimony about the difficulties faced by small communities in building infrastructure which meets the same public health and environmental standards which apply in other parts of the country.

In a major report on this issue, the Environmental Protection Agency [EPA] stated:

> Most municipalities will be able to meet the expected increase in environmental expenses and still remain financially sound. The municipalities most likely to experience difficulties will be those with populations of 2,500 or less.

The EPA stated:

> Most of the households that are expected to experience initial "rate shock" when confronted with rising user fees are in communities with fewer than 2,500 persons.

S. 729 proposes a significant loan and grant assistance program for environmental and public health projects in small communities with funding of over $2.5 billion in 5 years. Projects for sewage treatment, drinking water quality, and solid waste disposal would be eligible. The bill also authorizes the Army Corps of Engineers to assist financially distressed communities with these projects.

I expect that my small communities bill will be reported from the Environmental and Public Works Committee as part of the clean water legislation now under development. This legislation will complement and support the authority included in the amendment we are considering today and is essential if we are to effectively address the needs of small communities.

METROPOLITAN WASHINGTON WASTE MANAGEMENT STUDY ACT

Mr. ROBB. Mr. President, I want to take this opportunity to thank the chairman of the Environmental Protection Subcommittee, the floor manager for S. 596, the Federal Facilities Compliance Act. Senator WARNER and I introduced S. 1089, the Metropolitan Washington Waste Management Study Act, in May, in an attempt to relieve many of the fears of the residents in the Lorton, VA area. Senator BAUCUS has agreed to accept the bill as an amendment to S. 596, with the understanding that section 5 of S. 1089—(a provision calling for a General Services Administration study of the waste management plans of Federal facilities in the Washington, DC, area—will be deleted for now, and discussed during the reauthorization of the Resource Conservation and Recovery Act [RCRA]. As I understand the situation, the Environment and Public Works Committee has some concerns that a Federal agency other than GSA may be better suited to conduct that study.

Mr. BAUCUS. Mr. President, I want to thank the two Senators from Virginia, especially Senator ROBB, for working closely with the committee on this issue. I understand that this is a very important issue to the residents of northern Virginia, and we are willing to accept the language included in S. 1089 that will close down the I-95 sanitary landfill by 1996, and the site's ash monofil by 2000. At the same time, Senator ROBB has agreed to discuss his feasibility study provision as part of a comprehensive RCRA reauthorization.

I understand that the I-95 sanitary landfill is located on Federal land in northern Virginia, and has been operating as a landfill for local governments and the District of Columbia of nearly 20 years. If this site were located in Montana, I would demonstrate the same kind of concern that Senators ROBB and WARNER have demonstrated. I appreciate the efforts of the two Senators from Virginia to bring this issue to the attention of the U.S. Senate, and I look forward to working closely with them during RCRA reauthorization next year.

FEDERALLY OWNED TREATMENT WORKS

Mr. BAUCUS. The amendment to the Federal facilities bill includes an amendment to the Solid Waste Disposal Act to clarify the treatment of federally owned sewage treatment works.

Mr. NUNN. The Senator is correct; the amendment would address the concerns of the Department of Defense with regard to federally owned sewage treatment facilities.

Mr. BAUCUS. I want to take a moment to explain some of the context of this amendment.

Many Federal facilities operate sewage treatment systems. Municipal sewage treatment plants, but not Federal treatment plants, operate under a policy called the domestic sewage exclusion which excludes hazardous waste at a treatment works from coverage under the Solid Waste Disposal Act and prevents many municipal sewage treatment works from being treated as hazardous waste facilities.

Unfortunately, the domestic sewage exclusion as it now applies is poor policy. It results in the transfer of large amounts of hazardous materials to municipal sewage systems which are not prepared to deal with it.

The Environment and Public Works Committee is now considering legislation, which I introduced with Senator CHAFEE, to reauthorize the Clean Water Act which includes an amendment to correct the domestic sewage exclusion to assure that wastes discharged to municipal systems are as free of hazardous substances as possible.

The amendment before us today, rather than correcting the domestic sewage exclusion, would extend its coverage to sewage treatment works owned by the Federal Government.

It must be understood by those supporting this amendment and by those affected by the amendment, that future amendments to the Clean Water Act are likely to change the obligations of Federal facilities established by this amendment. The Clean Water Act amendments will both correct the domestic sewage exclusion and apply the policy equally to both Federal and municipal sewage treatment facilities.

It would be my preference to maintain a consistent policy by no passing this amendment or passing the amendment with all the safeguards we have proposed in the Clean Water Act. We have reluctantly agreed to the amendment, however, with the understanding that the proponents of the amendment recognize our intention to correct this policy and will not use the argument of a changing policy against future efforts to correct the policy.

Mr. NUNN. I recognize the concern expressed by the distinguished floor manager of the bill and I understand that the policy we adopt may well be changed in the near future. I support the ultimate goal of treating Federal and municipal sewage systems equally and I recognize that equal treatment may in the future require that the policy of this amendment be changed. This amendment requires the Department of Defense to operate its plants in a manner that brings greater protection to the environment than current practices at municipal sewage treatment plants. I look forward to working with the Senator to eliminate hazardous wastes from all sewage treatment plants.

JOHNSTON AMENDMENT ON MIXED WASTE

Mr. SIMPSON. Mr. President, this amendment represents the best possible compromise between the divergent philosophies regarding forcing mixed waste treatment and disposal technology.

The treatment technologies for mixed waste, for a number of waste streams, have not yet been developed. In fact, the estimates as to developing such treatment technology are actually very much guesses since in some cases we do not even know what kind of technology might even apply.

Even in the case of known technology, long lead times to develop and commercially deploy that technology with the appropriate environmental siting and permitting, will take years. Optimistic estimates by the Department of Energy range from 7 to 10

years—and this is for known technology.

Factors influencing development of treatment technology:

Technology evaluation and design, 7 to 10 years;

Development of environmental documentation under National Environmental Policy Act, appropriately 3 years;

Prototype demonstration, testing and evaluation, 1 to 2 years;

Submission and approval of RCRA permits by EPA or State regulator, 2 years;

Procurement and facility construction, 3 to 5 years; and

Facility demonstration prior to full-scale operations, 6 months.

It is my earnest hope that during conference committee action on this bill, the provisions which have been fashioned out of this compromise here today will prevail throughout the conference.

IMPACTS OF NOT LEGALIZING THE STORAGE OF RADIOACTIVE MIXED WASTE

Waiving the Federal Government's sovereign immunity under the Resource Conservation and Recovery Act [RCRA] without resolving the statutory impossibility for strong radioactive mixed waste could have significant impacts on DOE and other Federal agencies.

DOE, veterans hospitals, National Institutes of Health and the Food and Drug Administration only have the option of storing this waste safely until treatment technologies and facilities are constructed to deal with the waste.

This prolonged storage is illegal under RCRA as currently written. Unlike the Clean Air Act and Clean Water Act regulations that do recognize radioactive elements, it is estimated that these violations will allow the possibility of substantial fines and penalties to be assessed. For example: where a violation is assumed to occur on a daily basis at 10 percent of DOE's storage units the annual total amount of fines could average approximately $505 million. Leaving open the possibility of being fined and penalized for exercising the only environmentally responsible option—indeed the only option—is unacceptable.

This situation merits correction now. The passage of this bill without mixed waste provisions will force DOE into site specific agreements that could require the construction of duplicative and excessive treatment capacity. This approaches completion would increase the cost of DOE's waste management complex by $400 to $800 million.

Site managers may be compelled to suspend operations at facilities that generate mixed waste while site-specific agreements are being negotiated. Shutdown of Defense facilities for 6 months while an agreement is negotiated—a conservative time estimate—could cost DOE $550 million in lost production. This bill could have national defense implications.

All of these unnecessary actions will be triggered by the passage of this bill without fixing a problem that currently exists. Most importantly, these actions will have no positive effect on present compliance or future compliance. In fact, environmental efforts already underway will be hampered and diversion of funding for unnecessary litigation cost and fines will further delay mixed waste treatment and disposal.

This country needs a national compliance plan to deal with this problem because it is national in scope. Such a plan would outline schedules for treatment technology and facility development. A national plan is the most cost and risk effective approach, as well as the most expeditious way to treat this waste.

I ask unanimous consent that the following letters be printed in the RECORD.

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

MAY 29, 1991.

Hon. JOHN H. CHAFEE,
Ranking Minority Member, Environment and Public Works Committee, U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: President Bush is committed to improving the environmental performance of facilities owned by the Federal Government. The substantial increases in the President's last two budgets for environmental compliance and cleanup, at the Departments of Energy and Defense and other Federal departments and agencies, reflect this commitment.

The administration has put substantial effort into crafting amendments to S. 596 in an effort to break the stalemate that has prevented passage of Federal facility environmental compliance legislation. The amendments we are proposing would ensure that the authority provided in this bill to impose fines and penalties against Federal facilities is exercised within a fair, workable statutory and regulatory framework.

The Resource Conservation and Recovery Act [RCRA] currently requires Federal facilities to comply with Federal and State hazardous waste laws and makes them subject to certain judicial enforcement actions. S. 596 would take the additional step of allowing civil penalties to be assessed administratively against Federal agencies for violations of Federal and State hazardous and solid waste requirements. It would also grant the Environmental Protection Agency the authority to issue administrative orders to other Federal agencies.

We opposed similar legislation during the 101st Congress, because of the concern that the authority to impose fines and penalties, by itself, will not achieve the desired environmental improvements. Because President Bush is committed to ensuring that Federal facilities comply with our Nation's environmental laws, we are submitting with this letter a new package of amendments.

Unless S. 596 addresses the underlying issues that contribute to the poor environmental compliance record at Federal facilities, it will not improve the compliance record of those facilities. Our proposed amendments address these issues. The amendments correct problems in S. 596 and RCRA that: (1) make compliance impossible; (2) inadvertently impose health risks; (3) do not adequately address unique Federal problems; or (4) treat Federal facilities differently from private entities. The proposed amendments, as well as an explanation and rationale for each, are attached.

We are ready to work with the Congress to develop a bill that provides the necessary accountability at Federal facilities for environmental cleanup and compliance and recognizes the unique situations of Federal facilities. If adopted, our proposed amendments will allow the administration to support S. 596. However, unless the bill adequately resolves the issues addressed in these amendments, the administration will be forced to strongly oppose the bill.

The Office of Management and Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

DONALD J. ATWOOD,
(For Richard Cheney,
Secretary of Defense).

WILLIAM K. REILLY,
Administrator, Environmental Protection Agency.

Adm. JAMES. D. WATKINS,
Secretary of Energy.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, DC, August 6, 1991.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Senate prepares to consider S. 596, the "Federal Facility Compliance Act of 1991," NASA would like to express its belief that the amendments the administration submitted to the Senate on May 29, 1991, make a major improvement in the bill. If adopted, the amendments will enhance the statutory and regulatory framework under which S. 596 would be implemented.

With this letter, NASA wishes to emphasize its support for the administration's amendments concerning, particularly, the management of radioactive mixed wastes. The Department of Energy [DOE] produces plutonium-238 (a nonweapons grade of plutonium) for use in Radioisotope Thermoelectric Generators [RTG's], which are devices that convert the heat produced by the natural radioactive decay to provide electrical power for the spacecraft including its instruments. These RTG's have been used on a number of NASA's space missions where nuclear power is the only feasible alternative. If the administration's amendments are not adopted, the DOE's facilities required to produce plutonium-238 may be seriously jeopardized, because these facilities generate radioactive mixed waste in the production process. Should our country no longer be able to have the ability to produce plutonium-238 for fueling RTG's, NASA's space exploration programs would be severely compromised since several potential outer solar system missions would not have alternative power sources. The opportunities to further our understanding of the origin and evolution of our solar system and advance the understanding of Earth by comparative studies of the outer planets would be considerably curtailed.

We strongly support the administration's amendments and urge their adoption.

This letter has also been sent to the Chairman of the Committee on Energy and Natural Resources, United States Senate.

The Office of Management and Budget has advised that, from the standpoint of the administration's program, there is no objection to the submission of this letter to the Congress.

Sincerely,

RICHARD H. TRULY,
Administrator.

Mr. BAUCUS. Mr. President, I want to commend the majority leader. We know our leader to be a patient man. I think that his work on the Federal facilities bill is the best testament to his patience.

He first introduced this bill several years ago. The House has passed it several times. We are now passing that legislation this year. He has worked long and hard on it, and we are here tonight passing legislation which puts Federal agencies on the same playing field as private operations, private landowners, insofar as the Resource Conservation Recovery Act is concerned and other environmental legislation is concerned.

The Senate, and more important, the American people, owe a deep debt of gratitude to the leader for his very persistent yeoman's work in shepherding this bill through final conclusion.

Mr. MITCHELL. Mr. President, I thank my colleague for his kind words. I appreciate his effort and the efforts of Senators JEFFORDS and CHAFEE and all the others who contributed to the progress we made on this bill so far.

Mr. President, have the amendments been agreed to?

The PRESIDING OFFICER. The amendments have been agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Will the leader let us give some remarks about the bill before he does that, and about the amendments?

Mr. MITCHELL. Certainly.

I withdraw my request.

Mr. WALLOP. Mr. President, I do not want the majority leader to think these are related only to the amendments. I have a comment on the bill.

Mr. MITCHELL. Yes.

Mr. WALLOP. Mr. President, it is a mistake for the Senate to believe that Government agencies are like the private sector. It is also a mistake to think that, like the private sector, Government agencies can go out of business if simply forced beyond their economic capabilities of compliance. You are not going to lose the Department of Defense because they are fined. You are not going to lose the National Institutes of Health because they are fined.

What nobody seems to be focusing on is that all of this is dependent on a couple of things. First, science and technology, which in many instances does not now exist. Second, the willingness and the ability of the Environmental Protection Agency to promulgate regulations which are clear, understandable, and with which other agencies can comply. Third, having promulgated those regulations, that other environmental laws do not enter into the picture to prevent them from constructing facilities which are capable of handling these wastes. And fourth, and most important of all, I do not know anybody in this body who can guarantee that the funds will be made available to the agencies in question to be able to comply. And at some moment in time, Mr. President, we will be fining these agencies to take away the money that we have made available to them, in whatever sparse or generous amounts, to comply with the requirements of this act.

This Senate has spent the week fighting with itself and it ill-behooves us to create a circumstance where agencies of the U.S. Government are put into combat with each other, where the lawyers of each agency are required by law to spend taxpayers' hard-earned money, not getting to the resolution of the problem, but keeping each other in court and fining each other for lack of compliance when, oftentimes, the agency doing the suing is the agency responsible for the inability to comply.

It is my hope—and I ask for just a moment of the majority leader's attention, if I could have it. We have yet in this body to reauthorize RCRA. At some moment in time we will have to do such a thing. And it seems more than a little bit important that at that time we take a look at what we have created to see if it is possible under any set of good will efforts to comply. And it is my hope that the majority leader will at least consider a request that at that time we might, as a body, consider sequential referrals to other committees whose agencies are affected by the provisions of RCRA, just to talk about the realities of the ability to comply.

So I hope that maybe, when the RCRA reauthorization comes about, we could have a sequential referral period, with a confined moment in time, to the Department of Defense—the Armed Services Committee, to the Energy Committee, probably to Health and Human Services whose wastes are much in play here. I ask the majority leader if he would at least consider, at that moment in time, assisting in such a request.

Mr. MITCHELL. Mr. President, I assure my colleague that I will consider it seriously and as carefully as possible. As my colleague knows, sequential referral would require unanimous consent.

Mr. WALLOP. I do, indeed.

Mr. MITCHELL. Maybe it could be obtained. But I assure my colleague I will do that in good faith and seriously consider it with him and any other Senator who is interested.

Mr. WALLOP. I say to the majority leader, I am fully aware it requires unanimous consent. But I am also fully aware that the support and efforts of the majority leader have calming effects on the desire to raise objections.

Mr. President, let me conclude, and I will very briefly because we have been here, and I appreciate not only the majority leader's staff's work, but that of the committee.

We are able often, as a body, only to look at one devil at a time. In this instance the devil is mixed waste, waste containing chemicals and low levels of radioactivity.

The devil we are overlooking is that, in pursuit of this, without ever looking at the cost/benefits of what we are doing and the hazards which the public may or may not—most important—be exposed to, we run the risk of putting American medical technology out of business. Eighty percent of medical research contains low levels of radioactive waste.

The research into heart disease, the research into cancer, the research into AIDS, the research into preventive medicine—all of it requires trace elements of radioactivity. All of it lays in some small element of radioactive waste. We are now already in the position of having put costs up to $50,000 per cubic foot to store that waste. And the rationale behind this is the consumer can pay, the consumer is the beneficiary of medical research. And who pays for that, but governments in the United States, primarily? Precious little medical research is done by private endowment. It is the National Institutes of Health, the great medical universities of America. And what we are on the threshold of doing is making it so expensive that medical research in America will be an option that cannot be accepted.

What we have done is to soften that and give ourselves time to work on it. But I assure this body if we do not take advantage of the time that we have given ourselves to work on it, this Nation is in the pattern of self-destruct over the most important and wonderful things that we have been able to provide the world.

It is insane that somehow or another we take such things as medical waste and make them so expensive that the universities and the National Institutes of Health cannot afford to engage in that research.

Mr. President, we have this peculiar Catch-22, whereby it is illegal to store it, illegal to transport it, and are subject to $25,000 a day fines for having it.

If we wish to have this marvelous, advanced medical technology which has made our country the envy of the world, has given us Nobel Prizes and given hope to people with AIDS and cancer and heart disease and all the other things, we better be careful as to how we proceed from here.

So, while I am very grateful for the cooperative nature which brought us to the moment where we have bought our-

selves time, in no way, Mr. President, in the end will I be able to support this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I want to assure the majority leader and manager on our side I will be brief.

This year our Government appropriated $7.1 billion for environmental cleanup that the Government has to do. That is 22 percent higher than last year. And just to see the steep increase, it is 98 percent more than 2 years ago.

It is obvious to me, to do the cleanup that the Government is responsible for, that dramatic incline, from somewhere around $1 billion or $1.5 billion 2 years ago to $7.1 billion in just the beginning of what it is going to cost our Government to clean up—whether it be a national laboratory or the National Institutes of Health or some other facilities around the country where we have waste products that have accumulated over the years and are not now in technical compliance with our environmental laws.

I am going to support this bill because it is obvious to this Senator we want to push our Government to do the kind of cleanup we are requiring of others. The reason we should be doing this is because we do impose mandates on the private sector and others than Government, and we expect them to meet them. We have not been doing that for some of our Federal facilities. So the distinguished majority leader is saying, "Let's do it."

For those who wonder why there has been a delay this afternoon, I hope they understand it is not because a Senator like this one did not want to force the cleanup of Government waste that is currently not in compliance with out laws. Frankly, the reason I delayed it and tried to work out something was very simple. We have mixed waste in abundance. That is waste that is radioactive and contains chemical or other toxicities—mixed.

The problem with that is not that we do not want to clean it up but in some cases we do not know how. In many cases we do not have a technology. And it was obvious today, as this bill came to the floor, that everyone who knows about this problem admits that there is no way we can have compliance by next year or even the year after.

So what we have done in this bill is to compromise and say, as to that portion, the mixed cleanup, the cleanup of mixed waste, we have until 1997 to be in compliance. Some will say that is too long. Frankly, I am firmly convinced we will not get there even by 1997. But at least it gives us an opportunity to build in our system of cleanup a regularizing of this process.

And then we added another provision in these amendments that says every year the Government, that is the executive branch, in a very precise way will give us an accounting and an inventory of both what we are doing, what we have spent, and what technology is available and what the prognosis is. We have never had that. That is a very good provision, it seems to this Senator, because year by year we will know how close we are getting to reaching compliance. It seems to me in 3 or 4 years we ought to have a pretty good history and inventory of what we have done, a prognosis of what remains to be done, a listing of the technologies that will accommodate the cleanup, and where we have not yet achieved exact compliance with our laws.

Mr. President, it seems to me that that makes eminent sense. I do not see how it makes any sense to say we will meet these technical requirements next year when we know we cannot, even though we might be angry because we have not done it right in the past. The truth of it is we cannot meet these deadlines next year.

So, should we start fining ourselves, let a fine be imposed on DOE, and send that money into the general fund? Should we let the States start to cite us for violations and start fining us when we absolutely know that as to mixed waste in most cases we will not meet compliance next year?

I thank all of those who worked on this. I think it keeps our feet to the fire. Those who are concerned about cleanup, it gives them a map. And it says to those Federal installations and departments, get on with it and give us your best advice and recommendations each year as we proceed.

Mr. President, I want to make part of the RECORD a letter, dated October 17, from the Executive Office of the President, essentially the Office of Management and Budget. I do it only because I do not want anyone to think if we go to conference and the 1997 date is done away with—which I understand we do not want to do—and if we make it next year, I believe that bill in that manner may, indeed, be subject to a Budget Act point of order, because it has some expenses that are not currently expected that are in the nature of an entitlement. And if we do it on a 1-year basis, we probably can calculate it sufficiently to cause it to be looked at as possibly subject to a point of order.

This letter from the OMB explains that and other things about the cleanup. So I would like to make it a part of the record. I ask unanimous consent it be printed in the RECORD. And with its submission I yield the floor.

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

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 17, 1991.

STATEMENT OF ADMINISTRATION POLICY

(S. 596—Federal Facility Compliance Act of 1991—Mitchell of Maine and 48 others)

The Administration is committed to ensuring Federal facility compliance with environmental statutes and to improving the environmental performance of Federal facilities. The President's FY 1992 Budget includes $7.1 billion to speed the cleanup of Federal facilities—an increase of 24 percent over FY 1991 and 89 percent over FY 1990.

S. 596 would allow the assessment of fines, penalties, and orders against Federal agencies for violations of Federal, State, interstate, and local hazardous and solid waste requirements under the Resource Conservation and Recovery Act (RCRA).

S. 596, however, will not achieve its desired environmental improvements, because the bill does not address the problems specific to Federal facilities that have led to difficulties in complying with environmental law. The Administration has provided Congress with amendments which will ensure that the authority provided in S. 596 to impose fines, penalties, and administrative orders is exercised within a fair, workable statutory and regulatory framework.

The Administration strongly opposes S. 596, as reported by the Environment and Public Works Committee, and will continue to seek its amendments during further congressional consideration of this legislation. If the Administration's amendments are adopted, the Administration would support S. 596. The Administration's amendments include:

Mixed Waste Treatment Technology Development.—It is widely known that it is impossible to comply with certain statutory storage restrictions for radioactive mixed wastes because treatment technology or capacity for these wastes does not currently exist. The Administration's amendments provide for the development of a national compliance plan to establish schedules for development of the necessary treatment technology and capacity within enforceable prescribed timeframes.

Military-Essential Activities.—The Administration's amendments provide for the development of regulations that permit the conduct of military-essential activities (e.g., the manufacture, testing, and handling of ordnance and munitions) and fully protect human health and the environment. Existing regulatory requirements can lead to unsafe practices and may hinder the ability of the U.S. military to function effectively.

In addition, the Administration's amendments provide for the development of alternative waste management requirements where existing requirements for radioactive mixed waste would result in radiological exposure of workers that exceeds applicable numerical health and safety standards.

Finally, the Administration's amendments would ensure that public vessels and Federal wastewater treatment works are treated in a manner comparable to non-Federal entities.

To the extent that the Judgment Fund is not available to pay fines and penalties under this Act, they will be paid by agencies from funds which must be appropriated specifically for this purpose. Under the caps established by the Budget Enforcement Act, funds appropriated to pay fines will necessarily reduce funds available for other purposes. Thus, it is likely that the imposition of fines will reduce funds available for cleanup activity.

SCORING FOR THE PURPOSES OF PAY-AS-YOU-GO AND DISCRETIONARY CAPS

To the extent that S. 596 would increase direct spending it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. No offsets to the direct spending increases are provided in the bill. A budget point of order would lie in both the House and Senate against this bill because, in the Administration's view, its costs have not been offset. The effects of enactment of this legislation would be included in the look back pay-as-you-go sequester report at the end of the Congressional session.

S. 596 will increase costs in two ways—payments from appropriated funds and payments from the Judgment Fund. S. 596 has a pay-as-you-go impact to the extent that the Judgment Fund is used to make payments under this Act.

If sovereign immunity is waived under RCRA without addressing the lack of current capacity to treat mixed waste, fines and penalties of up to $25,000 per day per violation could be imposed against Federal agencies. The fines would be imposed for storing radioactive mixed waste out of compliance with RCRA's prohibition on storage of restricted waste. Although it is impossible to predict with precision, the potential total Federal exposure for fines and penalties related to this situation could range up to about $5 billion per year.

At this time, it is difficult to predict what proportion of fines and penalties under S. 596 would be paid from the Judgment Fund. The high-range estimate noted below assumes that fines and penalties are sought for 10 percent of the violations for mixed waste at Department of Energy facilities.

Mixed waste is also produced in conjunction with most biomedical research. The National Institutes of Health and other Federal facilities engaged in biomedical research face similar mixed waste disposal problems and would be subject to fines and penalties. To the extent that fines and penalties were imposed, the funds available to support biomedical research may be reduced.

OMB's preliminary pay-as-you-go scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If S. 596 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

Estimates for pay-as-you-go

Outlays:	*Millions*
1992	$15–500
1993	15–500
1994	15–500
1995	15–500
1992–95	60–2,000

The PRESIDING OFFICER (Mr. BUMPERS). The majority leader is recognized.

Mr. MITCHELL. I thank my colleague from New Mexico and my colleague from Wyoming for their constructive remarks. I hope we will be able to get the bill passed and ultimately into law in a manner all will find acceptable and accomplishes the objective we seek.

I will yield now to the Senator from Idaho for 3 minutes without losing my right to the floor.

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

Mr. CRAIG. Mr. President, I associate myself with the remarks of my colleagues from Wyoming and New Mexico on the amendments en bloc that have just been offered to S. 596. With these amendments I can now in good faith support legislation that would not have been in the best interests of this Government, let alone its citizens, had we not have been able to offer the flexibility that I think these amendments now offer. It would not have been right for us to say that there is a double standard in this country. I think the author of the legislation was saying that, that there should not be. But we were putting some of our Federal agencies, especially DOE and DOD, into situations where they were in an ultimate catch-22 that they simply could not have lived with.

As effectively explained by my colleague from New Mexico, we were saying that by next year you had to be in compliance in a way that you could not get there. You had to be able to develop techniques you could not develop. Simply, we would not, in the issue of mixed waste, have been able to come on line. So we would have been throwing money around, not resolving the issue, and clearly saying to the citizens of this country who had a fundamentally legitimate concern about some of the mistakes that have gone on at Federal facilities, that have gone beyond the borders of those facilities, that we were merely creating a crisis without a solution.

I think these amendments now offer the kind of flexibility that we have to have. In my State, with a large Federal laboratory, with mixed waste, it says to them that they are not going to be allowed to be different. They are going to have to comply with RCRA, as they should, and that the citizens of the State and the State itself has a right to be a participant and a partner.

But it does not have a right to be superior. It should not have a right to be superior. Clearly, all ought to participate, all ought to be concerned for the kind of programs that run there that we know are correct and environmentally sound and do not put the citizens of the region or the area in any kind of danger. That is what we are attempting to do now.

I am glad that negotiations were able to go forward, we were able to gain the flexibility, we were able to arrive at a 1997 case-by-case extension and also recognize agreements that are already in existence continue to exist and that the agencies involved will continue to work correspondingly with those.

It is a block that serves us well and I think perfects the legislation to make it so that a substantial larger number of Senators can support it. I yield back the remainder of my time.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague from Idaho for his comments.

Mr. President, I am advised by the managers that action has now been completed on all amendments that are relevant to this bill.

Previously, I discussed with the distinguished Republican leader the possibility that he and I and other interested Senators meet on the possibility of other amendments being offered which are unrelated to this bill, and until I have the opportunity to do so, that is to meet with the Republican leader, which I hope to do shortly along with other interested Senators, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

Mr. CHAFEE. I wonder if the majority leader can hold for just 2 minutes on that.

Mr. MITCHELL. Mr. President, I yield to the distinguished Senator from Rhode Island 2 minutes, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. MITCHELL. Does the Senator wish more than 2 minutes?

Mr. CHAFEE. No, that is fine.

Mr. President, I just want to say I think the majority leader deserves a lot of credit for this piece of legislation. Really, this is his bill. We have wrestled with this in the Environment Committee I guess now for about 3 to 4 years. I must say that I was very strongly opposed to the original language. It was an unequal contest. He blew me away in the votes we had, as I recall. But nonetheless, he did say that when we got to the floor, we would try to fix it up, amend it in a satisfactory way to satisfy the deep concerns that I and others had in the original legislation. And, indeed, he did that.

So I want to thank the majority leader who has been, as I say, the real pusher for this legislation. I think he is right in many respects on it. As the distinguished Senator from Idaho who previously spoke indicated, we cannot have a double standard in this country with DOE and our Department of Defense facilities able to carry on in a fashion that private industry cannot.

So I am very glad we have arrived at this situation. Again, I want to salute the distinguished majority leader who has been such a valued member of the Environment Committee.

Mr. MITCHELL. Mr. President, I thank my colleague for his comments, and I appreciate his valuable contribution to this bill.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California is recognized.

SEYMOUR AMENDMENT NO. 1260

Mr. SEYMOUR. Mr. President, I just want to state for the record that I have been waiting throughout the day for an opportunity to present an amendment to the bill that is under consideration. It is an amendment that I submitted to the desk yesterday. The desk now has that amendment, amendment No. 1260. It is a very simple amendment, Mr. President. In fact, it is so simple I will just read it. It says:

The Federal Bureau of Investigation is hereby authorized and directed to require by subpoena the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such sworn testimony and to make such expenditures out of any funds appropriated and not otherwise obligated to make an investigation into the matter of releasing of confidential documents transmitted to the Senate Committee on the Judiciary regarding Professor Anita Hill of the University of Oklahoma and to report to the Congress the results of this investigation not later than 30 days after the date of enactment of this Act.

That is the amendment, Mr. President, that I submitted to the desk yesterday. I also said yesterday it was my intent to take that amendment up, where appropriate, as soon as possible to the next bill under consideration. I just want to state for the record, Mr. President, that I have been waiting most of the day to take up such an amendment and at the first appropriate time, as I said yesterday, it was and still is my intent to move forward with this amendment

Mr. WALLOP. Mr. President, will my colleague from California yield for a question?

Mr. SEYMOUR. Yes.

Mr. WALLOP. Mr. President, I would simply ask, is it the intent of the Senator from California to have a long debate on this or would he be quite willing to enter into a very short time agreement with the majority leader? After all, every Senator in the body knows what it is about. It does not need a debate. The amendment that he would have would simply be offered and voted upon. Then we could, however the disposition of that went, go to the disposition, final passage of the bill.

So my question is to my colleague, would he be interested in entering into a very short time agreement, say 10 minutes equally divided?

Mr. SEYMOUR. Mr. President, I say to my distinguished colleague from Wyoming that I have no intent, nor desire, to delay action on this bill and would be more than willing to accept a very short time period to debate my amendment. Ten minutes equally divided on either side would certainly be sufficient. I just would like to get the amendment up and get a vote taken on this amendment because I think it is a matter of great import to the Senate.

Mr. WALLOP. I thank my colleague. It seems clear, Mr. President, that we could settle this matter in a very short period of time were the spirit so willing.

Mr. DOMENICI. Will the Senator yield for 2 minutes?

Mr. SEYMOUR. Certainly, I yield.

Mr. DOMENICI. Mr. President, I note that the majority leader and——

The PRESIDING OFFICER. Does the Senator from California yield the floor?

Mr. SEYMOUR. Yes, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask for 2 minutes.

Mr. President, I notice that the majority leader and the minority leader are not present, but I think even in their absence I could say what I am going to say. I believe the majority leader and the minority leader ought to support this amendment. Whether it is this amendment or whether it is a freestanding bill, we ought to agree to dispose of it and let the Senate vote rather quickly.

The media is filled with concern about our institution, and perhaps it is the Congress, not just the Senate. But the last episode that causes great discouragement among our people is our inability to maintain confidentiality of information we receive in confidence. Actually, we should have within our institution the wherewithal to find out who breached this confidence with Anita Hill.

I submit the Senator from California has a very simple way and the best way I have heard—take it out of the Senate. Do not appoint a new commission. Just give the Federal Bureau of Investigation authority to make the investigation, to swear the witnesses, to issue subpoenas, and to report back to us their findings. They only have one goal and that is to find out who breached the confidence of Anita Hill in the submission of her statement.

Now, Mr. President, it is not difficult. It is somebody who works for the Senate. It has to be, because even if somebody from the Senate leaked it through a third party, who leaked it and breached the confidence, it was the Senate that did it. It is either a Senator or a staff person who works for us.

I think we ought to adopt a simple measure tonight, or at the earliest time our leaders should help us do it, not resist it, unless they have something better. It seems to me this is as good as I have heard. The FBI does this well. They can give the reports to whomever we like. Maybe it would be the majority leader and minority leader who would get the reports. But it would be done. In a month or so we would know.

I think we ought to say in it that they can subpoena and take testimony from anyone who has relevant information—maybe a staffer has left. I am not suggesting such a thing, but if they have, they ought to be subject to interrogation.

I thank the Senator from California. I support his amendment and I hope we adopt it soon.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to endorse the amendment of the distinguished Senator from California. I think it is important this matter be acted on promptly.

The majority leader says he wants to get to the bottom of it. The Republican leader says he wants to get to the bottom of it. I might say that the Republicans on the Judiciary Committee, at my request, have already signed a letter to the acting Attorney General requesting that the FBI investigate this matter.

Now, it could be investigated in various ways, but the FBI has the reputation for being unbiased, nonpartisan, and in my opinion they would probably be the best agency to investigate this matter, and I heartily endorse the amendment of the able Senator from California.

Mr. GRAMM. Mr. President, I congratulate our colleague from California. A lot of people have talked about the problem. I guess all 100 Members of the Senate at one time or another in the last 2 weeks have talked about this violation of the confidence of the Senate, violation of the confidentiality of the people who came forward to present information that the Senate had asked for and they gave in a belief that it would be kept confidential.

What our colleague from California has done is not just complain about it, he has put together, I think, a clearly drafted amendment that is very straightforward. We all have great confidence in the FBI; the FBI operates independent of the Senate; and this amendment would give it the authority and the mission of conducting a thorough investigation and reporting to the Senate on the findings of the FBI.

I think it is very important we not give the American people any reason to believe that anything is being swept under the rug. I think a failure to vote on this amendment, a failure to deal with it suggests we are not living up to the call for action that was issued during all the indignation expressed about the violation of confidence.

So I congratulate our colleague from California. I think this is an excellent

amendment. I hope it would pass 100 to zero.

I also want to thank our colleague for making it clear that it is not his intention to delay what we are doing, that he is not doing this in any way to oppose the pending bill.

But the point is this. For 2 weeks Member after Member stood up and expressed outrage. Now is the time for action. Were we just expressing outrage because something had become public or were we expressing outrage because the rules of the Senate had been violated as was the confidentiality of people who had every right to expect that confidentiality to be respected?

So I congratulate our colleague, who has said he is willing to have 10 minutes of debate equally divided. This will hardly delay the Senate. I think it is very important that we vote on it. Again, I congratulate our colleague for providing the leadership.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I know the majority leader feels very deeply about what the Senator from Texas has just said. I could not agree with the Senator from Texas more, that we have some institutional rebuilding to do. It is a real tragedy, what has happened to the credibility of this body in the past week. It would be easy to point to that side of the aisle or that side of the aisle to point to this side of the aisle, but the truth is everybody will have to deal with this in his or her own way with his constituents.

I was very pleased when I picked up the paper yesterday morning to see that the majority leader said, "I intend to get to the bottom of this."

I have a great deal of confidence in him. I have not studied the amendment of the Senator from California and I would want to look at it. It may be the best possible way to restore confidence. I want the amendment of the Senator from California, or an amendment of his leader or my leader, whichever one will do the best job in this Senator's opinion, to begin that laborious tedious job of convincing the American people that this very important body, one of the most important bodies in America, is going to deal with this problem.

Mr. President, you might elevate the degree of respect of such an investigation if you appointed an independent counsel and give him access to the very best investigators the FBI or the GAO—both of them—have. I think it is going to be a complicated investigation, quite frankly. Everybody should understand there is a possibility that a definitive conclusion will not be reached. There is a possibility that there was no lead even of the FBI report.

Professor Hill and four witnesses Sunday afternoon testifying in her behalf. Each of them said that she had confided in them years go her charge, her allegation. If those four people knew, and each one of them told four people, and each one of them told four more people, and awful lot of people in this country knew that Professor Hill had something sticking in her craw about Judge Thomas.

So there is a possibility that all kinds of findings are going to be made other than the fact that a Senator or a staff member of a Senator leaked this report. That might be a happy, clean, satisfactory conclusion, and it might make people feel better to know precisely what happened. But I think that the Members of this body should understand that might not happen.

But having said that, Mr. President, I want to say I will vote for what I think is the very strongest measure to investigate this. It is a travesty that it happened. Judge Thomas and Professor Hill have not had their careers ruined but they certainly have gone through a traumatic experience because of this.

Let me refer my colleagues to a statement that Senator NUNN made yesterday on the floor of the Senate about this process. These things are never quite as easy as they seem, and Senator NUNN makes the point in his statement yesterday of some of the things, as chairman of the Armed Services Committee, that he and the other members of the Armed Services Committee have gone through from time to time on this.

We all remember that there were so many allegations against John Tower flying over the transom they could not keep up with them. It was impossible to sort them out. They were trying to decide which ones warrant further investigation. Should we confront some of these people and allow John Tower, our former colleague, to confront them?

So you have a host of concerns. You have people who say the public has a right to know. It seems to me that this country right now is pretty much divided between people who think this should have been handled behind closed doors and others who say the public has a right to know.

Mr. President, in the interest of fairness—and quite frankly I will be candid with you—I think the outpouring of support of the last few days for Judge Thomas was based on the proposition not dealing with his competency or incompetency or qualifications to serve on the Court but somehow or other he was being treated unfairly. The American people have very strong feelings about this issue of fairness. They will go to bat for almost anybody that they think is being treated unfairly.

But here is the point. Judge Thomas, First, was entitled to be confronted by his accuser.

So then the question becomes was he entitled to be confronted by his accuser in public for all the country to see and for his own satisfaction?

I think the answer to that is obviously, yes.

I can tell you as an old trial lawyer I always believed strongly in the accused being faced by his accuser.

Next question: Is it fair to the American people, and does it comport with what we believe is right, to do it behind closed doors or must it be done in public?

Three: If you have this public airing of accusation, do you not also inhibit the quality of the reports by any investigating team? The FBI takes statements all the time from people who give those statements based on the assurances of anonymity.

A lot of information is given to the FBI and other investigators on the basis that their names will be kept anonymous—good information.

So, Mr. President, all I am saying is this is not quite as simple as it looks. I know the majority leader and the minority leader are both determined to come up with a solution to deal with this in a way that will convince the American people that this body is genuinely concerned about a national tragedy. And we are not trying to hang scalps on the wall necessarily. We are also trying to figure out how to remedy this problem so that we can be assured it will not happen again, or at least that we have done everything we possibly can to keep it from happening again.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FEDERAL FACILITIES COMPLIANCE ACT

The Senate continued with the consideration of the bill.

MODIFICATION TO AMENDMENT NO. 1263

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendment No. 1263 be modified with a technical correction that I now send to the desk.

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

The modification to amendment No. 1263 is as follows:

On page 18 strike line 1 and 2.

Mr. BAUCUS. Mr. President, this modification has been cleared on the Republican side.

Mr. MITCHELL. Mr. President, the legislation I introduced, the Federal Facilities Compliance Act, has a very simple premise. The Federal Govern-

ment should be held to the same standard of accountability as everyone else regarding hazardous waste.

This legislation places private industry, States, individuals, towns and cities, and the Federal Government all on equal footing. Each should be required to meet the same environmental standards and should be subject to the same enforcement actions if they fail to comply with the law. Similar legislation has been adopted overwhelmingly by the House three times, including once earlier this year.

In 1976, when Congress enacted the Resource Conservation and Recovery Act, or RCRA, the intention was to waive sovereign immunity so everyone would be treated equally. In fact, the language of the 1976 amendments was directly in response to a 1974 Supreme Court decision, Hancock versus Train, in which the High Court held that sovereign immunity had not been completely waived because Congress had not addressed both substantive and procedural requirements.

It is more than mere coincidence that the language of section 6001, which waives sovereign immunity, uses practically identical language and states that the Federal Government must comply with all–

Federal, State, interstate, and local requirements, *both substantive and procedural*". (emphasis added).

We waived sovereign immunity in 1976. However, some courts have held that Congress has not yet found the magic words to effect such a waiver.

The magistrate states in State of Maine versus Department of the Navy that:

An intelligent person reading the statute would think the message plain: Federal facilities will be treated the same as private institutions so far as enforcement of the solid waste and hazardous waste laws are concerned. Indeed, if legislation is considered the means by which the Congress communicates its wishes to the Court and to the country, it is hard to imagine clearer language short of listing every possible variation of such requirements. (702 F.Supp. at 333)

The magistrate's opinion was upheld by Judge Carter of the Maine Federal District Court.

I think this is the correct decision. It would be unworkable for Congress to contemplate every type of requirement, fine, penalty, or enforcement action that could conceivably be brought against the Federal Government and then list such requirements exhaustively in each statute where we intend to waive sovereign immunity.

We waive sovereign immunity routinely in our Federal environmental laws. It is not questioned and was not throughout the lengthy Clean Air Act reauthorization process that the act waives sovereign immunity.

We intended to waive sovereign immunity in the Clean Water Act and again waived sovereign immunity in the Safe Drinking Water Act. Congress has been clear and consistent.

However, the courts have been neither. Thus the need for this legislation.

We are today clarifying what the courts have blurred: that sovereign immunity is completely waived under existing section 6001 of RCRA. It apparently is necessary to restate this proposition ourselves so there can be no further confusion in the courts.

Federal facilities noncompliance is legion and is not merely a theoretical problem. As President Bush stated while a candidate in Seattle on May 16, 1988:

Unfortunately, some of the worst offenders are our own Federal facilities. As President, I will insist that in the future Federal agencies meet or exceed environmental standards: the Government should live within the laws it imposes on others.

I agree. This legislation holds the Federal Government accountable. The courts have created a situation where the Federal Government has had a period of voluntary compliance. It is well documented that such a system of compliance does not work.

We do not allow private individuals, industrial facilities, towns and cities or States to be subject to voluntary compliance or let them offer to comply if they can afford it.

The Comptroller General of the United States testified in 1989 that there is "widespread contamination" at Department of Energy [DOE] sites and that "some sites may be irreversibly contaminated and DOE may have to place them in long-term institutional care."

Earlier this year the Office of Technology Assessment [OTA] found in its report "Complex Cleanup: The Environmental Legacy of Nuclear Weapons Production" that:

The waste and contamination problems at the DOE Weapons Complex are serious and complicated, and many public concerns about potential health and environmental impacts have not yet been addressed. * * * Many sites may never be returned to a condition suitable for unrestricted public access.

OTA, like GAO before them, is telling us that the extent and level of contamination may be so severe that some Federal facilities may be permanently off limits to the rest of society.

While DOE may be one of the best known examples of Federal noncompliance with our environmental laws, other agencies, including the Department of Defense, have their own serious problems.

Enactment of this legislation will not eradicate the public health and environmental threats overnight. What this legislation will do is return to the States the enforcement tools we thought we had given them in 1976.

Enforcement is key. EPA requires States to demonstrate they have adequate enforcement capability before the agency agrees to delegate programs to the States. EPA has frequently taken such enforcement action against noncomplying States and municipalities and insists that such authority is essential to assure compliance.

States have noted repeatedly in hearings before Congress and in arguments before the courts that civil penalties are a key tool in achieving compliance. The fines and penalties that are infrequently paid are minimal compared to full cleanup costs, or the costs of injunctive relief already available under current law. The adverse publicity and the deterrent effect are potent influences in assuring compliance, which is the ultimate goal.

Without a waiver of sovereign immunity, such as that envisioned in current law, there is no enforcement.

The administration has adopted a unitary executive theory that bars EPA from enforcing the law against other Federal agencies. EPA is reduced to jawboning other agencies, according to a former EPA Assistant Administrator responsible for implementing RCRA. Jawboning is not enough, as history has demonstrated.

Some agencies have interpreted the courts' ambiguities about the waiver of sovereign immunity as license to damage the environment.

The Department of Energy, for example, did not acknowledge that RCRA applied to its activities at all until 1987. However, this does not justify the agency's failure to take even reasonable steps to protect public health and the environment. One need not comply with the letter of every RCRA requirement in order to accept the spirit of environmental protection embodied in that statute.

Today we have an opportunity to begin to right these wrongs, to eliminate the special exemption the courts have created for Federal agencies. This legislation, once enacted, will assure that in fact the Federal Government is not above the law and that enforcement actions can and will be taken where there are violations.

I urge my colleagues to support this measure.

Mr. BROWN. Mr. President, I rise in strong support of S. 596. "Do as I say and not as I do" is the old political adage. The Federal Government follows that adage is spades when it comes to the environmental regulations.

Federal facilities in this Nation has disregarded our environmental laws and endangered their neighbors, and this activity is not going to end until this Congress says they have to live by the same rules as everybody else does. Allowing Federal facilities to be exempt may sound good to some, but I will guarantee that it does not sound good to the neighbors of such facilities.

In Colorado, there is a facility called the Rocky Mountain Arsenal. A few years ago, water draining from the site polluted, and some say poisoned, the drinking water of the adjacent commu-

nity. We came to the Defense Department to ask that they help filter the water that was endangering the lives of the neighboring communities. Does anyone know what they said? Their initial response was: "We do not want to pay a penny to help filter the drinking water of our neighbors."

Is there anyone in the Senate who would like to defend that kind of callous attitude that endangers the health and safety of neighbors of Federal facilities? I would like to hear someone justify poisoning the water of their neighbors and then refuse to come up with a penny to correct it.

The truth is that nobody can justify it. The laws we have that exempt federal facilities from the responsibilities we demand of everybody else are just plain wrong and that is why this bill is needed. This bill is needed to make the Federal Government act responsibly.

Mr. President, environmental problems of our Nation's Federal facilities represent some of the most flagrant violations of our environmental statutes.

In Colorado, we have witnessed, in addition to Rocky Mountain Arsenal, a myriad of problems at the Department of Energy's Rocky Flats nuclear weapons facility—which fully came to light a couple of years ago after an FBI raid of the facility uncovered a multitude of environmental violations. By failing to comply with these laws, we endanger the neighbors who have a right to expect the Federal Government will follow its own statutes.

I believe the Federal Government, like all other entities, must be held accountable. Our States have the ability to protect the health and safety of their citizens and the quality of the environment, and they ought to do it.

S. 596 is a step forward in requiring Federal facilities to comply with the same environmental laws with which everyone else must comply. The Senate ought to enact it, not just because it is good law, but because it follows the good neighbor policy this Nation is concerned about.

Mr. LIEBERMAN. Mr. President, as an original cosponsor, I am proud to rise in support of S. 596 and I congratulate the majority leader for his perserverance in bringing forward this bill.

The passage of this bill will not only allow those who enforce the law to do it in a way that will truly protect the environment and people who might be affected by Federal facilities. It will also increase our own credibility as law makers and the credibility of the Federal Government enforcing the law because it is very hard to justify why we would protect the Federal Government from the full and equal enforcement of the law that we would demand of all other private and governmental entities who might be violating the law.

As former attorney general of Connecticut, I know that the State attorneys general are committed to an equal and full enforcement of the law. It has been extremely frustrating to State law enforcers to have full authority to take action against other local government entities and to seek fines and penalties against them, but not to have the same authority against Federal facilities in their States. It is wrong to do that. In Connecticut, we repeatedly took action against municipalities violating the Clean Water Act provisions by dumping sewage into Long Island Sound, but we could not take action against a military base for not fulfilling obligations under the hazardous waste laws, even when these actions also resulted in contamination of Long Island Sound.

There is no doubt that the Federal Government's lack of compliance with the Nation's hazardous waste laws is shameful. Numerous investigations by the GAO have concluded that the Federal Government has not complied with the waste management laws. In May 1986, the GAO released a report reviewing RCRA compliance at 17 Federal civilian agencies in 12 States and found that almost half of the hazardous waste handlers inspected by the EPA were cited for violations. Similarly, the EPA has reported difficulties with Federal facility compliance. Federal facility RCRA compliance statistics supplied by EPA indicate that 63 percent of Federal treatment, storage or disposal facilities were found to have one or more class I RCRA violations in fiscal year 1989, compared to a 38-percent rate for private facilities. A class I violation is defined as a violation that results in a release or serious threat of release of hazardous waste to the environment, or involves the failure to assure that ground water will be protected, that proper closure and postclosure activities will be undertaken, or that hazardous waste will be destined for and delivered to licensed facilities.

As a result of this failure to comply with the laws, there has been massive pollution of our Nation's air, surface water, ground water and lands. We are confronted with thousands of leaking waste disposal units, spills of toxic and radioactive substances, and the release of other hazardous materials into the environment.

During the 1988 campaign, then Vice President Bush firmly committed to address this problem. He stated:

> As President, I will insist in the future that Federal agencies meet or exceed environmental standards and that the government should live within the laws it imposes upon others.

But without this legislation, President Bush's campaign promise becomes merely environmental rhetoric, not backed up by a commitment to action.

The bottom line is simple and something which the most junior prosecutor knows: without the threat of penalties for failure to obey the law, an enforcement program collapses.

Of course, we would all like to resolve matters through a voluntary process. Federal facilities should be the first in line to sign agreements with EPA and the States to correct violations and to clean up the environmental mess they created.

The States' ability to assess penalties will help to insure that Federal facilities exercise care in the future in complying with our environmental laws and that they swiftly enter into agreements to clean up past problems. The prospect of penalties will also ensure that Federal facilities stick to the consent agreements they sign. All prosecutors know that a consent order without the threat of penalties for noncompliance is an unenforceable agreement.

In conclusion, Mr. President, I think this is a critical piece of legislation, not only to protect the environment, but to uphold and elevate our own credibility as lawmakers and law enforcers.

Mr. WOFFORD. Mr. President, I rise in support of this bill, and I applaud the efforts of the distinguished majority leader on this important issue.

Pennsylvania, fortunately, has so far escaped an all-out environmental disaster like Rocky Flats in Colorado and Hanford in Washington. It is clear, however, that in the event of such a catastrophe, the State is unable to enforce its environmental laws with respect to Federal facilities. These facilities have routinely resisted State efforts to enforce Pennsylvania's laws, claiming a lack of jurisdiction.

Most Federal facilities in Pennsylvania are industrial, and should be subject to the same kind of environmental regulation as private industry. Pennsylvania has absolutely no desire to be more or less stringent with Federal facilities. Rather, the State wants to insure that all of its lands and waterways are offered equal environmental protection, and that all of its citizens benefit from environmental protection, including those who reside near Federal facilities. As the State Department of Environmental Resources testified last May, the Agency has had trouble clarifying both the substance and the application of its environmental laws to Federal facilities within the State.

It is imperative that Congress spell out the remedies available to States and the EPA in these cases. The environment hazards posed by Federal facilities are every bit as dangerous as those resulting from private sector industries.

I urge my colleagues to support this long-overdue legislation, and quickly send it to the President.

Mr. JOHNSTON. Mr. President, I want to thank the majority leader for his help in working to fashion an amendment to address the problem

with mixed waste storage at Federal facilities. I believe we have fashioned an amendment that addresses the problem in a sensible and straightforward manner that also includes an opportunity for involvement by the States.

The problem with mixed waste arises from a conflict in our laws and regulations. It is not legal to store some of these mixed wastes but yet we cannot dispose of them either. There are insufficient regulations. There is insufficient treatment technology. There is insufficient treatment capacity. It is a problem that is impossible to solve without this amendment.

Section 3004 of RCRA prohibits the land disposal of certain hazardous waste unless the waste has been treated and specifies that such waste can be stored only to allow the accumulation of sufficient quantities for treatment. This prohibition also covers mixed waste, where radioactive waste is mixed with hazardous waste.

The Department of Energy, the National Institutes of Health, and the Veterans' Administration have a serious problem with compliance with this storage prohibition because treatment technologies and/or capacity do not yet exist for most types of mixed waste streams that now exist or are stored at the Department of Energy's facilities. In addition, there are no existing regulations specifically for the treatment of mixed waste.

Specific provisions of the amendment would require the Environmental Protection Agency to publish within 90 days a list of radioactive mixed waste for which the Administrator determines that treatment technologies do not exist or sufficient treatment capacity is not yet available. This list shall be updated annually.

The amendment would also require EPA to promulgate regulations specifically for the treatment of mixed waste by December 31, 1992.

It would also exempt listed mixed wastes from the land disposal storage prohibition in RCRA until December 31, 1993.

In addition, it would provide an opportunity to obtain a variance from the land disposal storage prohibition in RCRA beyond December 31, 1993, where technology or capacity continues to be unavailable. Any variance granted by EPA would be subject to judicial review.

Finally, it would require the President to develop a national compliance plan for mixed waste.

To ensure that existing agreements between the States and the Federal agencies would not be adversely affected, the amendment specifically grandfathers these agreements.

Many Senators were involved in negotiating the specific language of this amendment and I think it truly represents the will of the Senate. It is my hope that when the Senate conferees meet with the House of Representatives on this legislation that they will stand firm in their commitment to this amendment.

Again, I am very appreciative of the efforts of the majority leader in addressing this problem.

I ask unanimous consent that the attached background information be included in the RECORD with this statement.

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

S. 596 ISSUES: STORAGE AND TREATMENT OF MIXED WASTE AT FEDERAL FACILITIES

1. REGULATIONS

Existing EPA regulations do not establish a level of treatment specifically required for mixed waste. Regulations must be in place before it is appropriate to assess fines and penalties for noncompliance.

2. TECHNOLOGY

Technology does not now exist for treatment of certain mixed waste streams. Technology must be developed before it is appropriate to assess fines and penalties for noncompliance.

3. FACILITIES

Even where technology exists, there is not now adequate treatment capacity (facilities) for processing of mixed waste. Facilities must be developed before it is appropriate to assess fines and penalties for noncompliance.

4. APPROPRIATIONS

Federal agencies should not be subject to fines and penalties for noncompliance where adequate funding has not been provided by Congress specifically for that purpose. The Secretary of Energy should have the discretion to establish priorities and not subject to fines or penalties at one facility if he determines that cleanup at another facility is a higher priority.

5. WAIVER OF SOVEREIGN IMMUNITY

The waiver of sovereign immunity should be dependent on the defendant's ability to comply. In situations where the defendant cannot comply, sovereign immunity should not be waived.

FACTSHEET ON MIXED WASTE PROBLEM IN FEDERAL FACILITIES COMPLIANCE ACT (S. 596)

PROBLEM

S. 596 makes all federal facilities subject to fines and penalties to be paid from the federal treasury for violations of RCRA. RCRA precludes land disposal of hazardous waste that has not been treated. RCRA also precludes storage of such waste.

The Department of Energy, the National Institutes of Health and the Veterans' Administration generate mixed waste (having both radioactive and hazardous components) which is not accepted by commercial hazardous waste treatment facilities because of its radioactive component.

Mixed waste requires treatment technology different from hazardous waste. The technology is currently being developed but does not exist at present for all forms of mixed waste. There are no existing EPA regulations regarding mixed waste for which treatment technology does not exist.

Additionally, even though technology exists for some waste streams, there has been insufficient time to construct enough facilities to process those mixed waste streams.

It was not clear until four years ago that mixed waste was covered by RCRA. It would take at least six years after the technology is developed just to gain approval for a site, obtain the necessary environmental permits, and conclude required NEPA compliance activities.

Therefore, it is impossible for DOE to comply until the technology is developed and treatment facilities are constructed.

The potential drain on the Federal Treasury could approach $5 billion. The fines and penalties would do nothing to correct the environmental problems for which they are levied.

MIXED WASTE PROBLEM AT DOE SITES

Section 3004 of RCRA prohibits the land disposal of certain hazardous waste unless the waste has been treated and specifies that such waste can be stored only to allow the accumulation of sufficient quantities for treatment. This prohibition also covers mixed waste, where radioactive waste is mixed with hazardous waste.

The Department of Energy has a serious problem with compliance with this storage prohibition because treatment technologies and/or capacity do not yet exist for most types of mixed waste streams that now exist at the Department's facilities.

Waste for which technology does not exist

The Department of Energy has identified over 25 discrete mixed waste streams for which there is no available treatment technology. DOE estimates that may take 10 or more years to develop appropriate treatment technology. These wastes represent about 30 percent of the total DOE inventory of mixed waste. Examples of these waste streams are the following:

High-level radioactive liquid waste—such as the high-level waste tanks at Hanford;

High-level radioactive waste safety and control rods from nuclear reactors—such as those from Savannah River reactors;

Tritiated process equipment contaminated with mercury—such as that located at Savannah River;

Concrete bricks of low-level mixed waste—such as that stored at Idaho National Engineering Lab;

Radioactive and lead-contaminated debris;

Soil contaminated with radioactive waste and chlorinated hydrocarbons;

Acidic liquids and sludges containing hazardous constituents and radioactive waste;

Equipment filters contaminated with transuranic waste;

Explosive uranium and tritium mixtures containing hazardous constituents; and

High-level radioactive waste contaminated with sodium and sodium-potassium alloys.

Waste for which inadequate capacity exists

The Department of Energy has also identified over 250 discrete waste streams for which there is either inadequate capacity for treatment of existing volumes of stored waste and newly generated waste, or for which identified technology exists but requires demonstration, permitting, or other actions to meet federal and state requirements prior to its use. This represents about 70% of the total DOE inventory of mixed waste. Examples of such radioactive mixed waste include the following:

Radioactive trichloroethylene—currently stored at Fernald and at Savannah River;

Radioactive-contaminated lead solids—currently stored at Idaho, Oak Ridge Reservation, Rocky Flats, Savannah River, and other smaller DOE sites;

Radioactive and mercury-contaminated solids—currently stored at Oak Ridge, Savannah River, Hanford, and other smaller DOE sites;

Radioactive contaminated waste oil and sludge—currently stored at Hanford;

Organic laboratory waste—currently stored at Idaho;

Radioactive trichloromethane;

Radioactive freon-113;

Rags and wipes contaminated with hazardous solvents and transuranic waste;

Rags and wipes contaminated with hazardous solvents and low-level radioactive waste; and

Radioactive contaminated paint materials.

IMPACTS OF NOT LEGALIZING THE STORAGE OF RADIOACTIVE MIXED WASTE

Waiving the Federal government's sovereign immunity under the Resource Conservation and Recovery Act (RCRA) without resolving the problem of a statutory impossibility for storing radioactive mixed waste could have significant impacts on DOE and other Federal agencies.

BACKGROUND

Congress dictated in section 3004(j) of RCRA that restricted wastes can be stored only to allow the accumulation of sufficient quantities of waste to facilitate proper recovery, treatment or disposal. It is impossible for DOE to comply with this statutory storage prohibition for radioactive mixed waste. DOE's only option is to store this waste, because treatment capability for these wastes does not currently exist and the waste cannot be disposed of without first being treated.

Currently, DOE seeks to enter into compliance agreements with EPA and the States to establish enforceable schedules to treat and dispose of this waste. Such agreements allay liability concerns and provide DOE's contractors with some protection from fines and penalties. However, these site-specific agreements are not conducive to developing an integrated and comprehensive national approach to a problem that is national in scope.

FINES AND PENALTIES

If sovereign immunity is waived and mixed waste amendments are not adopted, regulators could impose fines and penalties of up to $25,000 per day per violation against the Department of Energy, National Institutes of Health, and Veterans Administration for storing radioactive mixed waste out of compliance with RCRA's storage prohibition.

The total theoretical maximum possible exposure for fines and penalties for this illegal storage is about $5 billion for DOE. If one violation is assumed to occur on a daily basis at 10 percent of DOE's storage units the annual total amount of fines could average $505 million.

IMPACTS TO CLEANUP AND CORRECTIVE ACTION

DOE will need to divert money from the Environmental Restoration and Waste Management budget to pay fines and penalties for RCRA violations. Diversion of these monies will delay environmental restoration and improvements to waste management facilities but will neither resolve the noncompliance nor deter future noncompliance.

CRIMINAL LIABILITY

If storage of mixed waste is not made legal while treatment technology and facilities are being developed, Federal and contractor employees will continue to face criminal prosecution for violating RCRA when they are exercising the only option available to them.

TREATMENT COSTS

DOE may be forced to enter into site-specific compliance agreements to protect itself from fines and penalties and to allay the liability concerns of its contractors and employees.

Requirements in site-specific agreements may force site managers to construct treatment capacity at each site to treat waste from that site. DOE had not planned to construct treatment facilities at each site. Such an approach could increase the cost of DOE's waste management complex by approximately $400 to $800 million.

The resulting treatment complex would have repetitive capacity, would not be cost-effective, and may well delay the actual treatment of wastes. In addition, site-specific treatment may increase the overall risk to human health and the environment of treating DOE's waste.

INTERRUPTION COSTS

While site-specific agreements are being negotiated, DOE or its contractors may be compelled to suspend operations at those facilities that generate mixed waste subject to the storage prohibition. This could have a serious impact on DOE's ability to fulfill its mission. Shutdown of defense facilities for 6 months while an agreement is negotiated (a conservative time estimate) could cost DOE $550 million in lost production.

SUMMARY OF WASTE STREAM TREATMENT TECHNOLOGY INFORMATION

1. Radioactive Mixed Waste Stream Summary:

Total Volume—approximately 525,000 cubic meters.

Total Number of Streams—approximately 700.

2. Technology currently available but needs demonstration etc.

(This includes TRU waste destined for the WIPP under the no migration petition).

Volume—367,419 cubic meters or 70 percent of total volume.

Streams—672 or 95.5 percent of the total number of streams.

3. Technology not currently available but will be within 10 years:

Volume—14,776 cubic meters or 2.8 percent of total volume (3 percent).

Streams—18 or 3 percent of total number or streams.

4. Technology not available until after 10 years:

Volume—142,805 cubic meters or 27.2 percent of total volume (27 percent).

Streams—10 or 1.5 percent of total number of streams (2 percent).

Mr. CHAFEE. Mr. President, today we consider S. 596, a bill sponsored by the distinguished majority leader, that gives the State the authority to impose fines and penalties on the Federal Government for failure to comply with all Federal, State, and local solid and hazardous waste laws. This bill was reported out of the Committee on Environment and Public Works, on which I serve as the ranking member, by a unanimous vote of 15-0 on May 15 of this year. Before I discuss the substantive provisions of this bill, Mr. President, I would like to provide Senators with a little background on how we got to where we are today.

During the 101st Congress, Senator MITCHELL introduced S. 1140, the Federal Facility Act of 1990—legislation virtually identical to the legislation before us today. The Bush administration opposed that legislation. In particular, the Departments of Defense and Energy expressed serious concerns that devoting Federal funds to fines and penalties would divert scarce Federal resources away from the most important goal: that of cleaning up contaminated sites. In addition, those departments stated their belief that aggressive State attorneys general would disrupt Federal budgets and cleanup priorities by imposing enormous fines and penalties.

Last year, during committee consideration of S. 1140, I tried to address some of these concerns by introducing substitute language that would have waived sovereign immunity unconditionally for ongoing compliance violations. In contrast to S. 1140, though, my substitute would have waived immunity for failure to clean up old, inactive sites only in cases in which such failure violates an agreement or commitment to clean up. The substitute would not have affected the Federal Government's ongoing obligation to clean up its facilities, but would have allowed more Federal dollars to be devoted to that end. Unfortunately, the committee failed to approve the substitute, and instead reported S. 1140 to the full Senate with minor amendments. The full Senate did not take up S. 1140 before the 101st Congress adjourned.

Senator MITCHELL again introduced legislation waiving sovereign immunity for Federal facilities at the beginning of this Congress. As introduced, S. 596 raised the same concerns expressed last year. Despite these concerns, over the last several months, the administration has been attempting to shift the focus of the debate away from opposition to waiving sovereign immunity onto issues that make compliance with RCRA at Federal facilities difficult or impossible. At a hearing before the Committee on Environment and Public Works' Subcommittee on Environmental Protection earlier this year, the witnesses from the Environmental Protection Agency and the Departments of Defense and Energy testified that the administration would drop its opposition to S. 596, provided that the committee would attempt to address their RCRA compliance concerns.

Mr. President, on a number of occasions I have expressed my support for the administration's effort to develop a new approach to S. 596. I had hoped that, by the time the full Committee on Environment and Public Works met to mark up the legislation on May 15 of this year, the administration would have presented us with precise articulations of its problems and suggested legislative language. Unfortunately, that did not occur. However, during the markup session, I sought agreement from Senator MITCHELL that the administration's concerns be thoroughly considered prior to floor consideration

of S. 596. Senator MITCHELL agreed to that request.

Shortly after the committee reported S. 596 to the full Senate, the administration submitted 11 amendments for consideration by the bill's sponsor, and the committee as a whole. From the day that the amendments were submitted, Senator MITCHELL has honored his commitment to give those amendments full consideration.

During the last several months—up to today as a matter of fact—representatives of the administration, members of the Environment Committee staff, as well as staff members from the Committees on Armed Services and Energy, have conducted a long series of discussions concerning the administration amendments. At this point, I would like to express my sincere gratitude to the distinguished majority leader for his cooperation and patience, and that of his staff, in dealing with this matter. I am pleased to say that we will be offering amendments to S. 596 that would remove most of the obstacles to administration support for this legislation. As amended, the bill will continue to require that the Departments of Energy and Defense comply with Federal and State hazardous and solid waste laws.

That, Mr. President, is a brief summary of the road we have traveled to arrive at floor consideration of S. 596 today. Now, I would like to discuss briefly the provisions of S. 596. As I have indicated on many occasions, S. 596 has a noble purpose. That purpose is stated in the enacting clause of the bill:

> A bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

No one can disagree that the facilities of the Federal Government must comply with all environmental laws. The fact is, Mr. President, that the Federal Government is already required to do so, just like any other private citizen or corporation. What S. 596 would do is give the States the additional tool of fines and penalties to ensure compliance with the substantive requirements of RCRA and other States and local solid and hazardous waste laws.

Clearly, fines and penalties are useful tools and should be made available to State and local governments in their efforts to clean up contamination of Federal facilities. The Solid Waste Disposal Act currently allows for the imposition of civil penalties against private persons for violations of the act's requirements and should treat the Federal Government no differently. However, since three Federal courts of appeal have held that the act does not effectively waive sovereign immunity, Congress must take legislative action to make it clear that we are waiving sovereign immunity.

Mr. President, the need for this enforcement authority is illustrated by the current record of compliance at Federal facilities across the Nation. Although the precise extent of the Federal Government's hazardous waste problems is not yet fully known, it is clearly quite significant. As of November 1989, of the approximately 1,200 facilities on the national priorities list requiring cleanup under the Superfund law, 114 were Federal facilities. In addition, there are more than 7,100 properties formerly owned by the Federal Government for which the Federal Government may be liable for hazardous waste contamination. According to the Department of Defense, more than 14,400 of its sites are contaminated by hazardous waste.

Although DOE owns far fewer sites that contain hazardous waste, that Department is faced with a far more serious contamination problem. Specifically, the Defense Weapons Complex, a group of 20 facilities where U.S. nuclear weapons are designed, tested, and produced, are contaminated with large quantities of mixed wastes—that is, wastes containing both radioactive and hazardous components.

So far, Mr. President, cleanup at these facilities has in many cases been painfully slow. In some situations, remediation has been found to be impossible using currently available technology. In addition to the Superfund list of 1,200 sites, EPA has a hazardous waste compliance docket for Federal facilities. That docket identifies 724 Federal facilities that may require hazardous waste cleanup. Of these 724 sites, only 29 comprehensive investigations have been completed and only 30 facilities cleaned up. Of the more than 8,000 additional Federal facilities that are not on EPA's docket but may contain significant hazardous waste contamination, fewer than 200 have been the subject of some remedial action.

So, in conclusion, Mr. President, I think these numbers illustrate that the Federal Government has a big job ahead of it. While I have been heartened by the new culture of environmental stewardship instituted by the Secretaries of both the Departments of Defense and Energy, it is clear that even more of the Federal Government's attention and resources needs to be devoted to the task of cleanup. It is my hope that adding fines and penalties to the arsenal of enforcement tools at the States' disposal will encourage an even more concerted and targeted effort toward that end at Federal facilities.

I thank the majority leader, and the distinguished chairman of the Environmental Protection Subcommittee, who serves as the manager for the majority, for bringing this bill before us today.

Mr. LAUTENBERG. Mr. President, I rise in strong support of S. 596, the Federal Facilities Compliance Act of 1991. And I commend our distinguished majority leader for introducing this important legislation, which I have cosponsored.

The bill answers a very simple question. Does a town with a contaminated water supply care whether the polluter was a private corporation or Federal installation? Or does that town really care about getting that water cleaned up?

The answer is fairly obvious. People expect our environmental laws to guarantee protection and cleanup, regardless of who the polluter is.

That is what Congress intended back in 1976 when we passed the Resource Conservation and Recovery Act. We intended that States could use the same enforcement tools against Federal facilities as they use against private parties.

And the Federal court in Maine has properly interpreted the law's intent. Unfortunately some misguided courts and the administration have concluded that the law creates a double standard. They have suggested that States can obtain fines and penalties against private parties that violate RCRA, but not against Federal agencies.

I think the law is clear on this point. But to assure that courts universally follow the law's original intent, this bill clarifies the principle.

The key is for States to have all the enforcement tools in their arsenal. The need is obvious. DOD and DOE together annually generate about 20 million tons of hazardous or mixed hazardous and radioactive waste.

And double standards for enforcement may be contributing to double standards for compliance. In fiscal year 1990, 59 percent of inspected Federal facilities had RCRA violations. That's compared to about 51 percent for private facilities.

My State has several major Federal installations that are involved with hazardous waste. It is important that to the health and safety of New Jerseyans and protection of my State's environment that States clearly have the power to require Federal facilities to comply with environmental standards.

Mr. President, in the past we have heard some arguments against clarifying State enforcement powers. Some have argued that States will abuse fines and penalties. Some have argued that States will interfere with cleanup priorities.

But without any evidence that States will abuse enforcement powers, some have suggested that we have to be careful when it comes to Federal facilities. This ignores the mandate facing the Nation and this Congress.

Our mission must be to assure compliance with our laws by everyone—whether it is the Defense Department or a private company.

That is what this bill does, and that is why I urge my colleagues to give S. 596 their support.

Mr. SARBANES. Mr. President, I would like to engage the distinguished Senator from New Jersey [Mr. LAUTENBERG] in a colloquy concerning a matter of great importance to our ongoing efforts to restore the Chesapeake Bay. It had been my intention to offer an amendment to the Federal Facilities Act which would require Federal facilities in the bay watershed to comply with the toxic chemical release reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act, also known as title III of SARA, the Superfund Amendments and Reauthorization Act of 1986.

Under the provisions of that act, certain businesses are now required to submit annual reports on their chemical inventories and the amount of toxic chemicals their facilities release into the environment, including both accidental spills and routine emissions. These reports show the releases of any of more than 300 chemicals which may pose health and environmental hazards into the air, water or land; the amount of chemicals stored at the facilities; and the treatment of disposal methods used for wastes, among other things. EPA is responsible for compiling these reports into a national computerized data base known as the Toxics Release Inventory or TRI.

While some 30,000 facilities nationwide are subject to reporting, Federal facilities which meet the same usage criteria are not subject to these requirements.

Why is this important? The purpose of this reporting requirement is to inform the Government and the public about releases of toxic chemicals into the environment. The Community Right-to-Know Act was based on the premise that citizens have a fundamental right to know what toxic chemicals are being emitted by facilities in their communities. The TRI data can pinpoint the source, location, volume and type of chemicals that could cause pollution problems. EPA, the States and others are using this information to strengthen the regulation of toxic releases, for legislative efforts to curb the release of toxic chemicals and for development of effective pollution prevention programs.

Although the inventory has been available only for the past 2 years, the results have been dramatic. Data generated by the 1989 Toxics Release Inventory show that industrial plants have reduced their toxic emissions by approximately 800 million pounds or 11 percent, compared to the previous year. And companies are finding that it pays to reduce these toxic emissions, by cutting raw material inputs and waste disposal costs.

Unfortunately the TRI data is limited when a substantial source of toxic chemical releases—Federal facilities—are excluded from the reporting requirements. It is estimated that Federal facilities may be releasing up to 5 billion pounds of toxic chemicals into the Nation's air, water, and land—without reporting these releases. EPA has identified some 850 Federal facilities currently subject to other environmental statutes which would likely be required to report their emissions if the law was changed to make Federal reporting mandatory. The General Accounting Office, in a recently released report on the collection and use of data in the TRI, has recommended that Federal facilities be mandated to undertake these reporting requirements.

In the Chesapeake Bay area, EPA has tried to get the Federal installations in the bay watershed to undertake this TRI reporting on a voluntary basis, but has been frustrated in this effort. Few facilities have voluntarily reported their releases. To their credit, the 50 Federal facilities in the bay watershed are making substantial progress with improving their compliance with pollution laws. However, if we are to achieve a "* * * toxics-free Bay by eliminating the discharge of toxic substances from all controllable sources" as called for under the 1987 Chesapeake Bay agreement, we will need the latest available information on pollution loadings from all potential sources as a baseline for further pollution prevention efforts.

Mr. President, it is my understanding that my good friend from New Jersey is preparing legislation that would require Federal facilities across our Nation to meet these reporting requirements.

Mr. LAUTENBERG. The Senator from Maryland is correct. I share his strong support for requiring Federal facilities to comply with these requirements and I am in the process of drafting legislation that would mandate compliance by facilities in the Chesapeake Bay area and throughout the country and require them to submit annual reports. On June 6, 1991, I along with Senator DURENBERGER, broadly circulated a discussion draft to expand the current Right-to-Know Program to include additional facilities, including Federal facilities, and more toxic chemicals. On June 27, 1991, I chaired a hearing in the Subcommittee on Superfund, Ocean and Water Protection on the Draft, and called for additional comments on the proposal. Based on the hearing record, and the additional comments, we are considering revisions to the draft, and hope to introduce a bill in the near future.

Mr. SARBANES. I thank the Senator for his assurance and commend him for his own commitment to environmental issues. Given his plans to introduce a comprehensive bill, I will not propose the amendment that I had drafted.

Mr. LAUTENBERG. I appreciate the Senator's willingness to work with me on this issue.

Mr. SARBANES. Mr. President, again I want to thank my friend from New Jersey. More than a year ago, EPA Administrator Reilly set a goal of bringing all 50 major Federal facilities in the Chesapeake Bay watershed into compliance with Federal environmental laws, and good public policy. The Senator from New Jersey's legislation will be an important step in that direction and I look forward to working with him on this important issue.

Mr. WARNER. Mr. President, I rise today in support of S. 596, as amended. This legislation should address the perceived inequities between Federal facilities and other facilities relative to compliance with environmental requirements.

I thank Senator MITCHELL, Senator CHAFEE and other members and staff of the Environment and Public Works Committee for their good faith negotiations, which have now resulted in needed amendments to the bill. These amendments address the major concerns of the administration with this bill.

Without these amendments, the Defense and Energy Departments would have been subjected to unfair results under this bill. These agencies have unique characteristics that require unique language. The amendments do insure these agencies will be required to comply with the law while ensuring that enforcement of these laws is fair and realistic.

Getting to the point has taken about 2 years, including long hours of debate over issues and impacts. Hopefully, this investment will result in a better environment.

I thank the managers of the bill, the majority leader, and all that have contributed to this achievement.

I urge the conferees to support the Senate positions in the conference with the House.

Mr. ADAMS. The Federal Facilities Act is an important piece of legislation for the State of Washington and for the Nation as a whole. I commend the distinguished majority leader for his foresight and perseverance in bringing this bill to the floor.

At the Hanford reservation in my State, one of the largest such facilities in the Nation, mixed waste has been a fundamental stumbling block to timely cleanup. The mixed-waste provisions in this bill will help resolve this problem, and will ensure that the Department of Energy moves as quickly as possible to develop adequate mixed-waste treatment technologies.

Mr. President, I would like to clarify one point with the majority leader. This is of tremendous concern to myself and to those most affected by and concerned about the waste problem at Hanford. We have worked very hard to hammer out an agreement between the State, the Department of Ecology and the Department of Energy on the timely cleanup of Hanford. This is an excellent agreement. It sets forth both an

overall timetable and specific milestones for cleanup. Anything that could be construed to undermine the agreement or its enforceability would be devastating to our efforts to clean up Hanford.

Mr. President, is it the majority leader's intention that the Federal Facilities Act of 1991 shall have no affect whatsoever on such agreements and their enforceability, including the agreement worked out in my State to clean up Hanford?

Mr. MITCHELL. I share the Senator's concern about preserving the agreement reached in your State, and the many other such agreements reached by other States. These agreements have engendered real progress on the cleanup of Federal facilities across the Nation, and this legislation should be in no way construed to undermine the enforceability of those agreements.

Mr. ADAMS. I thank Senator MITCHELL for that clarification. He has done an excellent job managing this bill. This will ensure the continued integrity and enforceability of these kinds of agreements.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 332, Elizabeth Anne Moler and Branko Terzic to be members of the Federal Energy Regulatory Commission.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

The following-named persons to be members of the Federal Energy Regulatory Commission:

Elizabeth Anne Moler, of Virginia, for the term expiring June 30, 1994.

Branko Terzic, of Wisconsin, for the term expiring June 30, 1995.

NOMINATION OF ELIZABETH ANNE MOLER

Mr. WALLOP. Mr. President, on October 16, 1991, the Committee on Energy and Natural Resources favorably reported the nomination of Elizabeth Anne Moler to be a member of the Federal Energy Regulatory Commission by a vote of 19 to 0. Ms. Moler was reappointed by the President to be a member of the FERC and was last confirmed by the Senate 3 years ago. Before joining the FERC, she served as senior counsel to the U.S. Senate Committee on Energy and Natural Resources.

Mr. President, as the national energy strategy legislation unfolds, the challenges to the FERC will continue. I believe that Betsy Moler will continue to serve the FERC in a thoughtful and professional manner, and that her past experience will be invaluable as the Commission strives to meet these challenges.

Mr. President, I believe Ms. Moler to be very well qualified and committed to the work of the commission. I also believe that she has been fair in her assessments of the issues that have come before her.

I urge my colleagues to join me in supporting her confirmation.

CONFIRMATION OF BRANKO TERZIC

Mr. WALLOP. Mr. President, on October 16, 1991, the Committee on Energy and Natural Resources favorably reported the nomination of Branko Terzic to be a member of the Federal Energy Regulatory Commission by a vote of 19 to 0. Mr. Terzic has been reappointed by the President to be a member of the FERC and was last confirmed by the Senate a year ago. Prior to his service with the Federal Energy Regulatory Commission, Mr. Terzic served as group vice president for a consulting firm specializing in regulatory policy, valuation and depreciation, acquisition and divestiture, and strategic planning for regulated public utilities and the investment community. Mr. Terzic is a former public service commissioner for the State of Wisconsin and holds a bachelor of science degree in energy engineering.

Mr. President, I believe Mr. Terzic to be very well qualified and committed to the work of the Commission. I also believe that he has been fair in his assessments of the issues that have come before him. I urge my colleagues to join me in supporting his confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

200TH ANNIVERSARY OF THE MACLAY MANSION

Mr. SPECTER. Mr. President, it is my distinct pleasure to bring to the attention of my colleagues the 200th anniversary of the Maclay Mansion, currently headquarters for the 28,000 members of the Pennsylvania Bar Association. The Maclay Mansion is being honored on Friday, October 18, 1991. It is certain to be a day of historic remembrance and celebration.

The Maclay Mansion, which was built in 1791, is located at Front and South Streets in Harrisburg, PA, our State capital. The mansion is named for its founder, builder, and distinguished original owner, the Honorable William Maclay. This national historic site is a beautifully constructed three-story, limestone house. From 1827 to 1908, it served as the site of the Harrisburg Academy. It was then sold to the Bailey family of the Harrisburg National Bank, today's Commonwealth Bank. The Bailey family sold the property to the Pennsylvania Bar Association in 1948, whereupon the bar association began restoration of the mansion. The Maclay Mansion restoration was completed in 1975, and has served the association and the State well.

In its day, the site sheltered the mural works of Violet Oakley, which now hang in the hallowed chambers of the Pennsylvania State Supreme Court and Senate, and served as the American Red Cross blood bank during World War II. Interestingly enough, the gardens of the mansion produced the first tomatoes ever grown in central Pennsylvania.

I am informed that the Pennsylvania Bar Association will express its appreciation of the 45 years of public service of William Maclay—the first U.S. Senator from Pennsylvania, a U.S. Congressman, a Pennsylvania State senator, a State representative, and speaker of the Pennsylvania State House—by unveiling a monument in his memory during the ceremony. William Maclay dedicated his life to Pennsylvania and the newly formed United States of America.

Mr. President, it is with great delight that I offer my commendations to the Pennsylvania Bar Association for preserving this historical site and sponsoring this bicentennial celebration of the Maclay mansion. The restoration of the mansion is certainly a great accomplishment and a necessary preservation of one component of Pennsylvania's rich historical participation in our country's development and stability. I ask that my colleagues join me today in offering the best wishes of the U.S. Senate to all those participating in the 200th anniversary celebrations of the Maclay Mansion.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE TOURISM POLICY COUNCIL—MESSAGE FROM THE PRESIDENT—PM 85

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with section 302 of the International Travel Act of 1961, as amended (22 U.S.C. 2124a(f)), I transmit herewith the annual report of the Tourism Policy Council, which covers fiscal year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *October 17, 1991.*

REPORT ON EMIGRATION LAWS AND POLICIES OF THE CZECH AND SLOVAK FEDERAL REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 86

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby transmit the documents referred to in subsections 402(b) and 409(b) of the Trade Act of 1974 ("the Act"), 19 U.S.C. 2432(b) and 2439(b), with respect to the consistency of the emigration laws and policies of the Czech and Slovak Federal Republic with the criteria set out in subsections 402(a) and 409(a) of the Act. These documents constitute my decision that a waiver of subsections (a) and (b) of section 402 of the Act will no longer be required for the Czech and Slovak Federal Republic.

I include as part of these documents my determination that the Czech and Slovak Federal Republic is not in violation of paragraph (1), (2), or (3) of subsection 402(a) or paragraph (1), (2), or (3) of subsection 409(a) of the Act. I also include information as to the nature and implementation of the emigration laws and policies of the Czech and Slovak Federal Republic and restrictions or discrimination applied to or against persons wishing to emigrate, including those persons wishing to emigrate to the United States to join close relatives.

GEORGE BUSH.

THE WHITE HOUSE, *October 17, 1991.*

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO THE LAPSE OF THE EXPORT ADMINISTRATION ACT—MESSAGE FROM THE PRESIDENT—PM 87

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

1. On September 30, 1990, in Executive Order No. 12730, I declared a national emergency under the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701, *et seq.*) to deal with the threat to the national security and foreign policy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. 2401 *et seq.*) and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768, *et seq.* (1991)), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. I issued Executive Order No. 12730 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act ("NEA") (50 U.S.C. 1601, *et seq.*), and section 301 of title 3 of the United States Code. At that time, I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes to be submitted every 6 months. Additionally, section 401(c) of the NEA requires that the President, within 90 days after the end of each 6-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. This report, covering the 6-month period from April 1, 1991, to September 30, 1991, is submitted in compliance with these requirements.

3. Since the issuance of Executive Order No. 12730, the Department of Commerce has continued to administer the system of export controls, including antiboycott provisions, contained in the Export Administration Regulations. In administering these controls, the Department has acted under a policy of conforming actions under Executive Order No. 12730 to those required under the Export Administration Act, insofar as appropriate.

4. Since my last report to the Congress, there have been several significant developments in the area of export controls:

We continued to address the threat to the national security and foreign policy interests of the United States posed by the spread of weapons of mass destruction. In Executive Order No. 12735 of November 16, 1990, and the Enhanced Proliferation Control Initiative of December 13, 1990 ("EPCI"), we had announced major steps to strengthen export controls over goods, technology, and other forms of assistance that can contribute to the spread of chemical and biological weapons and missile systems.

—On March 7, 1991, the Department of Commerce issued two new regulations and a proposed rule to implement EPCI. The new regulations controlled the export of 50 chemicals as well as dual-use equipment and technical data that can be used to make chemical and biological weapons. (56 F.R. 10756 and 10760, March 13, 1991.)

—On August 15, 1991, the Department of Commerce made the proposed rule final. The final rule expands controls to cover exports when the exporter knows or is informed by the Department of Commerce that an export will be used for missile technology or chemical or biological weapons, or is destined for a country, region, or project engaged in such activities. The rule also restricts U.S. citizen participation in such activities, as well as the export of chemical plants and plant designs. (56 F.R. 40494, August 15, 1991.)

—The Department of Commerce also issued a new regulation that revises the list of items subject to control for nuclear nonproliferation reasons. The updated list reflects technological developments in the field, as well as U.S. nuclear nonproliferation policy. (56 F.R. 42652, August 28, 1991.)

In light of the changes that have occurred in Eastern Europe, negotiations with our Coordinating Committee (COCOM) partners yielded a streamlined Core List of truly strategic items that will remain subject to multilateral national security controls. The Department of Commerce implemented this new Core List effective September 1, 1991. In implementing the Core List, the Department totally revised its Commodity Control List, now called the Commerce Control List (CCL), and made certain additional substantive changes in controls. (56 F.R. 42824, August 29, 1991.)

—For the first time, all controlled software and technical data have been integrated into the CCL, including definitions for these items that parallel those of our COCOM partners.

—Following my decision to remove certain sanctions under the Comprehensive Anti-Apartheid Act, controls on certain exports to South Africa of computers, aircraft, and petroleum products have been removed. Other controls affecting South Africa, such as those implemented pursuant to the United Nations arms embargo, remain in place.

—On August 28, 1991, the Department of Commerce submitted a report to the Congress indicating that the Department was reformulating controls on exports to countries that had been designated by the Secretary of State as repeatedly having provided support for acts of international terrorism. In a few instances we reported that controls were being expanded, particularly with respect to Iran and Syria, the only two of the six countries designated as terrorist-supporting not presently subject to separate trade embargoes. In addition, the report indicated that the Department was expanding controls on items of missile proliferation concern. The changes reported to the Congress were implemented in the course of revising the CCL.

Enforcement efforts have continued unabated:

—On August 21, 1991, the Department of Commerce renewed a previous Temporary Denial Order to withhold the export privileges of a Dutch company, Delft Instruments N.V., and certain related companies, in connection with an investigation of illegal reexport of U.S.-origin night vision equipment to Iraq. (56 F.R. 42977, August 30, 1991.)

—On August 28, 1991, Special Agents from the Department of Commerce's Bureau of Export Administration arrested two Iranian businessmen in Newport Beach, California, on charges of illegally exporting to Iran U.S.-origin equipment with possible nuclear and/or missile technology applications. The two businessmen were subsequently charged in a 17-count indictment with conspiracy, illegally exporting U.S.-origin equipment, and making false statements to the United States Government in connection with the exports.

—Following numerous discussions with officials of Czechoslovakia, Hungary, and Poland, the Department of Commerce has assisted the new East European democracies to implement and strengthen their export control systems, including prelicense inspections and postshipment verifications. These developments will allow for enhanced and much-needed trade in high technology items in the region, while helping to prevent unauthorized shipments or uses of such items.

5. The expenses incurred by the Federal Government in the 6-month period from April 1, 1991, to September 30, 1991, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration. Expenditures by the Department of Commerce are anticipated to be $20,390,000.00, most of which represents wage and salary costs for Federal personnel.

6. The unrestricted access of foreign parties to U.S. goods, technology, and technical data and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, continue to constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. I shall continue to exercise the powers at my disposal to retain the export control system, including the antiboycott provisions, and will continue to report periodically to the Congress.

GEORGE BUSH.

THE WHITE HOUSE, *October 17, 1991*.

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bills and joint resolutions:

On May 24, 1991:

S. 248. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Missouri River in Nebraska and South Dakota as components of the wild and scenic rivers system, and for other purposes.

On June 18, 1991:

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991."

S.J. Res. 111. Joint Resolution marking the seventy-fifth anniversary of chartering by Act of Congress of the Boy Scouts of America.

On June 19, 1991:

S. 292. An act to expand the boundaries of the Saguaro National Monument.

June 27, 1991:

S. 64. An act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards and Testing, and for other purposes.

On June 28, 1991:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month."

On July 10, 1991:

S. 674. An act to designate the building in Monterey, Tennessee, which houses the primary operations of the United States Postal Service as the "J.E. (Eddie) Russell Post Office Building," and for other purposes.

On August 2, 1991:

S.J. Res. 121. Joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

On August 6, 1991:

S.J. Res. 40. Joint resolution designating the week beginning September 8, 1991, and the week beginning September 6, 1992, each as "National Historically Black Colleges Week."

S.J. Res. 142. Joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week."

On August 10, 1991:

S.J. Res. 179. Joint resolution to designate the week beginning August 25, 1991, as "National Parks Week."

On August 14, 1991:

S. 1593. An act to improve the operation and effectiveness of the United States National Commission on Libraries and Information Science, and for other purposes.

S. 1594. An act to honor and commend the efforts of Terry Beirn, to amend the Public Health Service Act to rename and make technical amendments to the community-based AIDS research initiative, and for other purposes.

S.J. Res. 72. Joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

On August 17, 1991:

S. 1608. An act to make Technical Amendments to the Nutrition Information and Labeling Act, and for other purposes.

On October 1, 1991:

S. 296. An act to amend the Immigration and Nationality Act to provide immigrant status for certain aliens who have served honorably (or are enlisted to serve) in the Armed Forces of the United States for at least 12 years.

On October 3, 1991:

S.J. Res. 73. Joint resolution designating October 1991 as "National Domestic Violence Awareness Month".

S.J. Res. 125. Joint resolution to designate October 1991 as "Polish-American Heritage Month".

S.J. Res. 126. Joint resolution to designate the second Sunday in October of 1991 as "National Children's Day."

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day."

On October 4, 1991:

S. 363. An act to authorize the addition of 15 acres to Morristown National Historical Park.

On October 7, 1991:

S. 1106. An act to amend the Individuals with Disabilities Education Act to strengthen such Act, and for other purposes.

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month."

On October 8, 1991:

S.J. Res. 78. Joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month."

S.J. Res. 156. Joint resolution to designate the week of October 6, 1991, through October 12, 1991, as "Mental Illness Awareness Week."

On October 9, 1991:

S. 1773. An act to extend until October 18, 1991, the legislative reinstatement of the power of Indian tribes to exercise criminal jurisdiction over Indians.

S.J. Res. 172. Joint resolution to authorize and request the President to proclaim each of the months of November 1991 and 1992 as "National American Indian Heritage Month."

On October 10, 1991:

S. 868. An act to amend title 10, United States Code, and title 38, United States Code,

to improve the educational assistance benefits for members of the reserve components of the Armed Forces who served on active duty during the Persian Gulf War, to improve and clarify the eligibility of certain veterans for employment and training assistance, and for other purposes.

S.J. Res. 132. Joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week."

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 6:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2426. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2698. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes; and

H.R. 2942. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 6:35 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1415. An act to authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes;

H.R. 2608. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 3280. An act to provide for a study, to be conducted by the National Academy of Sciences, on how the Government can improve the decennial census of population, and on related matters; and

S.J. Res. 107. Joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 17, 1991, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 107. Joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2032. A communication from the General Sales Manager and Vice-President of the Commodity Credit Corporation, transmitting, pursuant to law, a report on section 416(b) monetization programs for fiscal year 1990; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2033. A communication from the President of the United States, transmitting, pursuant to law, a report on Verification of Nuclear Warhead Dismantlement and Special Nuclear Material Controls; to the Committee on Armed Services.

EC-2034. A communication from the President of the United States, transmitting, pursuant to law, a report on Possible Effects of a Strategic Arms Reduction Agreement on the Trident Program; to the Committee on Armed Services.

EC-2035. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the initial report on Missile Proliferation; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 239. A bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia (Rept. No. 102-192).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 470. A bill to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, Indiana (Rept. No. 102-193).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. DANFORTH and Mr. BURNS):

S. 1836. A bill to provide economic incentives through Medicaid bonus funds to promote State alternative dispute resolution systems, to assist States in the creation and evaluation of alternative dispute resolution systems, to encourage State-based quality improvement programs, and to provide comprehensive reform of State tort law to curb excesses in the current liability system, and for other purposes; to the Committee on Finance.

By Mr. REID (for himself and Mr. BRYAN):

S. 1837. A bill to repeal a provision of Federal tort claim law relating to contractor liability for injury or loss of property arising out of atomic weapons testing programs, and for other purposes; to the Committee on the Judiciary.

By Mr. PRYOR (for himself and Mr. MITCHELL):

S. 1838. A bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare; to the Committee on Finance.

By Mr. McCONNELL:

S. 1839. A bill to prevent the disclosure of confidential information in the Senate advise and consent process; to the Committee on the Judiciary.

By Mr. GLENN:

S.J. Res. 216. A joint resolution requiring a report under the Nuclear Non-Proliferation Act of 1978 on United States efforts to strengthen safeguards of the International Atomic Energy Agency; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN (for himself and Mr. BOND):

S. Res. 199. A resolution calling for an investigation of the unauthorized disclosure of a confidential Senate committee report during the consideration of the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court; to the Committee on Rules and Administration.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. Res. 200. A resolution expressing the sense of the Senate with respect to the important contributions of the men and women in the number one industry in New York State, the agriculture industry; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANFORD (for himself, Mr. KERRY, Mr. LEVIN, Mr. KENNEDY, Mr. BUMPERS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. LEAHY and Mr. WELLSTONE):

S. Con. Res. 70. A concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant; to the Committee on Foreign Relations.

By Mr. MACK:

S. Con. Res. 71. A concurrent resolution condemning the unconditional seizure of power by elements of the Haitian military and consequent violence, and calling on the Attorney General to suspend temporarily the forced return of Haitian nationals in the United States during the crisis in Haiti; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. DANFORTH, and Mr. BURNS):

S. 1836. A bill to provide economic incentives through Medicaid bonus funds to promote State alternative dispute resolution systems, to assist States in the creation and evaluation of alternative dispute resolution systems, to encourage State-based quality improvement programs, and to provide comprehensive reform of State tort law to curb excesses in the current liability system, and for other purposes; to the Committee on Finance.

AMERICAN HEALTH QUALITY ACT

Mr. DURENBERGER. Mr. President, I appreciate having the opportunity this morning to listen to my colleague, Senator WOFFORD, speak on the issue of national health insurance, and I compliment him for his interest in the

subject. Many people in this body and others have come to do that in recent years.

I also appreciate the fact that Americans want comprehensive change in our health care system. The question is mainly how are you going to go about it?

I was happy to see my colleague from Pennsylvania talk about small group insurance reform which is something I have been trying to do here for a couple years, and I trust it will be included in leadership package coming out quite soon.

I would hope that we would endorse the concept of national basic benefits plans. I heard words like national health insurance and words like comprehensive coverage. I am back to thinking about the way most Americans think about the health plan. They expect it to be a bill paying service rather than providing them with financial security that they need.

I hope that he and others will also endorse the concept of tax equity. We are spending $100 billion a year today in non-means-tested payments, people who work for big companies so they can buy their health insurance while self-employed persons, people in small businesses and low-income people generally in this country get nothing or little or nothing. I hope that when I make that proposal he and others will support that as well.

I say, Mr. President, that whether you use a comprehensive approach or you use an incremental approach, we have to take on the cost of health care or we will never be able to guarantee universal access.

This morning I would like to talk about a proposal that several colleagues on this side of the aisle are working on which is different from what others have proposed, some similarities, but a little different.

Let me start with the premise that every American citizen wants the same three things from their health care system.

The first thing they want is access to care. They want it there when they need it. The woman in Methodist Hospital in Philadelphia that Senator WOFFORD referred to is a good example of that.

The second thing they want is quality care. They want to know that they are going to have the best care that is available.

The third thing they need is to have both access to quality at a fair price.

The problem with the American health care system today is that it cannot deliver on these three at the same time or the same place. The reasons are many but it boils down to this: The health marketplace in this country does not function like it should. We need to set about repairing that marketplace so it produces what it should, how it should, and at the price that is should.

So today I am focusing on one part of that broken system: The part that is supposed to guarantee quality care, the so-called malpractice or medical liability system. This is the part that is so badly broken that not only does it not give us quality, but it impedes both access and raises cost.

The bill Senators DANFORTH, BURNS, and I are introducing today tries to turn that around and get the system headed in the direction of serving patients better by genuinely improving health care quality.

Let us look from the patient's point of view at the current malpractice system as it relates to access, quality and cost.

What does the current system do to access for Americans?

Mr. President, we have reports from over 150 communities in 26 States that they are losing doctors, particularly in the field of obstetrics, because they are unable to pay their malpractice premiums. Fifteen counties in Alabama have no obstetrical care. Nineteen counties in Colorado had no private obstetricians. The list goes on and on.

What are the women in those communities supposed to do? How are they going to get the care they need? Who is going to deliver their babies?

Every place where the financial condition of the health care system is marginal—rural areas and core inner-cities especially—malpractice premiums are becoming the last straw that break's the system's back.

What does the current system do to costs?

If you look at the chart behind me, it reflects the average rate of increase of three items during the last decade.

The first of these, the green line, over the decade of the 1980's, are CPI averge cost increases for all goods and services in America.

The second one is the physician fees.

And the third line is the cost of the malpractice or professional liability premiums.

The chart reflects the average rate of increase of three items during the last decade. At the bottom is the inflation rate for all items—about a 30-percent increase. The next line is physician fees: it shows a 50-percent increase.

The top line is what the cost issue is all about: a 160-percent increase in about 7 years. Mr. President, in terms we can understand, could any of us handle an increase in the price of a fill-up at the gas station that went from $15 to $39? Or the cost of a mortgage payment that went from $750 to $1,950? That is the kind of price rise physicians went through during the middle 1980's.

The CPI has gone up 30 percent during the decade, physicians fees going up 50 percent in the decade, but professional liability premiums have gone up 160 percent without guaranteeing any American they are getting better health care.

Let us not be naive. Who is really paying for all these increases? All of us. The lady in Methodist Hospital in Philadelphia is among them. As bill payers, as premium payers and taxpayers, we are all footing this enormous bill.

Let us look at the actual impact of that increase in some selected States. This is the situation faced by 44 million people living in these States.

This is illustrated by this chart right here to give you some idea of the premium cost.

When you go to see your doctor in Florida, he or she is working and charging enough to pay $21,000 a year, more than most Floridians make, just for liability insurance in internal medicine.

A general surgeon pays $1,900 in premiums each week, just to open the office door in Florida.

An obstetrician in Florida who worked a normal work week has to earn $700 a day just to pay his insurance bill.

Is it any wonder, Mr. President, that medical costs are skyrocketing?

As you can see, this is the case in the rest of the States as well. We are all paying a heavy price for the way the current system works, if I can use that term.

And the big question, Mr. President, is, What kind of quality is the system producing for that price?

Unfortunately, we have a situation like the kid who tells his basketball coach, "I may be small, but I can't jump!" We have a system that costs us an arm and a leg and doesn't get the job done.

Quality can be simply defined as patients getting what they need from their doctor and not getting what they do not need. Our current system delivers billions of dollars of care that American patients simply do not need.

The term for this is "defensive medicine." Physicians who are fearful of lawsuits prescribe unnecessary tests and perform extra procedures—not to benefit the patient—but to protect themselves from lawsuits.

The cost of defensive medicine is understandably hard to estimate but the American Medical Association says they may be as high as $15 billion a year. That is an unconscionable waste of money. And that is what our current system encourages.

Skyrocketing judgments may also drive innovators out of the medical field, depriving patients of new, life-saving cures.

What about controlling medical errors and injuries, the kind of thing most of us think about when we hear about the malpractice system? Does the system give injured patients fair and timely compensation for their losses? Does it force doctors to shape up?

Regrettably, Mr. President, the current system is so unfair, so fraught

with delay for victims of negligence and so skewed by financial motives that it does none of those things we intend it to do.

The civil courts of this country are jammed with a huge backlog of litigation which mean years of waiting before any claim can be settled. The wait for a trial date in many States in this country is well over 2 years. A person trying to bring a liability suit just across Minnesota's southern border in Iowa would have to wait 39 months for a trial date. If justice delayed is justice denied, we have an unjust system.

But Mr. President, a recent study at Harvard University uncovered a level of unfairness of an even greater magnitude.

The Harvard researches found that 97 percent of the people who are actual victims of negligence, for one reason or another do not even sue for damages. Ninety-seven percent of those who have been hurt by this system got less than quality care.

Equally amazing is the fact that 80 percent of people who do sue had no basis for doing so; they had frivolous claims.

This system does not work

Peter Huber, a renowned legal scholar put those numbers in this perspective:

Imagine that the manufacturer of a car or a contraceptive delivered a product that was defective 80% of the time. Imagine a diagnostic laboratory that ran tests that produced 97% false negatives and 80% false positives. Or imagine that some doctor failed to diagnose 97% of all patients with gangrene, and that when he did reach for a scalpel, he applied it to the wrong limb 80% of the time.

Who could support the continuation of such a system?

My next chart answers that question. The blue and red chart. For every dollar that is thrown into the system, only 56 cents ever ends up with patients, the people this system is supposed to serve. The rest goes to lawyers. This is a full employment program for lawyers.

So, Mr. President, the system fails the test of access, the test of cost and the test of quality.

We must do better.

And we can do better. That's why we're here this morning.

The American Health Quality Act we are introducing today turns a costly, unfair and debilitating system into one that will bring about genuine improvement in the health care Americans receive. It is based on three principles.

First, serious reform must be comprehensive in scope

The health care system we have in America is extraordinarily complex. When I was growing up in rural Minnesota, health care came from Dr. Baumgartner, from Albany, 12 miles away. He came with his black bag when my mom called him. He fixed me up and my dad paid him out of this next paycheck. Everything about that system has changed.

The specialization of physicians is incredible.

The exponential growth of medical technology which replaces that black bag is staggering.

And instead of cash, the doctor patient transaction now involves thousands of insurance companies, employers and government programs.

That means problems spread throughout the system, and solutions therefore have to involve all the actors in the system. That is what this bill does. It deal not only with malpractice, but also with medical devices and pharmaceuticals as well. And it does more than try to solve problems; it points the whole system in the direction of quality improvement.

I ask unanimous consent that a list of the national organizations who have announced support for this bill be printed in RECORD.

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

AMERICAN HEALTH QUALITY ACT OF 1991

(Prepared by the Office of Senator Dave Durenberger)

The following groups have expessed support for the goals of the bill:

American Academy of Orthopedic Surgeons.

American Association of Nurse Anesthetists.

American Chiropractic Association.

American College of Obstetricians and Gynecologists.

American College of Physicians.

American College of Radiology.

American College of Surgeons.

American Dental Association.

American Group Practice Association.

American Healthcare Systems Institute.

American Hospital Association.

American Medical Association.

American Osteopathic Hospital Association.

American Podiatric Medical Association, Inc.

American Protestant Health Association.

American Society for Healthcare Risk Management.

American Society of Internal Medicine.

American Thoracic Society.

American Tort Reform Association, representing 400 professional societies, trade associations and corporations.

Association of Private Pension and Welfare Plans.

Catholic Health Association.

College of American Pathologists.

Federation of American Health Systems.

Group Health Association of America.

Kaiser Permanente.

MMI Companies, Inc.

Medical Alley, 175 members including Minnesota's medical device manufacturers, hospitals, healthcare professionals, and health maintenance organizations.

Minnesota Medical Association.

National Association of Manufacturers.

National Association of Pediatric Nurse Associates and Practitioners.

National Medical Liability Reform Coalition.

Physician Insurers Association of America.

Voluntary Hospitals of America.

Washington Business Group on Health.

Mr. DURENBERGER. Second, we need to curb the excesses in the current liability system, while we maintain patient's rights to compensation for real economic losses.

Reform must include limitations on attorney's contingency fees, reducing the lawyer's slice of the liability pie I showed earlier. We also need to cap noneconomic damages, such as pain and suffering, and punitive damages at a reasonable level. In addition, we need to expedite settlement provisions to speed up the process. Uniform national rules for statutes of limitation, joint and several liability among defendants and other sources of compensation need to be set to bring greater certainty to all parties. That is what this bill proposes.

If I can refer back to my earlier chart. If you look at the difference between these States here, the first five States, Florida, Michigan, New York, Alaska, Arizona, and the State of California—let me say, California has enacted a lot of these reforms. And if you compare the impact on premiums even in a State like California, which has such an incredibly expensive medical system, you could see that in 1983 California obstetrical premiums were well above the national average. Now they are much below the average and the departure of obstetricians has slowed.

Third, if we want genuine quality improvement we need get as many of these matters as we can out of the court room and into a setting where there can be constructive resolution and some learing from the process.

There is a fundamental culture clash between the legal liability system and medical quality improvement. This is not the fault of doctors or hospitals, nor is it the fault of insurance companies, or even, Mr. President, is it the fault of lawyers. It is inherent in the litigation process.

The culture of liability litigation is adversarial, punitive, and confrontational. Mistakes are opportunities for lawsuits. The law looks for someone to blame.

In contrast, the growing literature on quality improvement in health care teaches us that mistakes are opportunities, even treasures. Improvement in quality comes through sharing information to aggressively confront failure and thus prevent it. Quality improvement requires all the participants to trust one another in order to work cooperatively toward the improvement.

Mr. President, the road to quality health care does not pass through the courtroom. We simply cannot get here from there.

We have to develop alternative systems that will fairly compensate individuals for medical mistakes while improving the quality of care for everyone. This bill offers incentives for States to achieve these goals. It creates affirmative incentives for States

to develop alternative dispute resolution [ADR] systems outside of the courts.

In this bill, up to 10 States will receive Medicaid bonus funds to experiment with ADR systems. The Agency for Health Care Policy and Research, the Federal body with the greatest sophistication in issues relating to quality of care, will oversee the bonus program.

This offers a "win-win" solution for qualifying States. There will be more resources for care under the bonus plan, and patients will benefit from ADR systems that are likely to develop cost-efficient, quality-enhancing programs to compensate for health care injuries.

The bill also includes similar incentives for quality improvements in State health professional licensing boards, grants for private sector experimentation with ADR's, some special protection for certain obstetrical cases and programs for community and migrant health centers to finance coverage for liability claims.

This bill calls for a modest Federal expenditure for this experimentation with the ADR concept, about $100 million. However, we anticipate that Federal and State governments will reap the benefits of cost savings as rates decline and defensive medicine slows. This should be reflected in a lower malpractice adjustment in the physician fee schedule under Medicare.

In conclusion, Mr. President, it is the sad truth that the current medical liability system is the worst of all possible worlds for the American people. It impedes access, it damages quality and it raises costs; while at the same time it compensates only 3 percent of the people who are actually injured. This system makes everybody in America losers.

We have a huge task ahead of us in trying to reform the American health care system. It will be costly. It will be difficult. It will require sacrifice. This reform is one hopefully that we can agree upon.

We simply cannot afford the system we have now. We have so much to gain from a system that produces better and better quality as time goes by.

The time has come for change and we offer this proposal to our colleagues as the right way to start.

I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed at this point in the RECORD.

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

S. 1836

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Health Quality Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government has a major interest in health care as a direct provider through the Public Health Service, as a source of payment for health care through Medicare, Medicaid, and other programs;

(2) the Federal Government has a demonstrated interest in assessing the quality of care, access to care, and the costs of care through the evaluative activities of several Federal agencies;

(3) the Federal Government has a longstanding interest in the quality of medical practice through its support for medical education and training of professionals under grant and loan programs, including the National Health Services Corps.

(4) there is increasing concern that health care liability claims have significant negative effects on the health care system, including—

(A) increasing costs attributable to defensive medical practices, the cost of medical liability insurance, and costs attributable to the inefficiencies in the civil justice system;

(B) adversely affecting the quality of health care through the encouragement of defensive health care practices including unnecessary tests and procedures; and

(C) adversely affecting patient access to care because of the threat of liability suits and liability costs, including the ability of health care professionals to continue to practice in high risk specialties, particularly obstetrical care, and in certain geographic regions of the country;

(5) it has been clearly demonstrated that the civil justice system is a costly, inefficient, and inequitable mechanism for all parties in resolving claims against health care providers, professionals, producers and employers;

(6) a disproportionately large percentage of funds expended to compensate patients is distributed to a few individuals, while others are denied adequate compensation;

(7) an exorbitant amount of funds in health care liability actions go to the transaction costs of the judicial system rather than to compensate for health care injuries;

(8) there is optimism that alternative dispute resolution systems have the potential to significantly improve the adverse effects of the health care liability environment, however more data and analysis is necessary to fully understand the benefits of various alternative procedural devices; and

(9) there is optimism that State-based disciplinary bodies could improve overall health care quality rather than merely penalize a few bad actors.

(b) PURPOSE.—It is the purpose of this Act to—

(1) provide incentives through a Medicaid bonus program for States to develop alternative dispute resolution procedures to attain a more efficient, expeditious, and equitable resolution of health care disputes;

(2) enhance general knowledge concerning the benefits of different forms of alternative dispute resolution mechanisms;

(3) provide incentives through a Medicaid bonus program for States to improve the health care professional disciplinary and licensing bodies and to encourage the adoption of quality assurance reforms to reduce the incidence of health care injuries; and

(4) promote uniformity and curb excesses in the State-based health care liability systems through Federally mandated tort reforms.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "Agency" means the Agency for Health Care Policy and Research.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM.—The term "alternative dispute resolution system" means a system that is enacted or adopted by a State to resolve health care liability claims as an alternative to a judicial proceeding in a Federal or State court;

(3) CLAIMANT.—The term "claimant" means any person who brings a civil action that is subject to the requirements of this Act, and any person on whose behalf such an action is brought, if such an action is brought through or on behalf of an estate. Such term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, such term includes the claimant's parent or guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) COMPENSATORY DAMAGES.—The term "compensatory damages" means all damages awarded to compensate a plaintiff, including economic and noneconomic damages.

(6) ECONOMIC DAMAGES.—The term "economic damages" means awards for losses suffered by the plaintiff to compensate for hospital and other medical expenses including rehabilitation costs, such as lost wages, lost employment, and other pecuniary losses;

(7) HEALTH CARE CLAIM.—The term "health care claim" means any claim relating to the provision (or failure to provide) health care services based on negligence or gross negligence, breach of express or implied warranty or contract, failure to discharge a duty to warn or instruct to obtain consent.

(8) HEALTH CARE EMPLOYER.—The term "health care employer" means any organization or institution that provides employee health benefits or systems of care, including employers, employee health benefit plans, multiple employer trusts, union trusts and managed care arrangements.

(9) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means any civil action or proceeding in any judicial tribunal brought pursuant to Federal or State law against a health care provider, health care professional, health care producer, or health care employer, alleging that injury was suffered by the claimant as a result of any act or omission by such provider, professional, producer, or employer, without regard to the theory of liability asserted in the action. Such term includes a claim, third-party claim, cross-claim, counterclaim or contribution claim.

(10) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State, including a physician, nurse, chiropractor, physical therapist, or physician assistant.

(11) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(12) HEALTH CARE PRODUCER.—The term "health care producer" means any firm or

business enterprise that designs, manufactures, produces or sells a medical product that is the subject of a liability action.

(13) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a health care liability claim.

(14) NONECONOMIC DAMAGES.—The term "noneconomic damages" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses.

(15) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded as a form of punishment.

(16) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(17) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SEC. 4. EFFECT ON INTERSTATE COMMERCE.

Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability systems existing throughout the United States impact on interstate commerce by contributing to the high cost of health care and premiums for malpractice and products liability insurance purchased by health care providers and producers.

TITLE I—ALTERNATIVE DISPUTE RESOLUTION SYSTEMS

SEC. 101. ESTABLISHMENT OF INCENTIVE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to make bonus or enhanced payments for a 2-year period pursuant to subsection (e) to eligible States that submit a State plan for the development or implementation of alternative dispute resolution systems in the State, under such terms as the Secretary may require.

(b) ELIGIBILITY.—To be eligible to receive enhanced payments under this section a State shall—

(1) prepare and submit to the Secretary an application at such time, in such form and containing such information as the Secretary may require including a description of the alternative dispute resolution system that the State intends to develop or implement that—

(A) should support access to health care;

(B) encourage improvements in the quality of care;

(C) enhance the patient-provider relationship;

(D) encourage innovation in health care delivery systems;

(E) provide prompt resolution and fair compensation;

(G) provide predictable outcomes; and

(H) operate efficiently in terms of costs and processes; and

(2) provide assurances that the State will comply with all data gathering and analysis requirements promulgated by the Agency under section 102(c)(2).

(c) APPROVAL OF APPLICATIONS.—The Secretary shall review applications and assurances submitted under subsection (b) and shall award enhanced payments to States based on demonstrations made by such States that the alternative dispute resolution systems to be developed or implemented meet the qualification standards developed by the Agency under section 102.

(d) DESIGNATION OF APPROVED STATES.—A State that receives enhanced payments under this section shall be designated as an approved alternative dispute resolution State by the Agency. Such approved States shall be eligible, upon application, for a 2-year extension of the applications and plans approved under this section and shall receive enhanced payments during such 2-year period.

(e) ENHANCED PAYMENTS.—

(1) AMOUNT.—A State that has an application approved by the Secretary under this section shall receive enhanced payments in accordance with section 1903(w) of the Social Security Act.

(2) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall provide enhanced payments to not less than five and not more than 10 States in each fiscal year under this section.

(3) EXCEPTION.—Notwithstanding paragraph (2), the Secretary may provide enhanced payments to less than five States under this section in a fiscal year if the Secretary determines that there are an inadequate number of applications submitted that meet the eligibility and approval requirements of this section in such fiscal year.

SEC. 102. ESTABLISHMENT OF ADVISORY PANEL.

(a) IN GENERAL.—The Agency for Health Care Policy and Research shall make recommendations to the Secretary concerning the eligibility, approval and review requirements for alternative dispute resolution programs described in applications submitted under section 101.

(b) PANEL OF ADVISORS.—The Agency shall appoint 15 individuals to serve as a panel of advisors to assist in carrying out its activities under this section. Members of the panel shall include at least one representative, but in no event more than three such representatives, of each of the following—

(1) patient advocacy groups;

(2) groups representing State governments, such as the National Governors Association or National Conference of State Legislatures;

(3) health care provider organizations;

(4) professional groups, including organized medicine;

(5) health care insurers;

(6) health care employers;

(7) medical product manufacturers; and

(8) academic researchers from disciplines such as medicine, economics, law or health services, with expertise in alternative dispute resolution models.

(c) DUTIES OF ADVISORY PANEL.—The panel appointed under subsection (b) shall—

(1) assist in the development of criteria for alternative dispute resolution systems that States must meet to be eligible to receive enhanced payments under section 101 and make information on such criteria available to the States to assist such States in preparing applications under section 101(b);

(2) as part of the criteria developed under paragraph (1), require that States receiving enhanced payments under section 101 comply with data gathering and evaluation guidelines established by the panel;

(3) provide advice and assistance to representatives from State governments concerning the establishment of alternative dispute resolution systems;

(4) develop the qualification standards and provide advice and assistance to States applying to be quality improvement States under title III;

(5) not later than 4 years after the approval of an application of a State under section 101(b), prepare and submit to the Secretary and the appropriate committees of Congress, a report and evaluation concerning the alternative dispute resolution systems implemented by States receiving enhanced payments under this section, including information—

(A) on the effect of such systems on the cost of health care within the State;

(B) the impact of such systems on the access of individuals to health care within the State;

(C) the effect of such systems on the quality of health care provided within such State; and

(D) such other effects otherwise determined appropriate by the Secretary;

(6) not later than 4 years after the date of enactment of this Act, submit to the Secretary and to the appropriate committees of Congress a recommendation on the feasibility of a mandated alternative dispute resolution system; and

(7) not later than 4 years after the approval of the first quality improvement State plan under title III, prepare and submit to the Secretary and the appropriate Committees of Congress a report and evaluation concerning the reform of State health professions disciplinary boards or alternative quality assurance plans.

SEC. 103. DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to private entities for the establishment of demonstration alternative dispute resolution programs in the private sector.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity shall prepare and submit to the Secretary an application at such time, in such form and containing such information as the Secretary may require including a description of the alternative dispute resolution system that the entity intends to develop or implement.

(c) CRITERIA.—The Secretary shall consider applications received under subsection (b) and award grants based on criteria for such developed by the panel.

(d) REQUIREMENTS.—An alternative dispute resolution system that receives assistance under this section shall—

(1) be a dispute resolution system agreed to by health care providers and purchasers or members;

(2) be in compliance with applicable State laws; and

(3) meet such other requirements as the panel determines to be appropriate.

(e) DUTIES OF PANEL.—The panel shall—

(1) provide assistance to entities receiving a grant under this section in designing and implementing alternative dispute resolution systems; and

(2) collect data on alternative dispute resolutions systems implemented with assistance provided under this section and submit such data to the Agency, the Secretary and the appropriate Committees of Congress, together with a report concerning recommendations for improving such systems.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.

SEC. 104. AMENDMENT TO SOCIAL SECURITY ACT.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end thereof the following new subsection:

"(w) Notwithstanding any other provision of this title, with respect to a State with an application approved under section 101(b) of the Health Care Injury Compensation and Quality Improvement Act, such State shall receive, in addition to the Federal medical assistance percentage determined for such State, not less than an additional .4 percent

for each calendar quarter in which such State qualifies for such additional percentage under section 101 of such Act.".

TITLE II—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY CLAIMS

SEC. 201. APPLICATION TO CIVIL ACTIONS.

This title shall apply to any health care liability action brought in any Federal or State court and any health care action resolved through an alternative dispute resolution system. This title shall not be construed to create or effect any cause of action or theory of liability recognized in any Federal or State proceeding.

SEC. 202. EXPEDITED HEALTH CARE LIABILITY SETTLEMENTS.

(a) RIGHT TO BRING ACTION.—Any claimant may bring a civil action for damages against a person for harm caused during the provision of health care pursuant to applicable Federal or State law, except to the extent that such law is superseded by this title.

(b) SETTLEMENT OFFERS.—

(1) BY CLAIMANT.—Any claimant may, in addition to any claim for relief made in accordance with Federal or State law as provided for in subsection (a), include in the complaint filed by such complainant an offer of settlement for a specific dollar amount.

(2) BY DEFENDANT.—Within 60 days after service of the complaint of a claimant of the type referred to in paragraph (1), or within the time permitted pursuant to Federal or State law for a responsive pleading, whichever is longer, the defendant may make an offer of settlement for a specific dollar amount, except that if such pleading includes a motion to dismiss in accordance with applicable Federal or State law, the defendant may tender such relief to the claimant within 10 days after the determination of the court regarding such motion.

(c) EXTENSION OF TIME.—

(1) AUTHORITY.—In any case in which an offer of settlement is made pursuant to subsection (a) or (b), the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period.

(2) CONTENTS OF EXTENSION ORDER.—Any order extending the period for response under paragraph (1) shall contain a schedule for discovery of evidence material to the issue of the appropriate amount of relief, and shall not extend such period for more than 60 days. Any such motion shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(d) REJECTION OF OFFER BY DEFENDANT OFFEREE.—If the defendant, as offeree, does not accept the offer of settlement made by a claimant in accordance with subsection (b)(1) within the time permitted pursuant to Federal or State law for a responsive pleading or, if such pleading includes a motion to dismiss in accordance with applicable law, within 30 days after the court's determination regarding such motion, and a verdict is entered in such action equal to or greater than the specific dollar amount of such offer of settlement, the court shall enter judgment against the defendant and shall include in such judgment an amount for the claimant's reasonable attorney's fees and costs. Such fees shall be offset against any fees owed by the claimant to the claimant's attorney by reason of the verdict.

(e) REJECTION OF OFFER BY CLAIMANT OFFEREE.—If the claimant, as offeree, does not accept the offer of settlement made by a defendant in accordance with subsection (b)(2) within 30 days after the date on which such offer is made and a verdict is entered in such action equal to or less than the specific dollar amount of such offer of settlement, the court shall reduce the amount of the verdict in such action by an amount equal to the reasonable attorney's fees and costs owed by the defendant to the defendant's attorney by reason of the verdict, except that the amount of such reduction shall not exceed that portion of the verdict which is allocable to noneconomic damages.

(f) CALCULATION OF ATTORNEY'S FEES.—For purposes of this section, attorney's fees shall be calculated on the basis of an hourly rate that should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications, experience and the complexity of the case.

SEC. 203. DAMAGES.

(a) PAYMENTS.—With respect to a civil action or claim of the type referred to in section 201, no person may be required to pay more than $100,000 in a single payment for future losses, but such person shall be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based upon projections of such future losses.

(b) LIMITATION ON NONECONOMIC DAMAGES.—With respect to a civil action or claim of the type referred to in section 201, the total amount of damages that may be awarded to an individual and the family members of such individual for noneconomic damages may not exceed $250,000, regardless of the number of health care professionals, health care providers, health care producers, health care employers against whom the claim is brought or the number of claims brought with respect to the injury.

(c) MANDATORY OFFSETS FOR DAMAGES PAID BY A COLLATERAL SOURCE.—

(1) IN GENERAL.—With respect to a civil action or claim of the type referred to in section 201, the total amount of damages received by an individual under such action or claim shall be reduced, in accordance with paragraph (2), by any other payment that has been, or will be, made to an individual to compensate such individual for the injury that was the subject of such action or claim.

(2) AMOUNT OF REDUCTION.—The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be—

(A) the total amount of any payments (other than such award) that have been made or that will be made to such individual to compensate such individual for the injury that was the subject of the action or claim; minus

(B) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described in subparagraph (A).

(d) ATTORNEYS' FEES.—With respect to a civil action or claim of the type referred to in section 201, attorneys' fees may not exceed—

(1) 25 percent of the first $150,000 of any award or settlement under such action or claim; or

(2) 15 percent of any additional amounts in excess of $150,000.

(e) PUNITIVE DAMAGES.—

(1) LIMITATION.—With respect to a civil action or claim of the type referred to in section 201, punitive damages may not exceed an amount twice that of the award of compensatory damages.

(2) SEPARATE PROCEEDING.—

(A) CONSIDERATIONS.—At the request of the defendant or defendants, the trier of law shall consider in a separate proceeding—

(i) whether punitive damages are to be awarded and the amount of the award; or

(ii) the amount of punitive damages following a determination of punitive liability.

(B) EVIDENCE.—If a separate proceeding is requested in accordance with subparagraph (A), evidence relevant only to the claim of punitive damages, as determined by applicable Federal or State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(3) AMOUNT.—In determining the amount of punitive damages in an action under this section, the trier of law shall consider all relevant evidence, including—

(A) the financial condition of the defendant;

(B) the severity of the harm caused by the conduct of the defendant;

(C) the duration of the conduct or any concealment of the conduct by the defendant;

(D) the profitability of the conduct to the defendant;

(E) the number of products sold by the defendant who is a manufacturer or product seller of the kind causing the harm complained of by the claimant;

(F) awards of punitive of exemplary damages to persons similarly situated to the claimant;

(G) prospective awards of compensatory damages to persons similarly situated to the claimant;

(H) any criminal penalties imposed on the defendant seller as a result of the conduct complained of by the claimant; and

(I) the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant.

(4) TRUST FUND.—Each State shall establish a health care disciplinary trust fund consisting of such amounts as are transferred to the trust fund under paragraph (5).

(5) TRANSFER OF AMOUNTS.—Each State shall require that 50 percent of all awards of punitive damages resulting from all health care liability actions in that State be transferred to the trust fund established under paragraph (4) in the State.

(6) OBLIGATIONS.—A State shall obligate the sums available in the trust fund established in that State under paragraph (3) to provide additional resources to State health care professional disciplinary boards for the disciplining of health care professionals and to provide additional resources for alternative dispute resolution programs if the State is an approved alternative dispute resolution State or a quality improvement State under title III.

(7) ATTORNEY'S FEES.—Claimants pursuing punitive damage awards in health care liability actions are permitted to collect reasonable attorneys fees under such actions as provided for in this Act and at the discretion of the trial judge.

SEC. 204. JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.

(a) IN GENERAL.—With respect to a civil action or claim of the type referred to in section 201, the liability of each defendant for noneconomic damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (b).

(b) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact

shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 205. UNIFORM STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no health care liability action may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury should reasonably have been discovered, but in no event later than 4 years after the date of the alleged occurrence of the injury.

(b) EXCEPTION FOR MINORS.—In the case of an alleged injury suffered by a minor who has not attained 4 years of age, no health care liability claim may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury should reasonably have been discovered, but in no event later than 4 years after the date of the alleged occurrence of the injury or the date on which the minor attains 8 years of age, whichever is later.

SEC. 206. PROVISION FOR SPECIAL OBSTETRIC CASES.

With respect to a civil action or claim of the type referred to in section 201, related to services provided during the delivery of a baby, a court shall only find in favor of the claimant if such malpractice on the part of the defendant health care professional is proven by clear and convincing evidence, except that such evidentiary standard shall only apply if a defendant did not previously provide prenatal care to the claimant for this pregnancy, was not part of a group practice that previously treated the claimant during the pregnancy resulting in this delivery, or was not providing coverage pursuant to an agreement with another health care professional for this delivery.

SEC. 207. MEDICAL PRODUCTS LIABILITY REFORM.

(a) DEFINITIONS.—As used in this section:

(1) DEVICE.—The term "device" has the meaning given the term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(2) DRUG.—The term "drug" has the meaning given the term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1).

(b) LIMITATION.—

(1) IN GENERAL.—Punitive damages otherwise permitted by applicable law shall not be awarded in an action under this Act against a manufacturer or product seller of a drug or device that caused the harm complained of by the claimant if—

(A) the drug was subject to approval under section 505 (21 U.S.C. 355) of the Federal Food Drug and Cosmetic Act;

(B) the device was subject to premarket approval under section 505 (21 U.S.C. 360e); or subject either to special controls under section 513 (21 U.S.C. 360c) or is filed as a 510k premarket notification submissions only is such special controls or notification submission are supported by substantial evidence of safety and effectiveness based on valid scientific clinical data, with respect to—

(i) the safety of the formulation or performance of the aspect of the drug or device that caused the harm; or

(ii) the adequacy of the packaging or labeling of the drug or device; and

(C) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) WITHHELD INFORMATION; MISREPRESENTATION; ILLEGAL PAYMENT.—The provisions of paragraph (1) shall not apply in any case in which the court determines on the basis on clear and convincing evidence that the defendant—

(A) withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device that is required to be submitted under the Federal Food, Drug and Cosmetic Act of section 352 of the Public Health Service Act that is material and relevant to the harm suffered by the claimant; or

(B) made an illegal payment to an official of the Food and Drug Administration for the purpose of securing approval of the drug or device.

SEC. 208. PREEMPTION.

(a) IN GENERAL.—The provisions of this title supersede any State law only to the extent that such State law establishes higher payment limits, applies joint and several liability to all damages, permits the recovery of a greater amount of damages or the awarding of a greater amount of attorneys' fees, or establishes a longer period during which a health care liability claim may be initiated.

(b) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground in inconvenient forum.

(c) APPLICATION.—Subsection (a) shall apply to health care liability claims initiated after the expiration of the 1-year period that begins on the date of enactment of this Act.

TITLE III—HEALTH CARE INJURY PREVENTION

SEC. 301. ENHANCED PAYMENTS.

(a) IN GENERAL.—The Secretary shall establish a program to make enhanced Medicaid bonus payments pursuant to subsection (e) for a 2-year period to eligible States that submit a State plan for the development or implementation of a health care injury prevention program or an approved alternative, under such terms as the Secretary may require.

(b) ELIGIBILITY.—To be eligible to receive enhanced payments under this section a State shall—

(1) prepare and submit to the Secretary an application at such time, in such form and containing such information as the Secretary may require including a description of the health care injury prevention program that the State intends to develop or implement and assurances that the State will comply with the requirements of this title; and

(2) provide assurances that the State will comply with all data gathering requirements promulgated by the Agency under section 102(c)(2).

(c) STANDARDS.—The Agency shall establish qualification standards that applications submitted under subsection (b)(1) must meet to be eligible to receive enhanced payments under this section. The Secretary shall review applications submitted under subsection (b)(1) and shall award enhanced payments to States based on demonstrations made by such States that the health care injury prevention programs to be implemented meet the standards developed by the Agency. The advisory panel shall provide assistance to the Agency in carrying out this subsection.

(d) DESIGNATION OF APPROVED STATES.—A State that receives enhanced payments under this section shall be designated as a quality improvement State by the Secretary. Such States shall be eligible, upon application, for a 2-year extension of the applications and plans approved under this section and shall receive enhanced payments during such 2-year period.

(e) ENHANCED PAYMENTS.—A State that has an application approved by the Secretary under this section shall receive enhanced Medicaid bonus payments in accordance with section 1903(x) of the Social Security Act.

SEC. 302. USE OF AMOUNTS.

(a) IN GENERAL.—

(1) PROVISION OF PAYMENTS.—Except as provided in paragraph (2), the Secretary shall provide enhanced payments to not less than 10 and not more than 20 States in each fiscal year under this section.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Secretary may provide enhanced payments to less than 10 States under this section in a fiscal year if the Secretary determines that there are an inadequate number of applications submitted that meet the eligibility and approval requirement of this section.

(3) USE.—Each State that receives enhanced payments under section 301 shall—

(1) establish a Statewide health care injury prevention program that complies with the requirements of this title; and

(2) cooperate with Federal research efforts with respect to patient outcomes, clinical effectiveness and clinical practice guidelines.

(b) PERFORMANCE OF STATE MEDICAL BOARDS.—

(1) PERFORMANCE CRITERIA.—The Secretary shall promulgate regulations that establish performance criteria that State health care practitioner disciplinary boards of States referred to in subsection (a) should meet in performing their oversight functions concerning the health care professionals that are subject to such boards. Such criteria shall apply to procedural matters such as expeditious review of cases, appropriate reports of findings, and preservation of confidentiality.

(2) ALLOCATION OF CERTAIN FUNDS.—As part of the program established under subsection (a), the State shall allocate the total amount of fees paid to the State in each year for the licensing or certification of each type of health care professionals, or an amount of State funds equal to such total amount, to the State agency or agencies responsible for the conduct of disciplinary actions with respect to such type of health care professionals.

(3) MEMBERSHIP OF STATE HEALTH CARE PRACTITIONER BOARDS.—As part of the program established under subsection (a), the State shall ensure that the general public is represented on State health care professional disciplinary boards. Not less than 25 percent of the membership of each such health care practitioner disciplinary board shall be appointed from among the general public. Such members shall be representative of as many different regions of the State as practicable.

(4) IMMUNITY.—As part of the program established under subsection (a), the State shall ensure that there shall be no monetary

liability on the part of, and no cause of action for damages shall arise against, any current or former member, officer, administrator, staff member, committee member, examiner, representative, agent, employee, consultant, witness, or any other individual serving or having served on a State health care professional disciplinary board, either as a part of the board's operation or as an individual, or under contract with the Board to provide such services as a result of any act, omission, proceeding, conduct or decision related to the duties of such individual undertaken or performed in good faith and within the scope of the function of the board.

(5) INFORMATION AND DATA.—A State referred to in subsection (a), acting through the appropriate State health authority, shall collect, analyze and provide the Agency with information and data concerning the staffing, revenue, disciplinary actions, expenditures, and case-loads of the State health care professional disciplinary boards, and concerning the use of continuing medical education programs in the State, in order to demonstrate to the Agency that such State boards meet the performance criteria established under paragraph (1).

(6) REQUIREMENT OF CONTINUING EDUCATION.—The performance criteria established under paragraph (1) shall provide that State health care professional disciplinary boards require a physician who is disciplined by such boards to complete a minimum number of continuing education courses for which he or she has been adjudged deficient if the Board determines such courses are appropriate and available. In areas in which the Board determines that the physician's knowledge is deficient, the Board may require enrollment in treatment programs for substance abuse problems.

(c) ALTERNATIVE PROGRAMS.—

(1) IN LIEU OF PERFORMANCE CRITERIA.—A State referred to in subsection (a) shall be considered to be in compliance with the performance criteria established under subsection (b)(1) if the Agency determines that the State has in effect a program that the Agency finds to be at least as effective in reducing the incidence of disciplinary violations as compliance of the State with the performance criteria established under subsection (b)(1).

(2) REGULATIONS.—Not later than 4 years after the date on which the first model quality improvement State is designated under section 301, the Secretary, based on the recommendations of the Agency, shall promulgate regulations establishing criteria under which the Secretary will evaluate the effectiveness of a State program of the type referred to in paragraph (1). Such regulations shall include—

(A) requirements that health care providers within the State implement risk management systems;

(B) requirements that quality assurance systems be established in the State, to be administered by the State or by professional medical societies or associations, that review the quality of care rendered by health care professionals in the State; and

(C) requirements that the State review and evaluate programs for the promulgation of professional guidelines in areas of medical practice in which the risk of negligence is greatest.

SEC. 303. AMENDMENT TO SOCIAL SECURITY ACT.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) (as amended by section 104) is further amended by adding at the end thereof the following new subsection:

"(x) Notwithstanding any other provision of this title, with respect to a State with an application approved under section 301(b) of the Health Care Injury Compensation and Quality Improvement Act, such State shall receive, in addition to the Federal medical assistance percentage determined for such State, an additional .1 percent for each calendar quarter in which such State qualifies for such additional percentage under section 301 of such Act.".

TITLE IV—COMMUNITY HEALTH CENTERS

SEC. 401. COMMUNITY AND MIGRANT HEALTH CENTERS RISK RETENTION GROUP.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end thereof the following new section:

"SEC. 330A. RISK RETENTION GROUP.

"(a) GRANT.—The Secretary shall make a grant to an entity that represents recipients of assistance under section 329 and 330 to enable such entity to develop a business plan as described in subsection (b)(2) and establish a nationwide risk retention group as provided for in Liability Risk Retention Act of 1986 (15 U.S.C. 3901 et seq.), and that meets the requirements of this section.

"(b) BUSINESS PLAN AND FORMATION.—

"(1) DEVELOPMENT AND ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than September 30, 1992, the grantee shall develop a business plan as described in paragraph (2) and have established a risk retention group that meets the requirements of section 2(4) of the Product Liability Risk Retention Act of 1981 (15 U.S.C. 3901(2)(4)).

"(B) ESTABLISHMENT.—In establishing the risk retention group under subparagraph (A), the grantee shall take all steps, in accordance with this subsection, necessary to enable such group to be prepared to issue insurance policies under this section.

"(2) BUSINESS PLAN.—The grantee shall develop a plan for the operation of the risk retention group that shall include all actuarial reports and studies conducted with respect to the formation, capitalization, and operation of the group.

"(3) STRUCTURE, RIGHTS, AND DUTIES OF THE RISK RETENTION GROUP.—

"(A) BOARD OF DIRECTORS.—

"(i) APPOINTMENT.—The board of directors of the risk retention group shall consist of 12 members to be appointed by the recipient of the grant under subsection (a), and approved as provided in clause (ii).

"(ii) APPROVAL.—The initial members appointed under clause (i) shall be approved by the Secretary, and shall serve for a term as provided in clause (iii). All subsequent members shall be subject to the approval of the members of the risk retention group.

"(iii) TERMS.—The recipient of the grant under subsection (a) shall appoint the members of the board under clause (i) as follows:

"(I) Four members shall be appointed for an initial term of 1 year.

"(II) Four members shall be appointed for an initial term of 2 years.

"(III) Four members shall be appointed for an initial term of 3 years.

Members serving terms other than initial terms shall serve for 3 years. Members may serve successive terms.

"(iv) EXECUTIVE DIRECTOR.—The Executive Director of the board shall be elected by the members of the board, and shall serve at the pleasure of such members.

"(v) VACANCIES.—Vacancies on the board shall be filled through a vote of the remaining members of the board, subject to the approval of the members of the risk retention group.

"(B) BYLAWS.—The board shall develop the bylaws of the risk retention group that shall be subject to the disapproval of the Secretary. Any changes that the board desires to make in such bylaws shall also be subject to the disapproval of the Secretary. The Secretary shall provide the board with 90 days notice of the Secretary's intent to disapprove a bylaw.

"(C) ADMINISTRATION.—The risk retention group may negotiate with other entities for the purposes of managing and administering the risk retention group, and for purposes of obtaining reinsurance.

"(D) PROVISION OF INSURANCE.—The risk retention group shall provide professional liability insurance, and other types of profitable insurance approved for issuance by the Secretary, to migrant and community health centers that receive assistance under sections 329 and 330 and that meet the requirements of subparagraph (E).

"(E) PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), all community and migrant health centers that receive assistance under section 329 and 330 shall become members in the risk retention group established under this section and shall purchase the professional liability insurance that is offered by such group for such centers and any health care staff or personnel employed by such centers or under contract with such centers. All professional staff members of such centers shall be eligible to obtain the insurance offered by such group.

"(ii) EXCEPTIONS.—

"(I) GOOD CAUSE.—The Secretary may, on a showing of good cause by the center, exempt such center from the requirements of clause (i).

"(II) FAILURE TO MEET CONDITIONS.—If the risk retention group determines that a center is not complying with the established underwriting standards, such group may decline to provide insurance to such center. The risk retention group shall provide a center with 60 days notice of a decision by the group not to provide insurance to such center.

"(III) HEARING.—Prior to the Secretary granting an exemption or severance as requested in an application submitted under subclause (I), the Secretary shall require that the applicant provide evidence concerning its application and shall afford the risk retention group an opportunity to address the allegations contained in such application. The Secretary may grant the center temporary relief under this subparagraph without a hearing in emergency situations.

"(F) APPLICABILITY OF INSURANCE TO CLAIMS.—Insurance provided by the risk retention group under this section shall apply to all claims filed against a covered community or migrant health center after the initiation of insurance coverage by the risk retention group, including acts that occur prior to coverage under this section that are not covered by other insurance.

"(c) SUBMISSION OF BUSINESS PLAN TO OUTSIDE EXPERTS.—After the development of the business plan and the establishment of the risk retention group as required under subsection (b), the risk retention group shall enter into a contract with individuals or entities who are insurance, financing, and business experts to require such individuals or entities to analyze and audit the group. Such individuals and entities shall provide the group with an evaluation of such plan and group.

"(d) SUBMISSION OF PLAN AND EVALUATION.—

"(1) IN GENERAL.—The risk retention group shall submit to the Secretary the business

plan required under subsection (b) and the evaluation completed under subsection (c) to the Secretary.

"(2) DETERMINATION BY SECRETARY.—Not later than September 30, 1992, the Secretary shall make a determination, based on the plan and evaluation submitted under paragraph (1), of whether the operation of the risk retention group result in an increase in the amount of funds available for use by community and migrant health centers and other entities that receive assistance under sections 329 and 330 in the 2 year period ending on September 30, 1994.

"(3) IMPLEMENTATION.—If the Secretary makes an affirmative determination under paragraph (1), the Secretary shall permit the implementation of the plan and the operation of the risk retention group as provided for in this section, and shall capitalize such group as provided for in subsection (e)(2).

"(e) FUNDING.—

"(1) CAPITALIZATION.—There are authorized to be appropriated to carry out this section, $40,000,000 for each of the fiscal years 1992 and 1993. Amounts appropriated under this paragraph may only be made available if the Secretary makes an affirmative determination under subsection (d)(2).

"(2) REMAINING ASSETS.—All assets of the risk retention group that remain after the dissolution of such group shall become the property of the Secretary who shall use such assets to pay the remaining expenses of the group.".

(b) CONFORMING AMENDMENTS.—

(1) Section 329(h)(1)(A) of such Act (42 U.S.C. 254b(h)(1)(A)) is amended by striking "1991" and inserting "1993".

(2) Section 330(g)(2)(A) of such Act (42 U.S.C. 254b(h)(1)(A)) is amended by inserting ", and such sums as may be necessary for fiscal year 1992" after "1991".

TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the establishment and operation of the Council of Advisors.

TITLE VI—CONSTRUCTION AND MISCELLANEOUS PROVISIONS

SEC. 601. CONSTRUCTION.

Nothing in this Act shall be construed to—

(1) preempt State choice-of-law rules with respect to claims brought by a foreign nation of a citizen of a foreign nation;

(2) to affect the right of any court to transfer venue, to apply the law of a foreign nation, or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(3) to prevent a State from enacting, adopting, or otherwise having in effect more comprehensive or additional health care liability reforms than those required under this Act.

SEC. 602. SEVERABILITY.

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

SEC. 603. COMPLIANCE.

Except as otherwise specifically provided, not later than 1 year after the date of enactment of this Act, a State shall enact, adopt, or otherwise comply with the provisions of this Act.

SECTION-BY-SECTION ANALYSIS OF THE AMERICAN HEALTH QUALITY ACT OF 1991

(Prepared by the Office of Senator Dave Durenberger)

Purpose: Improve health care quality; reduce spiraling health care costs; increase access to health care; and ensure fairness for patients.

Means: To provide economic incentives through Medicaid bonus funds to promote state alternative dispute resolution (ADR) systems. To assist states in the creation and evaluation of ADR with the expertise of the Agency for Health Care Policy and Research.

To provide comprehensive reform of state tort law that includes all relevant participants in the health care system—providers, professionals, product producers, and employers.

To promote uniformity and to curb excesses in the current state tort systems through federally mandated liability reforms.

To provide economic incentives through Medicaid bonus funds to encourage state-based programs for quality improvement through licensing and disciplinary reforms.

TITLE I—ALTERNATIVE DISPUTE RESOLUTION SYSTEMS

States may apply to become ADR States. Up to 10 States may qualify to receive a Medicaid bonus equal to .04% of their federal Medicaid funds each year for two years. The federal Agency for Health Care Policy and Research (AHCPR) will establish minimum criteria for applications consistent with the goals of this bill. After four years, AHCPR will report to Congress on the results of the state-based experiments.

Grant funds will be available for demonstration projects. Provider organizations may apply for grants to develop private ADR programs. There will be data gathering and reporting requirements for all applicants. The applications will receive the expert assistance of the advisory panel in the creation and development of their plans.

TITLE II—UNIFORM PROVISIONS FOR HEALTH CARE LIABILITY CLAIMS

The federal government will establish uniform liability provisions to be implemented by state courts. These federal rules include:

Uniform rules for health care injuries

Mandatory periodic payments of awards exceeding $100,000 (replaces lump sum awards); a cap on non-economic damages of $250,000 or if the state has a lower cap, the state cap will apply; mandatory offsets for damages paid by collateral sources; limitation on attorney contingency fees (25% of the first $150,000/15% on amounts over $150,000); joint and several liability for non-economic damages; expedited settlement provisions; uniform statute of limitations (2 years after injury reasonably should have been discovered, but no later than 4 years after date of occurrence, with special provisions for minors); punitive damages awards will be capped at twice amount of compensatory damages. A share of punitive damage awards will be placed in a special trust fund to assist states in the improvement of health care quality programs.

Special rules for medical products

Compliance with FDA approval processes are a defense to punitive damage claims for medical products, unless defendant withheld from or misrepresented information to the FDA.

Special provisions for certain obstetrical cases

Higher standard of proof required in cases where the physician delivering the baby has not provided prenatal services prior to delivery.

TITLE III—UNIFORM PROVISIONS FOR HEALTH CARE INJURY PREVENTION

States may apply to be Quality Improvement States (QI States). Up to 20 States may qualify to receive a Medicaid bonus of [.1%] of their share of federal Medicaid funds in each of the two years of the plan. To qualify for a QI bonus, the state must implement the following: creation of injury prevention programs and consumer representation on state health disciplinary boards. Alternative proposals for risk management and quality assurance programs may also qualify.

TITLE IV—COMMUNITY HEALTH CENTERS

Federal assistance for capitalization of a risk retention pool and contingent appropriation for reinsurance. After 5 years, the pool provides coverage from the hearings of the capitalized assets.

Costs

Up to $100 million to fund Title I and Title III plus costs of administration.

$40 million to capitalize risk retention pool.

Mr. DANFORTH. Mr. President, I am pleased to join my distinguished colleague from Minnesota in introducing this important piece of health care legislation. As usual, the Senator from Minnesota identifies a significant problem in the area of health care and offers a measured, and workable, solution.

It is high time that Congress comes to grips with the serious issue of medical malpractice. For too many years, spurious arguments by the unquestioning defenders of the trial bar have derailed needed malpractice reform. The first, and most heinous, misrepresentation is that the present malpractice system serves the interest of the health care consumer. The present system harms the consumer of health care in at least four different ways: It fails to compensate adequately many of those injured by health care negligence; it overcompensates those who do obtain recovery; it hurts access to health care; and it contributes significantly to the spiraling cost of health care.

Last year, Paul Weiler and a group of researchers at Harvard made what may be a startling finding to consumer advocates here in Washington. The present malpractice system does a terrible job of protecting the consumers of health care from health care negligence. According to Weiler's study of the New York State malpractice system, almost 16 times as many patients suffered an injury from negligence as received compensation from the tort system. In addition, the study found that many if not most of the suits brought were filed by patients who had not suffered from medical negligence. Therefore, the system is an ineffective deterrent to substandard care. It misses those practicing poorly while permitting suits against those practicing well.

In addition, the system overcompensates those who do recover. In 1980, the

average jury award was $404,726. In 1986, the average had risen to $1,478,028. These huge awards might not be so bad for society if the costs were not felt by all of us. But, unfortunately, unwarranted and overly generous jury awards contribute to rising liability insurance premiums, and rising premiums contribute to the growing problem of access to health care.

A few figures bear out the terrible impact of the malpractice crisis on access to health care, especially in underserved rural areas. In Missouri, 40 percent of family practitioners stopped delivering babies between 1984 and 1988. Given that two-thirds of obstetrical care in rural areas is provided by family practitioners, the people of my State are traveling far too far to find a doctor willing to deliver their babies. This inaccessibility has a corresponding effect on the availability of prenatal care in those areas.

The impact of the malpractice crisis is not only felt in rural areas. According to the American College of Obstetrics and Gynecology, 12.4 percent of obstetrician-gynecologists nationwide have given up obstetrics due to liability concerns. Twenty-seven percent of obstetricians have given up high risk care.

Physicians specializing in areas besides obstetrics have also responded to concerns about malpractice by limiting their services. Eighty-one percent of general surgeons have eliminated services, 90 percent of neurosurgeons and 59 percent of psychologists have also found it necessary to eliminate parts of their practice due to liability concerns.

In a country where 37 million people have no access to health insurance and where twice that many are underinsured, we should be vigilant in correcting unnecessary deterrents to the practice of medicine. A dysfunctional malpractice system only adds to the problem of access to health care.

How do the systemic problems in our malpractice system exacerbate the lack of access to health care in this country? Primarily, the higher costs of providing services force physicians out of business. The cost of professional liability insurance was the fastest growing component of physician costs in the 1980's. Whereas physician fees rose by 51.9 percent between 1983 and 1988, professional liability insurance rose by 174.1 percent. I received a letter from a State senator in Missouri who also happens to be a doctor, and he told me about his insurance premiums a couple of years ago. His insurance bill for the first 3 months of the year was $10,687. This works out to be $178.12 a day. For Missouri, that is steep. These rising costs are the constant reminder of physicians of their vulnerability to lawsuits.

Yet, rising liability insurance costs are not the only reason that physicians are leaving the practice of medicine. There are plenty of more intangible reasons. For one, doctors don't enjoy the practice as much. Fear of lawsuits places an unnatural strain on the physician-patient relationship. Health professionals wonder if their next patient is going to serve them with a complaint if he or she is dissatisfied with an unavoidable outcome. There would be little cause for our concern if there were an overflow of qualified doctors serving the people of this Nation. Yet, that is far from the case. Most rural areas are in dire need of health professionals. The last thing we need is an ineffective malpractice system driving our doctors from the practice of medicine and driving up the cost of health care for the rest of us.

Our flawed method for adjudicating malpractice cases contributes significantly to the cost of our health care system. In 1984, the American Medical Association estimated the defensive medicine, unnecessary care performed simply to avoid the possibility of a lawsuit, costs this country $12.1 billion. Seventy percent of physicians order more consultations than are needed. Fifty-four percent schedule more follow up visits, and 28 percent delegate fewer procedures to subordinates. Defensive medicine adds significantly to the already bloated costs of our health care system.

Mr. President, the bill before you takes a measured approach to solving the problems of medical malpractice. Most importantly, it encourages resolving them out of court. That is the most important feature of this piece of legislation. Not only does it offer financial incentives to States for the development of alternative dispute resolution systems. It also places incentives in the law for early settlement of claims that unfortunately have made it to the court system.

The Federal tort reforms in this bill are reasonable approaches to curbing the excesses present in an unrestricted tort system. The feature that I find most attractive is the earmarking of half of the punitive damages awarded in any case to a State disciplinary trust fund. State disciplinary boards provide a good mechanism for rooting out those health professionals practicing substandard medicine.

The bill will also provide needed relief to community health centers which are suffering under the burden of paying enormous amounts for malpractice insurance when few claims are brought against them.

Again, I commend my colleague from Minnesota on a thoughtful piece of legislation, and I am pleased to have participated in the effort to produce this piece of legislation, and I look forward to its passage.

By Mr. REID (for himself and Mr. BRYAN):

S. 1837. A bill to repeal a provision of Federal tort claim law relating to contractor liability for injury or loss of property arising out of atomic weapons testing programs, and for other purposes; to the Committee on the Judiciary.

RADIATION VICTIMS FAIR TREATMENT ACT

• Mr. REID. Mr. President, I rise today to reintroduce the Radiation Victims Fair Treatment Act.

We all recognize that a grave injustice has been done to the many victims of radiation exposure, and that they have been effectively denied their day in court.

Between 1946 and 1962, approximately 235 atomic tests were conducted by the United States. Until 1985, those who incurred injuries as a result of exposure to radiation caused by these tests could file suit against contractors who participated in the testing program. The contractors were indemnified by the government for the cost of litigators, judgments, and settlements.

The 1985 Defense Authorization Act, however, included a provision, section 1631, which drastically altered the legal rights of these individuals by establishing the United States as the defendant in such suits and providing that these cases fall under the Federal Tort Claims Act [FTCA]. Limiting radiation victims, both civilian and veteran, to suits under FTCA deprives potential plaintiffs of a variety of previously held rights, including the fundamental right to a jury trial.

In addition, because the United States is provided with certain sovereign immunity defenses not available to contractors, judgments on behalf of veteran and civilian claimants against the government are effectively barred. This leaves the vast majority of those exposed to radiation in the atomic weapons testing program with no legal remedy.

In fact, this provision has resulted in the abrupt dismissal of approximately 50 lawsuits that had been filed by atomic veterans—and widows—against various nuclear weapons contractors, including the University of California, Los Alamos and Lawrence Livermore Laboratories, and AT&T. Section 1631 has adversely affected the rights of approximately 220 civilians, former employees—and their widows—at the Nevada Nuclear Test Site, who had filed suit against their former employer, Reynolds Electric & Engineering.

Last year, with 42 cosponsors, I managed to pass in the Senate a provision repealing section 1631. We did this as an amendment to the Defense authorization bill. But a curious thing took place as a result of the conference on that bill. Yes, section 1631 was repealed, but the very next section of the bill reenacted the same language.

This new section of law, section 3141 of the National Defense Authorization Act of fiscal year 1991, is as hideous as its predecessor.

My bill will repeal this new section, restoring to individuals the right to

seek redress in court for acts or omissions by atomic weapons contractors which, in many cases, have resulted in premature death or painful disability.

The Congress came a long way last year in passing the Radiation Exposure Compensation Act which provides compensation for downwinders, onsite participants and uranium miners. However, this does not address the fact that an individual in this country has a fundamental right to be heard in court.

It is unconscionable that we drag our heels on this any further. Some of the radiation victims with unheard claims have died, and many are dying.

This bill does not guarantee compensation, but, rather, reiterates a basic American right. I hope my colleagues will cosponsor this legislation, and I hope that the Senate will once again pass it.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1837

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

SECTION 1. REPEAL RELATING TO CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING OUT OF ATOMIC WEAPONS TESTING PROGRAMS.

(a) REPEAL.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1837; 42 U.S.C. 2212) is repealed.

(b) RELATIONSHIP TO STATUTES OF LIMITATIONS.—(1) The period beginning on October 19, 1984, and ending on the date of the enactment of this Act shall not be taken into account in computing the period provided in any Federal or State statute of limitations applicable to any civil action for an injury, loss of property, personal injury, or death described in section 1631(a)(1) of Public law 98-525 (98 Stat. 2646) or section 3141(b)(1) of Public Law 101-510 (104 Stat. 1837; 42 U.S.C. 2212(b)(1)).

(2) In the case of any civil action referred to in paragraph (1) which was filed before October 19, 1984, and was subsequently dismissed pursuant to section 1631 of Public Law 98-525 or section 3141 of Public law 101-510, the period beginning on the date of the initial filing of such action and ending on the date of the enactment of this Act shall not be taken into account in computing the period provided in any Federal or State statute of limitations applicable to such civil actions.

(3) If the period provided in any Federal or State statute of limitations applicable to a civil action referred to in paragraph (1) expires within the one-year period beginning on the date of the enactment of this Act, the action shall not be barred by such statute, but shall be forever barred if not commenced within one year after such date.●

By Mr. PRYOR (for himself and Mr. MITCHELL):

S. 1838. A bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare; to the Committee on Finance.

LIMITATIONS ON USE OF CLAIM SAMPLING IN DETERMINATIONS UNDER MEDICARE

Mr. PRYOR. Mr. President, a few weeks ago, the National Association for Home Care informed me about a problem in claims auditing that some Medicare home health care providers have encountered that could potentially cause a number of agencies to shut their doors. I am joined today by the majority leader in introducing legislation to alleviate this problem.

There are Medicare fiscal intermediaries who, when they audit a home health agency, look at only a sample of the agency's claims. The problem arises when the results of that very limited audit are then extrapolated and applied to all of the agency's claims. As a result, any errors in the sample are exponentially multiplied, often with serious consequences for the home health agency.

These so-called sampling techniques are not specifically authorized by current law. Rather, the law refers to individual coverage determinations, based on the principle that each patient under the Medicare home health benefit presents unique health care needs. HCFA, unfortunately, has chosen to ignore this principle through the use of its sampling audits. Consequently, some agencies have been driven out of business.

I have heard from a number of home health providers in my home State of Arkansas, who wrote to express their concern about this policy. A home health nurse in Little Rock told me that a sampling audit could devastate her agency. Ultimately, sampling audits affect Medicare beneficiaries' access to needed services—services to which they are entitled. Because Arkansas has one of the highest proportions of elderly citizens of all the 50 States, access to Medicare services is among one of my most important concerns. This bill would help to ensure that this is protected.

The legislation that Senator MITCHELL and I are introducing would bar HCFA from doing sampling audits except under strictly defined circumstances. I urge my colleagues to join us in support of this bill.

Mr. MITCHELL. Mr. President, I rise today to join my distinguished colleague Senator PRYOR, the chairman of the Senate Special Committee on Aging, in the introduction of legislation which would provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare.

Using this technique, Medicare claims can be retroactively denied and repayment demanded without having been individually reviewed by the Medicare intermediary. The Health Care Financing Administration has used the practice of claims sampling to audit Medicare payments to providers, including home health agencies.

Mr. Chairman, HFCA's claims sampling auditing technique is but the latest twist on an ongoing attempt to deny payment for Medicare benefits, in particular, home health benefits, to which Medicare beneficiaries are entitled under law.

As a member of the Senate Finance Subcommittee on Medicare and Long-Term Care and as the former chairman of the Health Subcommittee, I have long been concerned about attempts to unfairly deny reimbursement for the Medicare home health benefit.

In 1987, I joined with Senator BRADLEY to introduce the Medicare Home Health Services Improvement Act of 1987. Included in that legislation were a number of provisions intended to ensure that Medicare beneficiaries were not denied reimbursement for home health benefits to which they were entitled. At that time, the denial rate for home health benefits under Medicare had reached 30 percent in my home State of Maine—the highest rate of denials in the Nation.

HCFA's Medicare intermediaries have used sampling techniques to audit Medicare claims, including home health agency claims. Intermediaries audit a small percentage of the agency's claims in lieu of auditing all the claims. Because the results of the sampling audit are then applied to the agency as a whole, any errors in the audit are exponentially multiplied, which can cause serious cash flow problems for the home health agency.

Sampling has proven to have a high risk of error. A single claim denial can result in tens of thousands of dollars of payment disallowances. The appeals process is an inadequate protection against erroneous denials since it can take several years to resolve a single claim denial. In the meantime, a home health agency is expected to reimburse the Medicare carrier for those claims which have been denied. This could result in bankruptcy for these agencies.

Current law does not authorize the use of sampling techniques in claims coverage audits. Instead, the law continually references requirements for individual coverage determinations. In spite of this, HCFA continues to use sampling techniques that have ignored these requirements, leading to denials of legitimate claims and serious cash flow problems for Medicare providers.

At the foundation of the coverage determination process is the recognition that individualized decisions are necessary because each Medicare patient presents unique health care needs. Sampling is in direct conflict with that principle.

The legislation Senator PRYOR and I are introducing today is similar to legislation introduced in the House of Representatives by Representative RINALDO, ranking member of the House

Aging Committee. Our bill would prohibit the use of claim sampling to deny claims or recover overpayments under Medicare except in cases where fraud has been determined. In cases of proven Medicare fraud, claim sampling may be used for the purpose of assessing civil monetary penalties.

According to the Maine Home Care Alliance, while Maine home care agencies have not yet experienced the claims sampling audits, they anticipate that it may become a problem in Maine if it is allowed to continue in other regions of the country, as HCFA is using it as a way to deny payments and therefore reduce the costs of the Medicare home health benefit.

It is important that elderly and disabled Medicare beneficiaries recieve the benefits to which they are entitled. In particular, the Medicare home health benefit can mean the difference between lack of care and good home care. It can delay or prevent expensive nursing home placement for many elderly persons. Clearly, the Health Care Financing Administration has a responsibility to assure that Medicare benefits are not unfairly denied.

The legislation Senator PRYOR and I are introducing today is intended to protect access to important health care benefits under the Medicare Program. I urge my colleagues to support this important effort.

By Mr. MCCONNELL:

S. 1839. A bill to prevent the disclosure of confidential information in the Senate advice and consent process; to the Committee on the Judiciary.

PREVENTING THE DISCLOSURE OF CONFIDENTIAL INFORMATION IN THE SENATE ADVICE AND CONSENT PROCESS

• Mr. MCCONNELL. Mr. President, millions of Americans viewed last weekend's hearings on the nomination of Clarence Thomas, and the events leading up to them, with a profound sense of disgust. These sentiments have been echoed by many Senators.

Aside from the bad impression, the repercussions from this latest episode where confidential documents were leaked may have serious negative effects on future nominations and investigations.

Whoever leaked the confidential FBI documents established a dangerous precedent in which anonymous character assassination can be an effective means of short circuiting the nomination process.

They sent a message to those whom the FBI seeks to interview in conducting background checks that any assurance of confidentiality is tenuous, at best. From now on, people know that they speak to FBI or Senate investigators at their own risk.

FBI agents cannot, with certainty, guarantee that someone's comments will not be leaked at some point by a Senator, staffer, or other official.

Mr. President, how can we expect people to provide the FBI with sensitive information knowing that they may turn up on the front page of every newspaper in the country, national public radio, or the evening news? We can't.

This effort to sabotage the nomination of Clarence Thomas damaged the integrity and esteem of the U.S. Senate. It seriously undercuts the credibility of the FBI.

We must not let this gross breach of ethics, Senate rules, and the public trust, go unpunished. We must take action to prevent such leaks in the future.

Of the two principal laws governing the disclosure of classified documents, Congress has exempted itself from one, the Privacy Act, and so watered down the unauthorized disclosure law that it is nearly useless.

The legislative and the executive branch have been guilty of leaking classified documents in shortsighted efforts to further, or destroy, various nominees or causes. We should address this subversion of due process.

My bill will hold the executive and legislative branches to the same standard: Any unauthorized or unlawful disclosure of an FBI background investigation report to any unauthorized party can result in criminal penalties, including a prison term and a fine. The same penalties will apply to anyone who knowingly solicits or receives such information. It would also make the Privacy Act applicable to the Senate with regard to FBI background investigations relating to Presidential nominations for Federal office.

Many of my colleagues on both sides of the aisle expressed their fury at the leak which impugned the character of Clarence Thomas and forever changed the life of Anita Hill. There is bipartisan belief that selective leaking of classified documents throughout the Government has gotten out of hand.

Mr. President, let us work together to restore integrity to our system of confidential and classified information. In the process, we may restore some of the esteem of the U.S. Senate.•

By Mr. GLENN:

S.J. Res. 216. Joint resolution requiring a report under the Nuclear Non-Proliferation Act of 1978 on U.S. efforts to strengthen safeguards of the International Atomic Energy Agency; to the Committee on Foreign Relations.

INTERNATIONAL NUCLEAR SAFEGUARDS

• Mr. GLENN. Mr. President, I am pleased to join today with my colleague, Congressman PETE STARK, in introducing a joint resolution identifying specific improvements that are urgently needed in the implementation of international safeguards over nuclear facilities and materials around the world. PETE has been a leader in the House of Representatives in finding new ways to prevent nuclear proliferation and I am delighted to team up with him in proposing new ways to strengthen the IAEA system. Our joint resolution identifies 21 reforms that need to be pursued by the United States and the IAEA to accomplish that goal.

The problem we are addressing today is not a new one. Sixteen years ago—in my first year in Congress—I stated on the floor of the Senate that the international safeguards implemented under the Nuclear Non-Proliferation Treaty were "* * * inadequate to prevent diversion of nuclear materials for weapons purposes and to maintain physical security against terrorism."

Since that time, I have worked hard both to improve those safeguards and to demonstrate American leadership in the world community by establishing strong sanctions against countries and companies that encourage the global spread of nuclear weapons.

In 1977, I authored an amendment to the Foreign Assistance Act which established severe penalties against international transfers of sensitive nuclear technology to countries that do not have safeguards over all their nuclear facilities. A year later, I was author of the Nuclear Non-Proliferation Act, which tightened U.S. Nuclear export policy and required that all of America's foreign nuclear customers must have full-scope IAEA safeguards.

While it is true that safeguards alone cannot guarantee that a country will not acquire a bomb, an improved system of safeguards backed by tough international sanctions can indeed help to reduce that risk. Unfortunately, governments are often slow to respond to new threats to their security and many proposed reforms have gone unheeded.

In 1981, for example—after the Israeli bombing of the Osirak nuclear reactor in 1981—I submitted a Senate resolution—Senate Resolution 179, which passed by a vote of 88-0—identifying a series of recommendations for strengthening the IAEA safeguards regime, which included: Expanding the scope of safeguards to undeclared nuclear facilities, increasing the frequency of IAEA inspections, eliminating the use of highly enriched uranium in research reactors, publishing IAEA inspection reports, and upgrading surveillance and containment measures of the IAEA. Unfortunately, the Reagan administration could just never bring itself to listen to congressional advice on nonproliferation issues. If these proposals were taken seriously, however, we may well have averted the crisis of confidence in international safeguards we are facing today thanks to Iraq.

So the joint resolution that PETE STARK and I are introducing today builds on a long history of congressional concerns about certain weaknesses in the IAEA safeguards system.

In our view, we just cannot afford to postpone the necessary reforms any longer, including those I identified a decade ago as essential for strengthening international safeguards.

The need for action is obvious. First, Saddam Hussein sent a wake up call to the international community this year about the vulnerabilities of international safeguards in a nation determined to acquire nuclear weapons. In this case, the violator was a nation that was an original signatory of the Nuclear Non-Proliferation Treaty [NPT] and that had formally agreed to IAEA safeguards over the full scope of its nuclear program. Saddam showed the world how it was possible—indeed, not even that difficult—to violate safeguards without timely detection by the IAEA.

Our intention, however, is not simply to criticize the IAEA but to strengthen it so that it can perform duties that must be performed to prevent future nuclear wars or terrorism. Although Saddam paid a heavy price for his actions, Iraq is surely not the only country in the world today with nuclear weapons aspirations. Challenge No. 1 is thus to address specific weaknesses in the system of international safeguards, and enhance the ability of the IAEA to detect violations—and to detect them in time for the international community to oppose the actual development and use of the bomb.

A second major challenge to international security arises from the growing commercial uses worldwide of bomb-usable nuclear materials. In the past, one of the most difficult technical barriers to acquiring the bomb was the extreme difficulty of acquiring sufficient amounts of nuclear materials to make bombs. Now, however, some nations are already producing ton quantities of these materials—in a world of imperfect safeguards, such activities will inevitably increase the risks both of nuclear terrorism and proliferation, as significant amounts of this material will increasingly appear on the black market.

Challenge No. 2 is thus to put the safeguards horse before the commercial cart—we need to do what we can to defer large-scale commercial uses of this dangerous material until safeguards are developed that can reliably protect against illicit uses. If such safeguards cannot be developed, we believe America should press for a global ban on such activities.

Challenge No. 3 is to marshall the political will both here and abroad to continue the search for new measures to halt nuclear proliferation. Our worst enemy of all is complacency. Before the bloody war in Iraq, I always used to hear people say, my eyes glaze over at the mere mention of the word, "proliferation." Now that the world's attention is focused on this issue, the time is ripe for action by the United States and supporters in the world community to strengthen the laws and institutions that for 35 years have helped to reduce the risk of nuclear proliferation and, indeed, nuclear war.

Some might say that the proposals we offer today amount to just another case of American unilateralism. We prefer to think of them as just another example of American leadership. With partnership on Capitol Hill, cooperation between the Congress and the Executive, and collective international action—there are virtually no limits on the improvements that can be made in global efforts to halt the proliferation of all weapons of mass destruction. Let us get to work today on that new agenda.●

ADDITIONAL COSPONSORS

S. 551

At the request of Mr. BOND, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 551, a bill to encourage States to establish Parents as Teachers programs.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 891

At the request of Mr. MACK, the names of the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. LUGAR], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 891, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1441

At the request of Mr. COCHRAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1441, a bill to provide disaster assistance to agricultural producers, and for other purposes.

S. 1533

At the request of Mr. BRYAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1600

At the request of Mr. PRYOR, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1600, a bill to amend title 39, United States Code, to provide for public comment on small post office closings, and for other purposes.

S. 1646

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1646, a bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of certain motor vehicles.

S. 1741

At the request of Mr. ROBB, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1741, a bill to provide for approval of a license for telephone communications between the United States and Vietnam.

S. 1776

At the request of Mr. KENNEDY, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1776, a bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants.

S. 1813

At the request of Mr. DOLE, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1813, a bill to amend the Higher Education Act of 1965 to improve access to post secondary education for students with disabilities.

SENATE JOINT RESOLUTION 61

At the request of Mr. FORD, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Tennessee [Mr. GORE], the Senator from Oregon [Mr. HATFIELD], the Senator from Alabama [Mr. HEFLIN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. PACKWOOD], the Senator from Arkansas [Mr. PRYOR], the Senator from California [Mr. SEYMOUR], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 61, a joint

resolution to designate June 1, 1992, as "Kentucky Bicentennial Day."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the names of the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. ROTH], the Senator from Nevada [Mr. REID], the Senator from South Dakota [Mr. PRESSLER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Idaho [Mr. SYMMS], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE JOINT RESOLUTION 160

At the request of Mr. KERRY, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of Senate Joint Resolution 160, a joint resolution designating the week beginning October 20, 1991, as "World Population Awareness Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. DIXON, the names of the Senator from Tennessee [Mr. GORE], the Senator from Arizona [Mr. DECONCINI], the Senator from Indiana [Mr. COATS], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate March 19, 1992, as "National Women in Agriculture Day."

SENATE JOINT RESOLUTION 188

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 188, a joint resolution designating November 1991, as "National Red Ribbon Month."

SENATE JOINT RESOLUTION 194

At the request of Mr. GRAMM, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 194, a joint resolution to designate 1992 as the "Year of the Gulf of Mexico."

SENATE JOINT RESOLUTION 206

At the request of Mr. RIEGLE, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 206, a joint resolution to designate November 16, 1991, as "Dutch-American Heritage Day."

SENATE JOINT RESOLUTION 214

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 214, a joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. HATFIELD, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Concurrent Resolution 68, a concurrent resolution expressing the sense of the Congress relating to encouraging the use of paid leave by working parents for the purpose of attending parent-teacher conferences.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. CRANSTON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution concerning freedom of emigration and travel for Syrian Jews.

SENATE CONCURRENT RESOLUTION 70—RELATIVE TO PROTECTION OF THE AFRICAN ELEPHANT

Mr. SANFORD (for himself, Mr. KERRY, Mr. LEVIN, Mr. KENNEDY, Mr. BUMPERS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. LEAHY, and Mr. WELLSTONE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 70

Whereas approximately 112 countries are parties to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (with appendices, done at Washington on March 3, 1973);

Whereas the parties of the Convention meet biennially to review the status of species in danger of extinction and to establish trade restrictions with respect to endangered species;

Whereas species that are determined to be in danger of extinction and affected by trade are listed on Appendix I of the Convention;

Whereas, a listing of a species on Appendix I of the Convention calls for an end to all international commercial trade of the listed species and products made with the listed species;

Whereas during the 1980's, a serious problem developed with respect to the poaching of African elephants for ivory, and such poaching led to a drastic decline in the elephant population in many range countries;

Whereas, in 1989, the parties to the Convention agreed to halt the international commercial trade of elephants and elephant products by listing the African elephant on Appendix I of the Convention until such time as reliable conservation and ivory control methods are established;

Whereas as a result of the international trade restrictions, poaching has declined, but it has not yet been eliminated;

Whereas there is hope that, as a result of the trade restrictions, the size of the African elephant population will recover;

Whereas it is not yet clear that the international network of illegal trade of ivory has been dismantled;

Whereas several African countries are seeking to reopen the trade of ivory;

Whereas, as of the date of this resolution, no appropriate reliable conservation and ivory control methods have been proven to exist;

Whereas the period of time between the date of this resolution and the next conference of the parties of the Convention in March of 1992 is insufficient for the completion of adequate studies of any new proposals relating to the trade of ivory; and

Whereas without great advances in ivory trade control and widespread population recovery of African elephants across Africa, the reopening of the commercial trade of elephant ivory would jeopardize the African elephant, as there is a very substantial risk that an illegal ivory trade market could be reestablished: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States should continue to support the full protection of the African elephant through the unqualified listing of all populations of the African elephant on Appendix I of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (with appendices, done at Washington on March 3, 1973).

Mr. SANFORD. Mr. President, I rise today, the second anniversary of the agreement to end the international elephant ivory trade, to submit a concurrent resolution calling for the United States to maintain its support for the protection of the African elephant.

The American public and my colleagues in the Senate are likely all familiar with the drastic decline of the African elephant during the last two decades. In 1979, there were an estimated 1,300,000 elephants in Africa. Ten years later, only 600,000, less than half remained. Illegal ivory poaching was the cause of the majority of these deaths.

A system of "ivory trade controls" had been established, but, clearly, it was not working. Two thousand elephants were being killed each week, and the future of the African elephant was in doubt.

Government leaders, wildlife management experts, and many concerned citizens began a concerted effort to protect the African elephant. Here in America, in 1988, Congress passed the African Elephant Conservation Act, which bolstered the efforts of African countries to protect their elephant populations. In June 1989, President Bush banned ivory imports into the United States. These were steps in the right direction, but more had to be done.

Many people argued that a complete ban on international ivory trade was the best and only way to protect the African elephant. Two years ago today, on October 17, 1989, the delegates of the parties to the Convention on International Trade on Endangered Species of Flora and Fauna [CITES], during their biennial meeting, voted in favor of an international ban on elephant ivory trade by placing the African elephant on the CITES appendix I, which lists those species that are threatened with extinction by trade.

As a result of the CITES trade ban, poaching has declined, the price for

ivory has gone down, and there is hope that the African elephant population will recover.

Despite this encouraging news, however, we must not assume that the African elephant is no longer in danger. Although the ivory trade ban has been in effect for less than 2 years—barely enough time for an African elephant to be conceived and born—there is already a move afoot to reopen the ivory trade.

Several countries in southern Africa hope to convince the parties of CITES, at their next meeting in Japan in March 1992, to allow limited ivory trade from their countries. A few of these African nations are even working to establish a sort of ivory cartel.

Mr. President, due to the very substantial risk of reestablishing the illegal ivory trade market, I believe it would be a very serious mistake to reopen even limited ivory trade at this time.

The idea that limited ivory trade will not affect any increase in poaching is only theory. Our past experiences show us that the ivory trade—and poaching—stretch across national boundaries. Ivory smuggling was rampant before the current ban, and the reopening of limited trade would serve to rekindle the widespread poaching and smuggling problems.

We still do not have adequate methods for controlling the flow of ivory across national boundaries, and, therefore, we must not take the risk of reopening the trade and simply hoping for the best. Many countries in central and northern Africa are working hard to protect their elephants, and they do not want to put their elephants at risk by reopening the ivory trade. By allowing trade from a few of the southern African countries, or even just one, the market for ivory, and the poaching of elephants, will likely return to all African countries. The African elephant has not yet recovered from the many years of widespread poaching, and we must not put it in jeopardy again.

Mr. President, I am not arguing for banning ivory trade forevermore. Within a few years, we might have in place a real ivory trade control system. We might have adequate conservation measures for the elephant in all parts of Africa. The international network of illegal ivory trade might have been dismantled.

However, today, we do not have a proven system of ivory trade controls; conservation measures for the African elephant have improved, but they are still inadequate in many countries; and the poachers and illegal ivory traders are just hiding in the shadows, waiting for limited trade to begin anew.

Two years ago, when the original ban on ivory trade was debated, the United States, leadership was critical to achieving a vote in favor of the ban. As new efforts are made to open up limited trade, we must not let our support for the African elephant wane.

Our resolution calls on the United States to maintain its support for the protection of the African elephant by supporting the CITES appendix I listing of all populations of the African elephant. I strongly believe that this stance is necessary to protect the future of this great mammal.

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

SENATE CONCURRENT RESOLUTION 71—RELATIVE TO THE SITUATION IN HAITI

Mr. MACK submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 71

Whereas the people of Haiti have long suffered under the arbitrary rule of dictatorship rather than the democratic rule of law;

Whereas in 1986, Haitians from all sectors of society showed great courage in joining together to oust President-for-Life Jean Claude Duvalier;

Whereas the people of Haiti have repeatedly manifested their aspirations for democracy and a constitutional government and for equitable economic development, as outlined in their Constitution ratified on March 19, 1978;

Whereas the 1987 presidential election was canceled due to widespread violence on the day of the election;

Whereas the Haitian people participated in a second internationally supervised election on December 16, 1990, and elected President Jean-Bertrand Aristide by almost 70 percent of the vote in an election that was recognized by international observations as free, fair, and open;

Whereas elements of the military on September 30, 1991, launched an armed attack against President Aristide and the people of Haiti;

Whereas President Aristide was forced to leave Haiti, and a military junta has seized power; and

Whereas since President Aristide's departure, military forces loyal to the junta have reportedly engaged in the widespread murder of Haitian citizens and armed intimidation of the Haitian legislature: Now, therefore, be it

Resolved by the House of Representatives (the Senate Concurring), That the Congress—

(1) strongly condemns the unconstitutional seizure of power by the military junta in Haiti, its abridgement of civil and political rights for Haitian citizens, and its blatant disregard for the Haitian Constitution and international law;

(2) supports the Bush Administration's refusal to recognize the coup led by mutinous soldiers, its suspension of economic assistance to Haiti until President Aristide's government has been restored, and its diplomatic efforts to restore the legitimately elected government of President Aristide;

(3) strongly supports the Organization of American State's efforts to negotiate an end to the military seizure of power and the murder and mayhem that has followed;

(4) calls upon the Attorney General—

(A) to suspend all deportation and exclusion proceedings for Haitians in the United States pending a resolution of the deep political and military crisis in Haiti, as called for by the Inter-American Commission on Human Rights; and

(B) to designate Haiti under section 244A(b)(1) of the Immigration and Nationality Act (relating to temporary protected status);

(5) calls upon the United States Coast Guard to suspend the interdiction of Haitian boat people during this period in which basic human rights are being violated;

(6) calls upon the Secretary of State, in consultation with the Attorney General to review the policy of interdiction of Haitian boat people to ensure the policy's fairness to the Haitian people; and

(7) calls upon the Aristide government, upon its restoration, to respect and promote the human rights of all Haitian citizens.

• Mr. MACK. Mr. President, the recent violent military coup in Haiti has robbed Haitians of their freedom. Until democracy and basic human rights are restored in that country, we cannot, in good conscience, condone the deportation and interdiction of Haitians.

In light of this, I am introducing legislation which would: First, call upon the Attorney General to suspend deportation and exclusion proceedings for Haitians in the United States pending resolution of the crisis in Haiti; second, call upon the Attorney General to grant Haitians temporary protected status; third, call upon the Coast Guard to supend the interdiction of Haitian boat people during this period in which basic human rights are being violated; and fourth, call for the Secretary of State, in consultation with the Attorney General, to ensure the policy's fairness to the Haitian people.

It is morally wrong to embrace a policy that forces Haitians back to their island to face certain retirbution and persecution while the military remains in power. We cannot be accomplices to the crimes of the military by forcing Haitians to return to the island.

We must act now to protect against more people being killed at random on the streets by a brutal military dictatorship.

Haitians have been terrorized under dictatorship after dictatorship for generation after generation. It's time we give Haitians the same treatment as others who flee a well-founded fear of persecution. They deserve to live in freedom—not under a military junta which rules with raw force.•

SENATE RESOLUTION 199—CALLING FOR AN INVESTIGATION OF UNAUTHORIZED DISCLOSURE OF A CONFIDENTIAL SENATE COMMITTEE REPORT

Mr. BROWN (for himself and Mr. BOND) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 199

Whereas Article II, section 2 of the Constitution requires the President to nominate, with the advice and consent of the Senate, Justices of the Supreme Court;

Whereas in carrying out its constitutional responsibility to advise the President, the

Senate wishes to encourage appointment of the most competent individuals to serve as Supreme Court Justices;

Whereas the Senate of the United States wishes to advise the President to confirm or not confirm Presidential nominees to the Supreme Court based on their merits;

Whereas an unbiased evaluation by the Senate of a nominee's competence to serve on the Supreme Court requires the compilation of complete information about the qualifications of the nominee;

Whereas this may include personal or potentially sensitive information about the nominee;

Whereas it is appropriate that the confidentiality of certain information be maintained to preserve the integrity of the Senate confirmation process;

Whereas allegations have been made of the unauthorized disclosure of a confidential Senate committee report during the consideration of the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court;

Whereas the unauthorized release of confidential information has potentially compromised the confirmation process; and

Whereas the unauthorized release of such confidential information is a violation of the Standing Rules of the Senate that provide that any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body, and if an officer, to dismissal from the service of the Senate, and to punishment for contempt: Now, therefore, be it

Resolved, That (a) the Majority Leader, with the concurrence of the Minority Leader, shall appoint a special counsel to investigate the unauthorized disclosure of a confidential Senate committee report during the consideration of the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court, including a full investigation of all the facts and circumstances leading to and surrounding such disclosure. The special counsel shall consider whether any Member, officer, or employee of the Senate committed any of the activities prohibited in any rule of the Senate or of a committee, subcommittee, or office of the Senate, including paragraph 5 of rule XXIX of the Standing Rules of the Senate, or any other rules, regulations, or laws of the United States.

(b) The special counsel shall report the findings and conclusions of the investigation to the Senate not later than 30 days after the date of adoption of this resolution.

SENATE RESOLUTION 200—RELATIVE TO THE AGRICULTURE INDUSTRY IN THE STATE OF NEW YORK

Mr. D'AMATO (for himself and Mr. MOYNIHAN) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 200

Whereas October 17, 1991 is the 10th Annual Celebration of New York Agriculture known as the New York State Farm Harvest Celebration.

Whereas agriculture is New York State's largest industry with an annual farm value of almost $3 billion.

Whereas New York's 38,500 farms provide employment for some 113,000 individuals and total in-state food employment reaches 425,000.

Whereas a viable and strong agricultural industry is not only beneficial to New York's farm and food industry, but to the economy of New York State, hundreds of local communities and to all consumers in and out of New York State.

Whereas New York State is a tremendous agricultural resource base with abundant rainfall, productive soils, sufficient growing season and proximity to the nation's largest markets.

Whereas New York State is a leader in the production of a variety of products such as dairy, cheese, apples, grapes, onions, potatoes, cabbage, sweet corn, nursery plants, tart cherries, beets and maple syrup for the United States.

Whereas New York farms are an important provider to the nation of a variety of agricultural goods such as cattle, eggs, green beans, lettuce, cauliflower, celery, poultry, grain, hay and others: Now, therefore, be it

Resolved, It is the sense of the Senate, that we honor the important contributions of New York's farmers and other men and women in the New York State agriculture industry.

• Mr. D'AMATO. Mr. President, I am pleased to join with Senator MOYNIHAN in submitting a sense of the Senate resolution honoring the contributions of the men and women in the number one industry of New York State, the agriculture industry.

To many people, New York is an urban State noted for its tall buildings, glitz and glitter. Few people outside my State realize that there is another New York, a land of dairy cows, apple orchards, and wineries. It is a land of farmers, nursery owners, cheese processors, and a variety of other agribusinesses.

When I arrived in Washington over 10 years ago I pledged to make people aware of this New York. I wanted to make the rest of the Nation understand the critical contribution that agriculture makes not only to the economic health of my State but to the farm output of the whole Nation.

That is why I began to hold the Annual New York State Farm Harvest Celebration here in our Nation's Capitol. Today that celebration is in its 10th year. Farm Day has become one of the most popular receptions on Capitol Hill. Members of Congress, the administration, and their staffs now know what we in New York have always known, that the Empire State is a farm state.

Mr. President, this sense of the Senate resolution is an acknowledgement by this body that New York Farm Day has accomplished its goal of making the Nation aware of New York's agriculture industry, as well as to celebrate the hard work of men and women in New York agriculture.•

AMENDMENTS SUBMITTED

FEDERAL FACILITIES COMPLIANCE ACT

BAUCUS AMENDMENT NO. 1263

Mr. BAUCUS proposed an amendment to the bill (S. 596) to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements; as follows:

On page 2, strike subsection (a) on lines 7 through 23.

On page 2, line 24, strike "(b)".

On page 4, line 23, insert "(b)" before "Federal".

On page 5, line 14, strike "(b)" and insert in lieu thereof "(c)".

On page 6, line 9, strike "(a)."

On page 6, line 9, insert "of the Solid Waste Disposal Act" before "is amended".

On page 6, insert at the end the following new section:

"SEC. 5. (a) STORAGE OF MIXED WASTE.—Section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) is amended—

"(1) by striking "In" and inserting in its place the following:

"'(1) Except as provided in paragraphs (2) or (3), in'; and

"(2) by inserting at the end the following new paragraphs:

"'(2) Until December 31, 1993, where technologies do not exist or sufficient treatment capacity is not yet available for treatment of mixed waste generated at facilities owned or operated by a department, agency, or instrumentality of the United States, or by a person acting as an authorized agent of such department, agency, or instrumentals, such mixed waste shall be stored in compliance with all applicable regulations promulgated under this subtitle except those promulgated to implement paragraph (1). After December 31, 1993, the regulations promulgated to implement paragraph (1) shall apply to all mixed waste except as provided in paragraph (3).

"'(3) If the Administrator determines that compliance for a particular type of mixed waste is not possible by December 31, 1993, the Administrator may grant a variance from the regulations promulgated to implement paragraph (1) to any department, agency, or instrumentality of the United States, in accordance with the following procedures.

"'(A) Where sufficient treatment capacity is not yet available, the Administrator, after notice and opportunity for comment and after consultation with appropriate State agencies in all affected States, may on a case-by-case basis, for a particular type of waste, grant an extension of the effective date contained in paragraph (2) for up to one year, if the applicant demonstrates that treatment capacity cannot reasonably be made available by the effective date in paragraph (2) due to circumstances beyond the control of the applicant. Such extension may be renewed by the Administrator for additional periods of up to one year. In no case, however, shall the December 31, 1993, deadline for compliance with paragraph (1) be extended beyond July 1, 1997.

"'(B) Where technologies do not exist, the Administrator, after notice and opportunity for comment and after consultation with ap-

propriate State agencies in all affected States, may on a case-by-case basis, for a particular type of waste, grant an extension of the effective date contained in paragraph (2) for up to two years, if the applicant demonstrates that treatment technology cannot reasonably be developed by December 31, 1993 due to circumstances beyond the control of the applicant. Such extension may be renewed by the Administrator for additional periods of up to one year. In no case, however, shall the December 31, 1993, deadline for compliance with paragraph (1) be extended beyond July 1, 1997.

"'(C) Any variance granted by the Administrator under this paragraph shall be considered a final agency action and shall be subject to judicial review.

"'(b) TREATMENT OF MIXED WASTE.—Section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)) is amended by adding at the end the following new paragraphs:

"'(3) Not later than 90 days after the date of enactment of the Federal Facility Compliance Act of 1991, the Administrator, after notice and opportunity for comment, shall issue a list of mixed wastes for which the Administrator determines treatment technologies do not exist or sufficient treatment capacity is not yet available. The Administrator shall update this list annually.

"'(4) Not later than December 31, 1992, the Administrator, after notice and opportunity for comment, shall amend, as necessary, regulations promulgated under this subsection specifying those levels or methods of treatment which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized and exposure to radioactivity during treatment is minimized.

SEC. 6. Nothing in this Act shall alter, modify or change in any manner any agreement or consent order regarding the management of mixed wastes in effect on the date of enactment of this Act and to which an agency of the Federal Government is a party.

SEC. 7. Any State may comment on any determination made by the Administrator pursuant to this Act with respect to the commingling of radioactive and hazardous waste.

On page 6, after line 9, insert the following:

SEC. 8. MIXED WASTE.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6902) is amended by inserting the following new paragraph at the end of the section:

"'(41) The term "mixed waste" means waste that contains both hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).'.

SURETY BONDS

SEC. 9. (a) SURETY CONTRACTOR RELATIONSHIP.—Any surety which provides a bid, performance, or payment bond in connection with any contract for hazardous substance response with any department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, and begins activities to meet its obligations under such bond, shall, in connection with such activities or obligations, be entitled to any indemnification and standard of liability to which its principal was entitled under the contract or under any applicable law or regulation.

(b) SURETY BONDS.—

(1) APPLICABILITY OF THE MILLER ACT.—If under the Act of August 24, 1935 (49 Stat. 793 et seq., chapter 642, 40 U.S.C. 270a-270d), commonly referred to as the "Miller Act", surety bonds are required for any direct Federal procurement of a contract for hazardous substance response with a department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, and are not waived pursuant to the Act of April 29, 1941 (55 Stat. 147 et seq., chapter 81, 40 U.S.C. 270e-270f), the surety bonds shall be issued in accordance with such Act of August 24, 1935.

(2) LIMITATION OF ACCRUAL OF RIGHTS OF ACTION UNDER BONDS.—If, under applicable Federal law, surety bonds are required for any direct Federal procurement of any contract for hazardous substance response with a department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, no right of action shall accrue on the performance bond issued on such contract to or for the use of any person other than the obligee named in the bond.

(3) LIABILITY OF SURETIES UNDER BONDS.—If under applicable Federal law, surety bonds are required for any direct Federal procurement of a contract for hazardous substance response with a department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, unless otherwise provided for by the procuring agency in the bond, in the event of a default, the surety's liability on a performance bond shall be in accordance with the plans and specifications less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond. The surety shall in no event be liable on bonds to indemnify or compensate the obligee for loss or liability arising from personal injury or property damage whether or not caused by the breach of the bonded contract.

(4) NONPREEMPTION.—Nothing in this section shall be construed as preempting, limiting, superseding, affecting, applying to, or modifying any State laws, regulations, requirements, rules, practices, or procedures. Nothing in this section shall be construed as affecting, applying to, modifying, limiting, superseding, or preempting any rights, authorities, liabilities, demands, actions, causes of action, losses, judgment, claims, statutes of limitation, or obligations under Federal or State law, which do not arise on or under the bond.

(c) APPLICABILITY.—This section shall not apply to bonds executed before October 1, 1991, or after December 31, 1992. This section also shall not apply to facilities that are included on the National Priorities List as described in section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605). For the purposes of this section, the terms "hazardous substance" and "response" shall have the same meaning as given such terms under paragraphs (14) and (25), respectively, of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

SEC. 10. (a) This section may be cited as the "Federal Recycling Incentive Act".

(b) Subtitle F of the Solid Waste Disposal Act is amended by adding at the end thereof the following:

"FEDERAL GOVERNMENT REQUIREMENTS

"SEC. 6005. (a) FEDERAL AGENCIES.—Prior to the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency in consultation with the Administrator of General Services, by regulation, shall establish, and from time to time modify, a program pursuant to which each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government shall be required to separate materials to be collected for the purpose of recycling from solid waste generated by such department, agency, or instrumentality. Such material shall not be collected if the Administrator determines that inadequate markets exist for such materials. The program established pursuant to this section shall seek to incorporate existing Federal programs to separate materials from solid waste for the purpose of recycling but in no case shall interfere with existing programs.

"(b) PUBLICATION IN FEDERAL REGISTER.—Within 60 days following the establishment or modification of a program pursuant to subsection (a), the Administrator of the Environmental Protection Agency shall submit a copy of such program or modification to the Congress and publish a copy thereof in the Federal Register.

"(c) EFFECTIVE DATE.—180 days following such publication in the Federal Register, each department, agency, and instrumentality of the executive, legislative, and judicial branches shall take action as may be necessary to carry out the program established pursuant to subsection (a) as published in the Federal Register.

"(d) PROCEEDS FROM SALE—Any moneys received by any such department, agency, or instrumentality from the sale of materials collected for the purpose of recycling shall be available for use by the department, agency or instrumentality of the Executive, Legislative and Judicial branches of the Federal Government for activities which promote recycling. Nothing in this Act shall be construed to prohibit any agency from directing funds received from the sale of materials collected for the purpose of recycling for morale welfare or recreational purposes.

"(e) REPORT.—Prior to the expiration of the 15-month period following the date on which such program takes effect, and annually thereafter, the Administrator of the Environmental Protection Agency shall report to the Congress with respect to the extent of compliance by each department, agency, and instrumentality of the executive, legislative, and judicial branches with the program established pursuant to this Act for the preceding 12-month period. Such report shall identify any such department, agency, and instrumentality which fails to comply, in whole or in part, with such program. A copy of the report shall be published in the Federal Register.

"(f) AUTHORIZATION.—For the purpose of enabling the Administrator of the Environmental Protection Agency to carry out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 11. The Chief Financial Officers, of affected agencies, pursuant to 31 U.S.C. 501 shall submit an annual report to Congress on the activities of the Federal government regarding the disposal of mixed waste, subject to the Solid Waste Disposal Act. The report shall include, to the extent practicable, an estimate of the time required to develop adequate storage, treatment or disposal capacity for each mixed waste listed under the Solid Waste Disposal Act, an estimate of the costs expected to be incurred by the Federal government for such storage, treatment or disposal, a detailed discription of the compliance activities expected to be accomplished by the Federal government during the period covered by the budget submission, and an accounting of the fines and penalties collected pursuant to the Solid Waste Disposal Act."

On page 2 line 6 strike line 6 and all that follows through line 14 page 3.

SEC. 12. PUBLIC VESSELS.

(a) Any solid of hazardous waste generated on a public vessel shall not be subject to storage, manifest, inspection, or recordkeeping requirements under the Solid Waste Disposal Act, until such waste is removed from the public vessel on which it was generated. Nothing in this section shall affect, or in any way change the intention, implementation or applicability of 10 U.S.C. 7311, or the term "generator" as defined in 40 C.F.R. 260.10.

(b) for purposes of this section:

(1) the term "public vessel" means a vessel owned or bareboat chartered and operated by the United States or any other sovereign.

(2) waste transferred directly from one public vessel to another shall not be considered "removed from the public vessel on which it was generated" for as long as such waste remains on a public vessel.

SEC. 13. FEDERAL WASTEWATER TREATMENT WORKS.

(a) APPLICABILITY.—Subtitle F of the Solid Waste Disposal Act is amended by adding at the end thereof the following:

"SEC. 6006. FEDERAL WASTEWATER TREATMENT WORKS.

(a) IN GENERAL.—Except as provided in subsection (b), any wastewater treatment works owned by a department, agency, or instrumentality of the Federal Government shall be considered to be managing a solid waste, but not a hazardous waste, if:

(1) such wastewater treatment works receives and treats wastewater, the majority of which is domestic sewage;

(2) no solid waste in any unit that is part of the wastewater treatment works exhibits any hazardous waste characteristic as determined pursuant to test methods and criteria established by the Administrator under Subtitle C of this Act unless such waste is removed from the treatment works and is managed as a hazardous waste pursuant to subsection (b) and other applicable requirement of this Act;

(3) the wastewater treatment works has a permit issued pursuant to section 402 of the Federal Water Pollution Control Act and such permit includes conditions requiring that any individual wastewater received by the treatment works is pretreated (A) in accordance with national pretreatment standards promulgated by the Administrator pursuant to section 307(b) of such Act and applicable to each specific category of industrial wastewater received by the treatment works or (B) in the absence of national standards in accordance with local limits established pursuant to section 402(b)(8) of such Act, and (C) any solid waste rendered hazardous by any pretreated or non-compliant wastewater has been removed to the extent practicable;

(4) such treatment works complies with any other permit conditions as may be established by the Administrator or an authorized State pursuant to section 402 of the Federal Water Pollution Control Act.

(b) Notwithstanding subsection (a), the owner of a wastewater treatment works described in subsection (a) shall be required to—

(1) remove and manage as a hazardous waste any solid waste present in any unit of the treatment works that exhibits any hazardous waste characteristic as established by the Administrator under subtitle C of this Act; and

(2) take corrective action with respect to any release or threatened release of hazardous waste (including any solid waste present at the treatment works which exhibits any characteristic of a hazardous waste) or hazardous waste constituents from the treatment works in accordance with corrective action requirements under subtitle C of this Act.

(c) Subsection (a) does not constitute a waiver of any requirement under subtitle C of this Act with respect to any unit that is part of a wastewater treatment works that pretreats industrial waste prior to discharge to a treatment works described in subsection (a).

(d) Relationship to Federal Water Pollution Control Act.—Nothing contained in this section shall be construed, interpreted, or applied to include a wastewater treatment works owned by a department, agency, or instrumentality of the Federal Government within the definition of an "eligible treatment works" or "publicly owned treatment works" for purposes of Title II or Title III of the Federal Water Pollution Control Act.

(e) TABLE OF CONTENTS.—The table of contents for such subtitle F, of the Solid Waste Disposal Act is amended by adding the following new item at the end:

"Sec. 6006. Federal wastewater treatment works."

SEC. 14. MUNITIONS.

SEC. 6. Munitions, Section 1006 of the Solid Waste Disposal Act is amended by adding the following new subsection:

(d) MUNITIONS.—The Secretary of the Defense shall have the responsibility for carrying out any requirement of subtitle C of this Act with respect to regulations promulgated relating to the safe development, handling, use, transportation, and disposal of military munitions. The Secretary shall, with the concurrence of the Administrator, promulgate such regulations as may be necessary to carry out the purposes of this subsection.

SEC. 15. AMENDMENT TO THE FEDERAL FACILITY COMPLIANCE ACT OF 1991.

In carrying out the provisions of Sec. 2 (a)(b), the administrator of the Environmental Protection Agency may utilize the Mine Waste Treatment capabilities operated by the Environmental Protection Agency and the Department of Energy at DOE's Pittsburgh Energy Technology Center's Component Development and Integration Test Facility. The treatment and assessment technologies will be supplemented and upgraded as required.

SEC. 16. ESTABLISHMENT OF SMALL TOWN ENVIRONMENTAL PLANNING PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency (hereafter referred to as the "Administrator") shall establish a program to assist small communities in planning and financing environmental facilities.

(b) SMALL TOWN ENVIRONMENTAL PLANNING TASK FORCE.—(1) The Administrator shall establish a Small Town Environmental Planning Task Force shall be composed of representatives of small towns from different areas of the United States, Federal and State governmental agencies, and public interest groups.

(2) The Task Force shall—

(A) identify areas of environmental and public health regulations developed pursuant to Federal environmental laws which pose significant problems for small towns;

(B) identify means to improve the working relationship between the Environmental Protection Agency (hereafter referred to as the Agency) and small towns;

(C) review proposed regulations for the protection of the environmental and public health and suggest revisions that could improve the ability of small towns to comply with such regulations;

(D) identify means to promote regionalization of environmental treatment systems and infrastructure serving small towns to improve the economic condition of such systems and infrastructure; and

(E) provide such other assistance to the Administrator as the Administrator deems appropriate.

(c) IDENTIFICATION OF ENVIRONMENTAL REQUIREMENTS.—(1) Not later than 6 months after the date of the enactment of this title, the Administrator shall publish a list of requirements under Federal environmental and public health statutes (and the regulations developed pursuant to such statutes) applicable to small towns. Not less than annually, the Administrator shall make such additions and deletions to and from the list as the Administrator deems appropriate.

(2) The Administrator shall, as part of the Small Town Environmental Planning Program under this section, implement a program to notify small communities of the regulations identified under paragraph (1) and of future regulations and requirements through methods that the Administrator determines to be effective to provide information to the greatest number of small communities, including, but not limited to, any of the following:

(1) Newspapers and other periodicals;

(2) Other news media;

(3) Trade, municipal, and other associations that the Administrator determines to be appropriate; and

(4) Direct mail.

SEC. 17. SMALL TOWN OMBUDSMAN.

The Administrator shall establish and staff an Office of the Small Town Ombudsman. This Office shall provide assistance to small towns in connection with the Small Town Environmental Planning Program and other business with the Agency. Each regional office shall identify a small town contact. The Small Town Ombudsman and the regional contacts are also authorized to assist larger communities provided assistance is provided, on a priority basis, to small town.

SEC. 18. MULTI-MEDIA PERMITS.

(a) The Administrator shall conduct a study of establishing a multi-media permitting program for small towns. Such evaluation shall include an analysis of (1) environmental benefits and liabilities of a multimedia permitting program; (2) the potential of using such a program to co-ordinate a small town's environmental and public health activities; and (3) the legal barriers, if any, to the establishment of such a program.

(b) Within three years of enactment, the Administrator shall report Congress on the results of the evaluation performed in accordance with subsection (a). Included in this report shall be a description of the activities conducted pursuant to this Act.

SEC. 19. DEFINITIONS.

For the purposes of this Act, the term "small town" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 2,500 individuals.

SEC. 20. APPROPRIATIONS.

There are authorized to be appropriated such sums as may be needed to implement this title.

In an appropriate place in S. 596 insert the following:

SEC. 21. SHORT TITLE.

This Act may be cited as the "Metropolitan Washington Waste Management Study Act".

SEC. 22. PURPOSES.

The purposes of this Act are—

(1) to require an environmental impact statement prior to the expansion of the I-95 Sanitary Landfill, at Lorton, Virginia; and

SEC. 23. FINDINGS.

The Congress finds that—

(1) the I-95 Sanitary Landfill, in Lorton, Virginia, is located on Federal land, and the ultimate responsibility for maintaining environmental integrity at the I-95 Sanitary Landfill is on the Federal Government, as well as the signatories to the July 1981 Memorandum of Understanding, as amended;

(2) operators of the I-95 Sanitary Landfill, in Lorton, Virginia, may seek to expand the landfill by 148 acres in the so-called "Site C";

(3) there are concerns that the I-95 Landfill may be discharging leachate into the surface waters of Mills Branch, a tributary of the Potomac River;

(4) the Potomac River empties into the Chesapeake Bay, recognized by the President of the United States, Congress, the Governors of Virginia, Delaware, Pennsylvania, and Maryland as one of the Middle Atlantic region's environmental priorities;

(5) possible sources of pollution affecting the environmental integrity of the Chesapeake Bay must be fully investigated, and eliminated if possible;

(6) operators of the I-95 Sanitary Landfill established an enterprise fund with the tipping fees charged for the dumping of waste on this Federal land;

(7) the Washington metropolitan area's local governments, while aggressively pursuing integrated solid waste management, including recycling, are facing a serious problem with regard to landfill space;

(8) much of the waste generated by Federal facilities in the Washington metropolitan area is disposed of at the I-95 Sanitary Landfill and other municipal landfills in the same area;

(9) few Federal facilities in the Washington metropolitan area have waste management plans, and the plans that do exist are not coordinated with the local governments in which the facilities are situated; and

(10) Federal facilities in the Washington metropolitan area have no cohesive waste management and recycling program.

SEC. 24. ENVIRONMENTAL IMPACT STATEMENT.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Except as provided in subsection (b)(1), in order to assure environmental integrity in and around properties owned by the Government of the United States, no expansion of the I-95 Sanitary Landfill shall be permitted or otherwise authorized unless—

(1) an environmental impact statement, pursuant to the National Environmental Policy Act, regarding any such proposed expansion has been completed and approved by the Administrator; and

(2) the costs incurred in conducting and completing such environmental impact statement are paid from the landfill's so-called enterprise fund established pursuant to the July 1981 I-95 Sanitary Landfill Memorandum of Understanding entered into by the jurisdictions utilizing such landfill, or some other payment formula based on past and projected percentage of the jurisdictional usage of the landfill.

(b) CONDITIONS.—(1) Notwithstanding the provisions of subsection (a), such landfill may be expanded for the purpose of the planned ash monofill which can be used solely for the disposal of incinerator ash from the parties of the July 1981 Memorandum of Understanding.

(2) After December 31, 1995, the I-95 Sanitary Landfill, including any expansions thereof, shall not be available to receive or dispose of municipal or industrial waste of any kind other than incinerator ash.

(3) After December 31, 1999, the I-95 Sanitary Landfill, including any expansions thereof, shall not be available to receive or dispose of any incinerator ash.

(4) Notwithstanding any other provision of this Act, the parties of the July 1981 Memorandum of Understanding, together with the Federal Government, shall continue to be responsible for maintaining environmental stability at the I-95 Sanitary Landfill, including any expansion, in accordance with applicable laws of the United States, and the Commonwealth of Virginia (including any political subdivision thereof which is a party to the July 1981 Memorandum of Understanding).

SEC. 25. DEFINITIONS.

For purposes of this Act, the term—

(1) "expansion" includes any development or use, after May 31, 1991, of any lands, other than those lands which were used as a landfill on or prior to May 31, 1991, in accordance with the July 1981 I-95 Sanitary Landfill Memorandum of Understanding, owned by the Government of the United States in and around Lorton, Virginia, for the purpose of, or use as, a sanitary landfill. The term also includes variances or exemptions from any elevation requirements relating to landfill operations established by the laws of the Commonwealth of Virginia, or any subdivision thereof, in connection with any such lands used on or prior to May 31, 1991;

(2) "lands owned by the Government of the United States" includes any lands owned by the United States, and any such lands with respect to which the Government of the District of Columbia has beneficial ownership; and

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SECURITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, October 17, 1991, at 9:30 a.m. to conduct a hearing on shareholder rights and trends in corporate governance.

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

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, October 17, 1991, at 9:30 a.m. to conduct a hearing on the urgent Lead Paint Hazard Prevention Act.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on October 17, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building, on S. 1687, the Indian Tribal Government Waste Management Act of 1991.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., October 17, 1991, to receive testimony on S. 1225, a bill to designate certain lands in California as wilderness, and for other purposes.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, October 17, 1991, at 2:30 p.m., to hold a hearing by the Subcommittee on the Courts and Administrative Practices.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, October 17, at 2:30 p.m. to hold a hearing on slave labor in China.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, October 17, 1991, to hold a hearing on Efforts to Combat Fraud and Abuse In The Insurance Industry: Part 4.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 17, 1991, at 10 a.m. to hold a hearing on the discovery of Iraq's weapons of mass destruction and possible initiatives for the future.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 17, 1991, at 10:15 a.m., in closed session, to receive a briefing on the U.S. Navy's decision on the reopened investigation on the U.S.S. *Iowa* explosion.

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

ADDITIONAL STATEMENTS

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

• Mr. LIEBERMAN. Mr. President, while the attention of most of the Nation was focused on the Supreme Court confirmation vote on Tuesday, another historic event occurred here in the Nation's Capital: the dedication of the National Law Enforcement Officers Memorial.

Hundreds of survivors of law enforcement officers killed in the line of duty, joined by police officers from jurisdictions all across the country and other supporters of the memorial, gathered to participate in this solemn occasion. Many people came from Connecticut, including a contingent of officers from West Haven, Milford, and Shelton, whom I had the pleasure of meeting personally.

I congratulate Craig W. Floyd, chairman of the memorial fund, and his staff, upon the successful completion of this huge endeavor. The memorial was authorized by Congress in 1984 and constructed entirely with funds donated by more than 700,000 Americans, some 250 U.S. corporations and businesses, and hundreds of thousands of our Nation's law enforcement officers. As Craig Floyd and others pointed out during the dedication ceremonies, this memorial is truly "the gift of a grateful Nation."

This memorial has a special meaning to a member of my own staff, Sharon Hickey, whose brother, Metropolitan Police Officer Martin I. Donovan, was killed in the line of duty here in Washington, DC, on July 9, 1964, while walking his beat alone near Thomas Circle. Like many of his colleagues, he was young—just 28 years old. It is fitting that Officer Donovan will be remembered in this place of honor, in the city of his birth, near the streets where he walked as a police officer, and where he gave his last full measure of devotion.

In the memorial's beautiful park-like setting, the names of more than 12,500 men and women who have lost their lives protecting our freedom and security are engraved on the walls. It is a special place, where one can reflect on the great sacrifice made by these heroes, their families, and the thousands of officers who are injured each year as they patrol their beats. We must look at the blank spaces on the walls, think about the dangers facing police officers every day, and vow to do all we can to support the people who enforce the law by fighting crime every day and night in this land. In this way I hope that many lives will be saved and that the graceful, solemn walls of the National Law Enforcement Officers Memorial will never be completely filled.•

DEDICATION OF THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

• Mr. COATS. Mr. President, law is the superstructure of any enduring society, a framework resting on the firm foundation of sound moral principle. Honoring those who uphold our laws, often at the risk and sometimes at the expense of their own lives, is a worthy act for any society that places value on human dignity.

That is why the dedication of the National Law Enforcement Officers Memorial on October 15 is appropriate and significant. It will list the names of 12,561 officers slain in the line of duty, and will have space on which to list the names of those who fall in the future.

Of those names currently on the Memorial, 235 of them belong to law officers from Indiana. From Albert W. McCorkle, a member of the Shelby County Sheriff's Department who fell in the line of duty in 1880, to Thomas Deniston of the Department of Natural Resources, who fell in 1990, Indiana has a proud tradition of men and women who have paid with their lives so their fellow Hoosiers could enjoy a safer society.

Most recently, one of Indiana's sons fell in defending an innocent life. William May, Jr., was born and raised in Indiana. A direct descendant of settlers who founded the city of Hammond, he was a graduate of Wabash College and had served for 3 years with the police force in Atlanta, GA. On August 19, Officer May responded to an emergency in which he saved the life of a woman who had been shot, only then to be slain by the suspect himself. When confronted by such sacrifice, words of praise seem much too inadequate to express the depth of gratitude our Nation owes to men and women such as Officer May.

A memorial represents the homage of a people, but is by no means a final tribute. Honoring the memory of those slain so that their neighbors can live safely and freely is best demonstrated as each day men and women seek to practice the principles of justice under law that comprise the fabric of a civilized society.

It is in the spirit that today I am privileged to express my deep esteem for those Hoosiers who have given the final sacrifice for their fellow citizens. Their families deserve our honor for having to bear the pain such sacrifices bring. Although we cannot restore their loved ones to them, we can assure them that the memory of their husbands and sons, wives and daughters will endure after even the most imposing monument has crumbled into dust. It is embodied in the legacy of security and liberty these sacrifices have afforded.•

EFFORTS OF PHYSICIANS TO STOP DOMESTIC VIOLENCE SHOULD BE LAUDED

• Mr. DIXON. Mr. President, yesterday in Chicago, the American Medical Association, Surgeon General Antonia Novello, and others met at Cook County Hospital to declare a new initiative against family violence—violence against women, against children, against the elderly. The AMA has launched a program to provide physicians assistance in recognizing the signs of domestic violence, and to intervene.

Although family violence is a societal problem, the physicians of this country have recognized that the societal problem has become a medical problem that we can no longer ignore.

Mr. President, listen to these facts revealed by the Surgeon General yesterday: More than 2 million cases of child abuse and neglect are reported each year—that is just the reported cases. That is 700,000 children.

One-third of women killed in this country are murdered by their spouse or boyfriend.

Six out of ten couples have experienced violence at some time during their marriage.

Half of all adult women have been victims of domestic violence.

Research by Dr. Carole Warshaw of Cook County Hospital indicates that as many as 35 percent of women who visit hospital emergency rooms are there for symptoms of abuse.

I congratulate the AMA and the Surgeon General for speaking out on this silent epidemic which is costing our Nation billions of dollars each year—but more importantly—exacting a priceless human toll on the lives of women, children, and seniors whose lives are forever scarred by abuse.

The physicians of this country are stepping in to do their part, but society as a whole must face and address this problem before we create generation after generation of traumatized citizens. The cycle of abuse must be broken before it breaks us.•

THE 100TH ANNIVERSARY FOR GENERAL HOSPITAL CENTER, PASSAIC, NJ

• Mr. LAUTENBERG. Mr. President, I rise today to join with the citizens of Passaic, NJ, in congratulating The General Hospital Center of Passaic on the occasion of that institution's 100th anniversary.

Founded in 1891, the hospital has grown from a tiny, two-cot dispensary dedicated to the treatment of accident victims, to become today a 300-bed hospital offering a broad range of programs and treatments. To give an indication of its growth, in the sixth year of its existence, the facility served 198 patients, a number which ballooned to over 1,200 in the following year. By

1990, the General was serving over 31,000 patients annually.

The hospital was officially incorporated as The General Hospital in 1892, and it provided the basic health care services most pressing to the community it served. At that time, treatment for accidents and injuries made up the bulk of the services rendered to patients at the facility.

As the health care needs of the community grew, so too did the hospital. This institution, which eventually came to be known as Passaic General, grew into a comprehensive community hospital offering a broad range of health care programs including extensive cardiac care facilities. The facility is one of only 11 designated tertiary care cardiac centers in the State of New Jersey and the first transesophageal echocardiogram was performed here.

In 1985, Passaic General was officially renamed The General Hospital Center at Passaic—which it has been known as ever since.

For over 100 years, Mr. President, the citizens of the Passaic area have been well-served by the hospital's dedicated doctors, nurses, administrators, and volunteers. Their compassion and desire to be of service to the community has been appreciated by former patients for many years.

Take the case of Deenise J. ReCasino of Clifton, NJ, as outlined in a recent letter to the president of the General, Daniel L. Marcantuono. ReCasino, a former patient at the hospital, wrote of her gratitude to the doctors who saved her life and that of her mother.

In 1956, after a difficult birth, Ms. ReCasino was born 3 months premature and weighing only 2 pounds 13 ounces. At that time, a baby born so early and so tiny was given nearly no chance for a normal life, much less survival. Due in large part to the care she received at the hospital, Ms. ReCasino went home 5 months after being born and survived to become a healthy adult and have a child of her own. She writes, "If not for the dedication and professionalism of the doctors and staff, my mother and I probably would not be alive today." It is dedication such as this that has earned the hospital a reputation for providing New Jerseyans with quality health care.

The General has reached out to the community in other ways, as well. To touch on few examples, the hospital provides lessons in safety to area school children and provides groups and individuals within the region with basic first aid guidelines.

Mr. President, to the over 400 physicians and 1,400 employees of The General Hospital Center of Passaic, I extend my heartfelt congratulations as they commemorate their centennial year. For their commitment to improving the quality of life for all the people of New Jersey, they have our lasting gratitude. I encourage them in their ongoing efforts to provide the community with quality health care.●

EUROPEAN AIRBUS SUBSIDIES

● Mr. ADAMS. Mr. President, over the last 20 years Airbus, the European aircraft manufacturer, has received government subsidies in excess of $20 billion. These subsidies have allowed Airbus to develop, manufacture and sell aircraft without having to worry about profitability. By engaging in these practices Airbus is depriving the United States of aerospace jobs, market share, and the revenues needed to invest in new aircraft production. These trade practices by the four Airbus governments are in direct violation of the General Agreement on Tariffs and Trade [GATT]. I support the administration's efforts to pursue the matter in GATT and am pleased that our Government has also indicated its intention to protect U.S. rights through domestic trade laws, as well, should the negotiations with the EC prove unsuccessful. A preliminary decision on the German exchange rate subsidy is due out this fall, although the case of overall subsidization is still in the early stages. The health of the U.S. aerospace industry affects us all. I urge my colleagues to read the excellent article by George Will that follows.

The article follows:

FREE TRADE, OR TRADE WAR?

(By George F. Will)

RENTON, WASH.—Americans who look skyward, or around airports here and abroad, see many products from this Seattle suburb, home of Boeing's commercial aircraft division. But Boeing's competitive position is under sustained attack by substantial—and illegal—subsidies given by governments to Airbus, Boeing's European competitor.

So the Bush administration faces a high-stakes test of American willingness, and ability, to insist effectively on equitable trading practices from the "mixed" economies of our major trading partners. If the test is flunked, many Americans may conclude that free trade is an intolerably expensive fiction, particularly when rivals practice surreptitious socialism.

The stakes are enormous. Commercial aircraft are 77 percent of Boeing's sales. In 1990, when America's merchandise trade deficit was $100 billion, the commercial aircraft sector showed a $16 billion surplus. For the fifth time in 12 years Boeing was America's leading exporter.

Today 81 percent of the commercial jets ever made—9,100—are in service. Between now and 2005, about 9,000 more will be delivered, 30 percent because of retirements, 70 percent because of air traffic growth. More than 2,000 airplanes are more than 20 years old. The market from now until 2005, averaging 600 planes worth $41 billion every year, will be $615 billion.

The worldwide crisis of airport congestion requires a shift to larger planes. Boeing's 777, to be delivered in 1995, will seat 325 to 440, depending on whether it has three-class seating or all-economy configuration. An option will be fold-up wing tips to accommodate narrow gate slots. Next there probably will be "super jumbos" seating 650, superseding the 747 that has been Boeing's most profitable product.

Every time Boeing develops a new aircraft, it invests a sum exceeding more than half the company's net worth. Boeing must finance this from profits and by borrowing against future profits.

Two of the three significant commercial aircraft manufacturers are American—Boeing and McDonnell Douglas. Their historical market shares, 1947–1990, were 56 percent and 21 percent. But Airbus, their European competitor, has 30 percent of today's market and a goal of 40 percent by the middle of the decade. Note that Airbus's goal is expressed in terms of market share, not profits.

Airbus is a consortium of four companies—French, German, British and Spanish—constantly receiving substantial cash infusions from their governments. Airbus understandably prefers to measure its performance in terms of cash flow and market shares. This obscures the extent to which Airbus is a jobs program, a technology development project, a weapon in an aggressive war targeting an American industry, and even a prestige project for several nations. What Airbus is not is a competitive private enterprise comparable to Boeing.

Airbus is now in its third decade of subsidies estimated (bookkeeping is obsure and often secret) to total upward of $26 billion. The head of Airbus's U.S. operations exaggerated when he said, "If Airbus has to give away airplanes, we will," but subsidies enable Airbus to ease customers' financing and even to produce aircraft for inventory—"whitetails" with no customer's insignia. Northwest and America West got cheap loans from Airbus, loans not even restricted to use in purchasing aircraft, but usable as operating funds or for acquiring other airlines.

Strict free traders may say: Fine, if European governments, either supported by or deceiving their taxpayers, want to sell aircrarft below market prices, we should snatch the windfall and switch to manufacturing other things. But there are three arguments, each sufficient, against such passivity in the face of subsidies and political practices contrary to GATT (General Agreement on Tariffs and Trade) rules.

First, international agreements should not be violated. Second, the United States has a national security interest in the health of the complex social organism that Boeing has become, an organization of talent that if dispersed would be largely lost. Third, even in a world without weapons, the commercial aircraft industry would be a crucial component of America's economic vitality.

Airbus's arrogant aggression assumes that GATT enforcement mechanisms are toothless and GATT strictures, if any, can be stonewalled. Also, Airbus knows that U.S. retaliation may be inhibited by the fact that Boeing needs its European community customers.

Airbus's contemptuous illegalities already have cost America more than $80 billion in lost markets and jobs. Surely means can be found to shrink the subsidies.

Free trade is not solitaire, a game at which one can play alone. And the alternative is a trade war. The Airbus dispute is a suitable occasion for America to say what Americans said about some overbearing Europeans 216 years ago: If they mean to have war, let it begin here.●

JAMES J. KILPATRICK: CHARLESTONIAN BY CHOICE

● Mr. HOLLINGS. Mr. President, James J. Kilpatrick, the syndicated

columnist, purchased his house on Charleston's South Battery precisely 3 days before Hurricane Hugo made its memorable visit. He was undaunted by the welcome, and has settled in as one of the city's favorite adopted sons. He is a Charlestonian by choice, and we are glad to have him. In fact, we are doubly blessed with Kilpatricks, inasmuch as his son, Christopher, is a Navy chief quartermaster in Charleston.

Mr. President, on October 5, the Post and Courier newspaper in Charleston ran an excellent profile of James Kilpatrick in its style section. I know that many Senators count Jack among their good friends, and would enjoy the article. I ask that it be reprinted in the RECORD.

The article follows:

JAMES KILPATRICK: JOURNALIST KEEPS ART OF WRITING ALIVE

(By Bill Thompson)

James J. Kilpatrick, mellowed?

The very idea seems preposterous.

"I never weary of the combat. But I am of diminishing combativeness."

What happened?

"As a young editor, steam was always coming out of my ears, no question about it. But I've mellowed. Why? Age, wisdom. At 29 or 30, everything appeared more black and white. You'd take sides quicker. It was right or it was wrong; there wasn't much middle ground. Then you begin to grow older and you see most things are half-tone gray. Generally, there is something to be said on either side of the issue."

Can this be the tough-minded columnist who skewered liberals like so many limp shrimp, pilloried the pompous, raged against permissiveness and suffered fools not at all?

Well, yes, as it happens.

But, while Kilpatrick at 71 may not be the right reverend of rancor to which we had grown accustomed, he remains no less outraged by injustice, cruelty, muddleheadness or bureaucratic malfeasance.

The Scowl, verbal or visual, still can be summoned. The Glower, judiciously worn, remains a part of his repertoire. And the acidity he once brought to the popular "Point, Counterpoint" segment on CBS' "60 Minutes" still percolates beneath the surface.

Oh, he's modified his attitudes a bit, has cultivated more flexibility. But consider: Even in the furnace, a sword is brought to its fine edge by tempering.

Signs of mellowing could be seen as early as the mid 80s (triple-bypass heart surgery in 1983 having little to do with it, he says). Yet it is a mistake to suppose that Kilpatrick is nearing his anecdotage or that he has strayed from the Jeffersonian path.

"Once you're identified with either side of the spectrum, publicly labeled, certified and have tenure, it is automatically assumed that you are a die-hard, rock-ribbed conservative or a flaming liberal. It seems to be taken for granted that you are at one extreme or the other."

However, much that is traditionally conservative—fiscal prudence, for example—can be misinterpreted as liberal in 1991 when the subject is, say, military expenditures.

Kilpatrick is on record as opposing NASA's proposed Space Station Freedom ("A terrible waste of money and a bad thing for the space program as a whole") and the Navy's Seawolf submarine on the basis of relative cost-benefit ("How do you justify $2 billion for a submarine when its necessity is by no means certain?"). He can confound friends in the Pentagon as easily as the politically correct on campus.

"I've always believed I possess an independent mind. I have tried to be a relatively responsible conservative over the years. But I delight in stirring up my conservative fans, throwing them a curve or slider.

"I came out in favor of research on fetal tissue. And I came out in favor of this proposed survey of teen-age sex habits. That stirred some people up. They couldn't understand how in the world I could have taken those positions. But my conviction is that if we're going to take action at the federal level at all let's act out of knowledge and not out of ignorance."

While he sees much that is gray, clear-cut issues nonetheless exist for the native Oklahoman and the fire ducts can fire up on a moment's notice if need be.

On this day, the sparks are reserved for his computer, which has had the temerity to defy its master's wishes. A capricious box of circuitry, clearly it does not realize with whom it deals; the most widely read syndicated columnist in the land and one of the English language's most ardent practitioners.

Annoyances aside, Kilpatrick brims with good humor.

His office, a converted pool house in back of the family home at 75 South Battery, reflects something of the accommodation Kilpatrick has made with plurality: the glistening appurtenances of modern journalism—computer, printer, files, FAX machine—coexisting with the traditional—massive antique desk, fireplace, austere bookcases, a framed final edition of the Washington Star, an Impressionist nude by Melchers.

The personal touch derives from a cache of favored photographs festooning the walls; the patrolling of Happy, a Shetland sheepdog who plays unobstrusive sentinel; and landscape painting by Kilpatrick's wife of 49 years, Marie, depicting a scene from their former home in the Blue Ridge Mountains.

Charleston is a decided change of venue for Kilpatrick, whose son Christopher, a Navy chief quartermaster, also lives here. A resident of Virginia for almost 50 years, Kilpatrick moved to Richmond in 1941 to accept a job as a rewrite man with the Richmond News-Leader, directly out of the University of Missouri's School of Journalism. By age 30, he was its editor.

REPUTATION SECURED

His reputation as a volatile Southern conservative was secured not only by caustic editorials, but by the first of his three books, the incendiary "The Sovereign States" (1957). Vehement in tone, it articulated both a distaste for federal meddling and horror at the tyranny of the U.S. Supreme Court with regard to integration. From that point on, his reputation as a right-wing dogmatist was secured.

"These labels stick with you, no matter how inaccurate. This image some people seem to have of me as a rigid, dogmatic ideologue who hasn't had a new idea in 50 years simply isn't the case."

Kilpatrick departed the News-Leader in 1966, two years after inaugurating his nationally syndicated column, "A Conservative View," in order to invest his full energies as a commentator on politics and language.

He moved to Alexandria, beginning a longstanding association with the best and brightest, as well as the dimmer lights—of the Nation's Capital and beyond. Newsday nabbed him for its editorial page and later he signed on with the Washington Star syndicate. When the Star folded in 1982, Kilpatrick cantered into the Universal Press stable.

There have been numerous national political conventions, frequent forays abroad and interviews with "platoons of presidents, prime ministers, ambassadors, con artists, senators, diplomats and medical quacks." And, of course, the consistently provocative column.

Owning the perspective of a half-century of journalism, Kilpatrick knows something of how things work in reality, not fable.

"I wouldn't be in any other business. I've learned all kinds of lessons out of newspapering. The way government really works, as distinguished from the way it is thought to work. Over the years you learn something about the nature of power, political power: How you get it, how you exercise it, how you lose it and under the Constitution, how you restrain it. Power is what it is all about in the public arena. And you learn something out of the newspaper experience about the evil nature of man and the goodness that is there also.

In the mid-80's, the Kilpatricks departed Washington, moving to White Walnut Hill, near Scrabble, Va. After a decade and a half savoring the country life, they chose to set up housekeeping in Charleston. The Kilpatricks purchased their South Battery home on Monday, Sept. 18, 1989—three days before Hurricane Hugo had the bad taste to visit its wrath upon the Lowcountry.

LOVE OF LANGUAGE CONTINUES

Though buffeted by the winds which beset all writers, his love affair with language and the writing life never has waned. But little comes easy. As the later sportswriter Red Smith was wont to say, "There's nothing to writing. You just sit down behind a typewriter and open up a vein."

Kilpatrick chuckles, agrees.

"It comes hard. After I've done all the reading and research that needs to be done on a column, it will take me two hours to get those 750 words into this infernal machine. Then, if I have it, I'll spend another hour rewriting the damn thing. I'm so seldom satisfied with what I write. I labor over it. My goal is to produce one first-rate sentence a month."

The license plate on Kilpatrick's steel blue Mercedes, appropriately enough, bears the legend "OP ED." His columns appear in 510 newspapers, down slightly from the 550 of five years ago. But he is far and away the most widely read in the field, a fact which might engender delusions of grandeur in another.

"I hope I don't fall victim to hubris. I keep in mind that part of it is sheer economics; my copy is the cheapest they can buy. A small paper pays $5 a week for four columns of 750-800 words each. Not all the columns may be good ones. But I work at it. Don't ever let anyone tell you writing is easy. It's hard work, at least for me. I let the readership or the market determine whether or not I'm out of date."

Meantime, he's broken ground on a second edition of "The Writer's Art," which is scheduled for publication late next year or the spring of 1993.

In excellent health. Kilpatrick will indulge in a few toddies before dinner. But he's quit smoking—again. And he remembers the last puff: "Two in the afternoon, June 20, 1990."

A defender of good grammar, but by no means pedantic, Kilpatrick says he has offended some of the purist grammarians "with some of my cavalier views." Here is a

fellow who appreciates the music of language, yet can exhort young writers, not without a wink, to: "Be murky clearly."

His own views are decidedly straightforward.

One Print vs. Electronic Media: "those of us in print journalism have at least a little more time. We have a greater capacity for the nuance, for exploring of a particular side, for the qualifying quote that makes all the difference sometimes. We have a great advantage in print, if we survive—and we will."

On Literature in Academe: "I see no reason why some works from other cultures and traditions can't be studied alongside the great works of Western Civilization. In fact, there are some in the canon of the great works of Western Civilization that I think would felicitously be dropped—some of those novels we all had to slug through in school."

On Myth-Making and History: "I'm concerned that in certain institutions of higher learning some of the key people are inventing 'comfortable myths' of history to help the self-esteem of minority groups—in the name of cultural pluralism and diversity. There is something to be said on both sides of this controversy. I expect that blacks probably have been the losers in most of the history written by the white Anglo-Saxon Protestant. But not as much as is now proclaimed.

"I believe that it would be desirable and honest to take a very critical look at aspects of our history that have been neglected in terms of women and minorities. At the same time you can go so far in that direction that you wind up with made-up revisionist history and comfortable myths. In some cases, there is no basis for it; it's all fabricated. And that damages the whole cause of history and certainly doesn't help minorities."

On Desert Storm: "We learned a lot about our new weapons systems, at relatively little loss of American lives and at relatively little expenditure of taxpayer money. You hate to say that this is one of the things we got out of Desert Storm. I don't know that we got much else out of it. Out of evil, good. But to say let's go kill 100,000 Iraqis just find out if a weapon works, you can't justify that morally.

"I was hoping that we would have contributed more toward stability in the Middle East, but this doesn't seem to be the case. And I haven't seen a great rush of the region's nations to our side, politically. But I'm still satisfied we did the right thing. We could not permit Saddam Hussein to get away with the rape of Kuwait. It would have invited similar adventures."

On Patriotism: "There was a good deal of instant or puffed-up patriotism during Desert Storm, but at bottom I believe it was sincere. And I'm not sure there was, or is, more than usual. Even if this is the case, then there is plenty of debunking going on. With every wind that blows, somebody is knocking our country one way or another: We are called the most violent nation on earth, we've got the worst drug problems, our rates of illegitimacy are terrible, Bush has neglected education and health care, the Congress is going to the bow-wows, the roads are crumbling, the infrastructure is blown to pieces. We don't lack for critics. And there is plenty to criticize which, like it or not, is the nature of news. However, I don't think we in the media do enough to talk about the good things.

"The good kind of patriotism can be manifested in all sorts of ways other than waving the flag. It's love of country and that can be shown just by a person trying to be a good citizen in a lot of little ways."

On Abortion: "I'm basically a freedom of choice person. I don't like the idea of access to abortion being easy, but the liberty clause of the Fourteenth Amendment and the Ninth Amendment provides the Constitutional foundation to say that one has the right to this. As a conservative, I object to the intrusion of the state in areas of our personal responsibility. A foundation of conservative thought is to keep government off our backs and out of our lives. I can not imagine a greater violation of conservative philosophy than the current 'conservative' position on abortion, which allows the state to intervene in this most intimate, difficult decision in a woman's life.

"I will defend the right of anti-abortionists to march in the streets, but when they start blocking entrances to these clinics and harassing these sad women going through such a traumatic experience and physically abusing the nurses and medical personnel, that's something else. Zealotry has an ugly face."

On Ronald Reagan: "He was always very kind to me and I have great affection for him. A fine person a wonderful guy. He was always an actor. He played the role of president and I don't mean that in any perjorative or critical sense at all. The notion that he was just some amiable dunce is one that should be put aside. He has a very capacious knowledge of government."

On USA Today: "I think the editors of USA Today have provided us with something to think about. I'll stick up for it. Obviously there are shortcomings, but it has pioneered in some areas and is widely emulated. On the other hand, it's never going to replace *The New York Times*."

On "Saturday Night Live": "I thought Dan Aykroyd's and Jane Curtin's stabs at Shana Alexander and me were funny. Shana enjoyed the send-ups of 'Point, Counterpoint' so much she taped them all. When she'd have a party at her home on Long Island, she put them in the tape player and entertained everyone."

On Exuberant Young Talents: "I sometimes wonder how much talent is there. In my book 'The Writer's Art' I recall Truman Capote's quote on Jack Kerouac's 'On the Road': 'That's not writing, that's typing.' Kerouac was an exuberant young talent, but who reads him now? The writers who have managed to last and were equal to the task bring some sense of discipline to it.

"Picasso, remember, did not proceed to break the rules until he had mastered them."•

THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

• Mr. HOLLINGS. Mr. President, the Nation is at peace internationally, but a deadly, daily war continues within our own borders—the war against crime. The foot soldiers in this war are America's law enforcement officers, men and women who put their lives on the line, and who serve our country with no less valor and dedication than our soldiers who fight on foreign battlefields. Each year, hundreds of these law enforcement officers are wounded, disabled, or killed in the line of duty. It is a terrible toll—a risk which these men and women voluntarily expose themselves to as the price of ensuring our domestic tranquility.

It is entirely fitting that this city of Washington, with its many monuments to national heroes, yesterday dedicated a striking new memorial to our Nation's fallen police officers. The National Law Enforcement Memorial, located on Judiciary Square, includes the engraved names of 12,561 law enforcement officers killed in the line of duty.

Mr. President, the State of South Carolina is well represented on this monument of heroes. In this century alone, 161 South Carolina law enforcement officers have been killed in the line of duty. From my time as Lieutenant Governor, I have vivid memories of the tragic slaying of Highway Patrolman Harry Boyd Ray in 1958. More recently, in 1990, St. Stevens police officer Joshua Milligan was stabbed to death while attempting to arrest a suspect. And, in August of this year, police officer William J. Werner of Seneca was struck and killed by a suspect's car while he was manning a roadblock.

Mr. President, the National Law Enforcement Memorial is a proud and heroic monument—a fitting recognition of the courage and sacrifice of America's fallen law enforcement officers. It is a national memorial that is long overdue.•

NATIONAL RED RIBBON CAMPAIGN, STATE OF OREGON

• Mr. PACKWOOD. Mr. President, it is my pleasure to serve as honorary chairman of the National Red Ribbon Campaign for the State of Oregon. I only wish I were able to be at home to participate in the many activities planned for the 1991 Red Ribbon Week.

The 1991 theme, "Neighbors—Drug Free and Proud," embodies the essence of the force that will make this a drug-free society. Neighbor helping neighbor, friend helping friend, family helping family, community helping community. This is a battle that must be waged in the homes, in the streets, in the schools and in the workplace.

Mr. President, I commend the Oregon Federation of Parents for Drug Free Youth and Dr. Peter Kohler for their unending dedication and work to make Red Ribbon Week a success. It may be some time before we are truly a drug-free society, but due to the efforts of everyone involved, today we are one step closer. I sincerely believe that the solution to our Nation's drug problem will be achieved through the devotion and commitment embodied in National Red Ribbon Week.

To the Oregon Federation of Parents for Drug Free Youth, Dr. Kohler, and all courageous, involved, citizens, best wishes—and may we all be drug free and proud.•

MICHIGAN AVIATION HALL OF FAME

• Mr. LEVIN. Mr. President, Michigan has played a key role in the history of

the aviation industry. Henry Ford and the Wright Brothers began the first aero club back in 1909 in Detroit. America's first commercial air service was launched in 1935, with flights from Detroit to Chicago. Michiganians have helped develop what has become an indispensible mode of transportation and national defense in the 20th century.

On Saturday, October 26, 1991, aviation enthusiasts will gather in Lansing to honor five pioneers in the field: Bill Boeing, founder of Boeing Airplane Co.; Robert Fuhrman, an aerospace engineer; Ann Pellegreno, a pilot; Michael Erard, a military pilot; and Alfred Verville, an airplane designer. They join such distinguished previous honorees as Talbert "Ted" Abrams, James A. McDivitt, Jack Lousma, Gen. Earl O'Loughlin, and Henry Ford.

The sponsoring organization—the Michigan Aviation Hall of Fame—is largely responsible for the long overdue recognition of the major place that Michigan holds in U.S. aviation history.

Thanks to the tireless efforts of its President, Herb Swan of Gaylord, MI, the hall of fame has been gathering and storing data and artifacts relating to Michigan's role in flight history.

And thanks to Herb Swan and an ever-expanding group of backers, the hall of fame will soon break ground for its long-awaited museum in Lansing. In addition to the actual exhibits, the museum will include a library, video theater, workshop and study area, conference room, and gift shop. Displays will include memorabilia from the armed services, space exploration, and airports; special exhibits will focus on current events and on women in aviation.

Herb and his friends have pushed and cajoled and, yes, pleaded their case: the collection and preservation of objects and artifacts relating to the proud history of Michigan aviation. The new museum undoubtedly will become a center for education and research; those who have backed its creation should take pride in their successful efforts to promote a sense of appreciation for the origins and growth of the industry and Michigan's contributions to aviation in America.

Mr. President, I salute Herb Swan, the hall of fame's board of directors, and all those who have supported their endeavors. I look forward to the continued growth and success of the Michigan Aviation Hall of Fame.•

ST. MARY ACADEMY-BAY VIEW, 1990-91 BLUE RIBBON SCHOOL

• Mr. PELL. Mr. President, as chairman of the Senate Subcommittee on Education, Arts, and Humanities, it is an honor and a privilege to offer my congratulations to St. Mary Academy-Bay View on being named a 1990-91 Blue Ribbon School.

This is indeed a very significant award. Only those schools which meet the most rigorous standards of achievement and excellence are named Blue Ribbon Schools. In fact, less than one-half of 1 percent of all our Nation's schools receive the Blue Ribbon Schools Award. It is the highest honor bestowed by the Department of Education and was created to recognize outstanding public and private elementary and secondary schools across the United States that are unusually effective in meeting national education goals.

While much is learned at the St. Mary Academy-Bay View, certainly, much can be learned from them.

At Bay View, Sister Maureen McElroy has fostered an environment where students are encouraged to realize their potential both inside and outside of the classroom. Students take part in community service activities with faculty guidance. Local business leaders participate in a career awareness program that introduces students to the demands of the work world. St. Mary Academy-Bay View sends 94 percent of its students on to higher education, an impressive record for all our schools to reach.

Mr. President, the importance of a well-trained mind can never be overstated, no matter how often we speak of education, no matter how much we do to improve our schools.

I remind the students of St. Mary Academy-Bay View and my colleagues here in the Senate of the eloquent words of Joseph Addison:

> Education is a companion which no misfortune can depress, no crime can destroy, no enemy can alienate, no despotism can enslave, at home a friend, abroad an introduction, in solitude solace, and in society an ornament. It chastens vice and guides virtue.

St. Mary Academy-Bay View exemplifies the high standard of educational excellence upon which our Nation so critically depends. I congratulate all the people of the St. Mary Academy-Bay View community for the shining contribution they have made to our national wealth. They have brought honor and distinction to their community and to our State. I have said many, many times that our real wealth as a nation is measured by the sum total of the education and character of our people. I urge them to continue to work hard to maintain the fine standard they have set and, once again, express my heartfelt congratulations for a recognition well earned.•

REFERRAL OF SENATE RESOLUTION 198

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of Senate Resolution 198, and it be referred to the Committee on Foreign Relations.

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

POWER OF INDIAN TRIBES TO EXERCISE CRIMINAL JURISDICTION OVER INDIANS—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 972 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 972) to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. GORTON. Mr. President, I will speak briefly about why I decided to allow the permanent extension of the Duro overturn to pass in spite of strong reservations regarding what I believe are inadequate civil rights protections for Native Americans on this country's Indian reservations.

My colleagues in the Senate are probably not aware of the long bipartisan battle which I waged with several other Senators against making permanent the Duro versus Reina Supreme Court decision overturn. As a group, we are concerned that a series of Supreme Court decisions have had the effect of creating a class of Americans who do not possess full constitutional protections in every corner of this country. We believed that the only leverage we had in this battle was the Duro legislation, and we were right.

I do not want to go too far into the complexities of the issue and the different twists and turns of negotiations with members of the Senate Select Committee on Indian Affairs. Suffice to say, however, because of my work and the work of the other Senators, we have an agreement to fully examine the issue of tribal sovereignty, tribal courts, and Federal review of Indian civil rights claims from the chairman of the select committee, Senator INOUYE.

Mr. President, I know that Senator INOUYE will hold these hearings to honestly examine this issue. In my view, these hearings will prove enlightening to my colleagues in the House and the Senate. I foresee a new understanding and sensitivity to the problems caused

by the lack of adequate constitutional protection for all Indians on reservations as a result of these hearings.

Mr. President, I would be remiss if I did not mention the critical advice that I received on this issue from my friend and distinguished colleague, Senator JOHN MCCAIN. I credit Senator MCCAIN with providing me crucial insight into the necessity of preventing a criminal misdemeanor jurisdictional void from being recreated on reservations throughout this country. It was primarily Senator MCCAIN's advice and counsel, as well as his willingness to stick by a commitment, which persuaded me to agree to the permanent overturn.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

PUBLICATION OF PROCEDURAL RULES OF THE SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, in conjunction with the report of Senate Resolution 185, and on behalf of the distinguished Senator from Massachusetts [Mr. KERRY] and the distinguished Senator from New Hampshire [Mr. SMITH] I would like to propound a unanimous-consent request relating to the publication of the procedural rules of the Senate Select Committee on POW/MIA Affairs in the CONGRESSIONAL RECORD.

Although the Senate established the select committee on August 2, 1991, the Senate acted upon the resolution to fund the committee's operations and to delineate further the committee's powers. I, therefore, ask unanimous consent that notwithstanding Senate rule XXVI the Select Committee on POW/MIA Affairs be provided a period of 15 calendar days from the date of the Senate's agreement to this resolution within which to publish its rules of procedure in the CONGRESSIONAL RECORD.

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

Mr. FORD. Mr. President, on Wednesday, the Senate agreed to Senate Resolution 185, as amended, which provides for expenses and supplemental authority of the Select Committee on POW/MIA Affairs. The select committee ordered favorably reported on September 25, 1991, Senate Resolution 185, an original resolution requesting $2,615,887 in operating expenses. The Committee on Rules and Administration at its markup on October 3, 1991, reported favorably an amendment in the nature of a substitute to Senate Resolution 185, reducing the funding to $1.9 million for the authorized life of the select committee which will end January 2, 1993. This amendment has been agreed to by both Senate leaders, as well as the chairman and vice chairman of the select committee, and keeps the authorization amount in line with funding for other committees.

Mr. President, Senate Resolution 185, as amended also provides separate authorized amounts for each funding period consistent with other committees of the Senate. In the same manner, unused surplus carryover funds are authorized through September 1992.

This substitute resolution also provides that the majority and minority leaders will be ex-officio members of the select committee. In view of the nature of its mission and the sensitivity of much of the information it will deal with, the amendment includes provisions to conform the committee's operations, and specifically its handling of classified information, in accordance with Senate Resolution 400. both of these provisions are consistent with the Select Committee on Intelligence.

Any foreign travel by select committee members and staff shall be deemed to be on behalf of the Senate and will require leadership authorization consistent with section 4(2)(A) of Senate Resolution 179, agreed to May 25, 1977.

Finally, Mr. President, the select committee will be authorized to use staff from other committees and to pay for travel expenses of such staff, but will not be permitted to reimburse the salaries of such borrowed staff.

COMMENDING THE PEOPLE OF MONGOLIA ON THEIR FIRST MULTIPARTY ELECTIONS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 21.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 21) entitled "Concurrent resolution commending the people of Mongolia on their first multiparty elections", do pass with the following amendment:

page 1, in the penultimate clause of the preamble, after "reform", insert "and the Executive Branch has responded by providing development and food assistance for fiscal year 1991 and has proposed similar assistance for fiscal year 1992".

Mr. MITCHELL. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the Senate's action in concurring with the House amendment.

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

The motion to lay on the table was agreed to.

THE CIVIL RIGHTS ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 236, S. 1745, the Civil Rights Act of 1991.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I now move to proceed to Calendar No. 236, S. 1745, and I send to the desk a cloture motion.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1745, a bill to amend the Civil Rights Act of 1964:

Paul Simon, Paul Wellstone, Joe Biden, Bob Graham, Claiborne Pell, Wendell Ford, Paul Sarbanes, Richard H. Bryan, Christopher Dodd, Bill Bradley, Joseph Lieberman, Edward M. Kennedy, Don Riegle, Al Gore, Terry Sanford, John D. Rockefeller IV.

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote on the motion I have just filed occur at a time to be determined by the majority leader after consultation with the Republican leader, and that the mandatory live quorum be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FEDERAL FACILITIES COMPLIANCE ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 596 be laid aside to reoccur at 2:15 p.m. on Tuesday, October 22; and I further ask unanimous consent that, when the Senate resumes consideration of S. 596, the only amendments that remain in order

be the following: managers agreement on technical amendments; a Wirth amendment re: energy efficiency; and relevant second-degree amendments to the Wirth amendment; and amendments dealing with the subject of the unauthorized release of confidential Senate documents.

Mr. DOLE. Mr. President, reserving the right to object, I will not object for the time being. That would be any unrestricted number of second-degree amendments though we hope we could restrain that on Tuesday; is that correct?

Mr. MITCHELL. That is correct.

Our private discussions have centered on—in the event we cannot reach agreement, which I believe we can—that Senator SEYMOUR would offer his amendment to the bill which would then be pending. I would then offer a second-degree amendment which would be broader in scope, and we would then decide on those and then proceed to disposition of the bill.

That is not required under this. But we have agreed that we cannot clear that now with our respective colleagues, and we will attempt to do that between now and Tuesday when this matter occurs.

The PRESIDING OFFICER. The Chair in his role as a Senator from Colorado would like to reserve the right to object and request that the distinguished majority leader include in his unanimous-consent request a description of the Wirth amendment, a printing of the Wirth amendment in the RECORD at this point, and I will not object.

Mr. MITCHELL. I so modify my request.

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

(Purpose: To direct the Architect of the Capitol to pursue recycling of materials and cost-effective energy efficiency)

On page 6 after line 12, insert the following new sections:

SEC. 5. ENERGY MANAGEMENT REQUIREMENTS FOR CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol shall undertake a program of analysis and retrofit of the Capitol Buildings, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds as described in subsection (b).

(b) PROGRAM. —

(1) LIGHTING.—Not later than 18 months after the date of enactment of this Act, the Architect of the Capitol shall, to the maximum extent practicable, replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less. The Architect shall also, wherever practicable in office and general use areas, replace incandescent lighting with efficient fluorescent lighting.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Architect shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report evaluating potential energy conservation measures in each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment. The report shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measure.

(3) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Architect shall issue an implementation plan for the installation of all energy conservation measures identified in paragraph (2) with payback periods of less than 10 years.

(B) INSTALLATION.—The plan shall provide for the installation of the measures described in subparagraph (A) not later than 6 years after the date of enactment of this Act.

• Mr. WIRTH. Mr. President, my efforts concerning the conservation of energy in Senate buildings began more than 4 years ago, when I was chairing an energy efficiency hearing of the Energy Committee. One of our witnesses pointed out that the lights in the hearing room were extremely inefficient and, like most of the Senate buildings, could be made much more efficient, set an example, and save money for the taxpayer.

I asked the witness if he would help, and before long we assembled a task force of lighting experts to examine the Senate system and make recommendations. For much of the next 2 years we attempted to persuade the relevant authorities that the Senate had a problem, that it would be fixed, and how. After a good deal of work, and more persuasion, we finally were able to convince the building authorities of what could be done, and about 6 months later, energy efficient lighting was installed in my office and that of Congresswoman Schneider of Rhode Island. It has been in place for a year and is working fine.

These fixtures use 30 percent less energy than before. If installed in the Russell Building alone, we could save a minimum of $65,000 per year; across the Capitol complex, more than half a million dollars—savings for doing what we ought to do anyway.

There are a number of very simple measures by which we can save energy in lighting. We could replace many of the electronic starters—ballasts—that are part of every fluorescent light fixture. The vast majority of the fluorescent lights in the Capitol buildings use inexpensive, but inefficient, ballasts. Longer lasting solid-state starters use far less electricity and are far more cost-efficient.

We could use more efficient light bulbs. The energy-efficient fluorescent light bulbs in my own offices produce as much light from three bulbs as standard bulbs do with four.

We can, in many instances, replace incandescent lights in lamps and for area lighting with fluorescent lights, which use far less energy.

And I have no doubt that more modern thermostat control systems for our heating and cooling could save us an enormous amount of energy, and money, and that there are many similar opportunities for us to increase the efficiency of all the ways we use energy in the Congress.

My amendment requires the Architect of the Capitol:

First, to update all lighting fixtures within the congressional complex with highly efficient, modern lighting units.

Second, to study and report back to Congress within 6 months on other energy conservation measures with a pay back period of less than 10 years. These measures include improvements in heating, ventilation, air conditioning, insulation, and windows. The amendment also requires the Architect to provide an implementation plan and to make these improvements within 6 years.

Third, to devise and implement a comprehensive recycling plan for all areas under control of the Architect of the Capitol including white paper, cans, glass, and newsprint.

My amendment calls for efficiency throughout Congress—and more. Why not be much more careful about our heating and air conditioning, with a significant demand-side management program? We ask the country to do this—where are we?

Mr. President, the Congress has to take many steps to get back in step with the American people, with what we ask of the people, and with what they expect of us. This is a small step, but an important one. I was pleased that the Senate earlier accepted strong recycling language. Now let us get on to energy.•

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none. It is so ordered.

ORDERS FOR FRIDAY, OCTOBER 18 AND TUESDAY, OCTOBER 22, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Friday, October 18; that on Friday, the Senate convene for a pro forma session only; that when the pro forma session closes, the Senate stand in recess until 10:30 a.m. on Tuesday, October 22; that on Tuesday, October 22, following the prayer, the Journal of the proceedings be deemed approved to date; and following the time for the two leaders, there be a period for morning business not to extend beyond 12:30 p.m. with Senators permitted to speak therein for up to 10 minutes each; that the Senate stand in recess from 12:30 to 2:15 in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered until 10 a.m. on Friday, October 18.

There being no objection, the Senate, at 9:47 p.m., recessed until Friday, October 18, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 17, 1991:

FEDERAL RESERVE SYSTEM

ALAN GREENSPAN, OF NEW YORK, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FORD BARNEY FORD, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 1996 (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

U.S. POSTAL SERVICE

THE FOLLOWING NAMED PERSONS TO BE GOVERNORS OF THE U.S. POSTAL SERVICE:

TIRSO DEL JUNCO, OF CALIFORNIA, FOR THE TERM EXPIRING DECEMBER 8, 1999, VICE IRA D. HALL, JR., TERM EXPIRED.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PIESTWA ROBER HAROLD AMES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 1996, VICE HERMAN AGOYO, TERM EXPIRED.

CONFIRMATION

Executive Nomination Confirmed by the Senate October 17, 1991:

DEPARTMENT OF ENERGY

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION:

ELIZABETH ANNE MOLER, OF VIRGINIA, FOR THE TERM EXPIRING JUNE 30, 1994. (REAPPOINTMENT)

BRANKO TERZIC, OF WISCONSIN, FOR THE TERM EXPIRING JUNE 30, 1995. (REAPPOINTMENT)

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, October 17, 1991*

The House met at 10 a.m.

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

As we give thanks for this new day, O God, we pray that we will gain discernment in what is important in our lives and what is transient, between what is indispensable and what is only interesting, between what is essential and what is superfluous. Grant each of us the wisdom to understand the great gifts of life and to be filled with concern for those essentials of faith and hope and love that make us truly human and truly responsible. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from South Carolina [Mr. TALLON] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. TALLON 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 1-minute requests but not to exceed 10 requests on each side.

EXTENDING DEEPEST SYMPATHY TO KILLEEN, TX

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

Mr. MAZZOLI. Mr. Speaker, I am sure that today I am not the only person who will address comments to the terrible carnage which took place in Killeen, TX, yesterday.

In some respects, those of us from Louisville and Jefferson County are particularly sympathetic and extend particularly deep senses of sympathy to the survivors and loved ones of the people killed and wounded in that shooting spree, because slightly over 2 years ago in Louisville, within a few feet of the Federal Building where my office is, a man, a demented person, using an AK-47, shot the place up, his former employment area, killed eight people, wounded many people, then killed himself.

Mr. Speaker, today we will have an opportunity to do something about these killings. There will be an amendment offered later today to strike from the crime bill a section which bans the manufacture, sale, and importation of 13 kinds of semiautomatic assault weapons. I urge my colleagues to vote against the amendment.

I only say to my colleagues that I realize the difficulty of the issue, but we have before us an opportunity to do something good for America and to save lives in the process.

JAMES MADISON AND THE OCTOBER SURPRISE

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

Mr. STEARNS. Mr. Speaker, James Madison wrote: "The essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse."

One of the reasons we were sent here, Mr. Speaker, is to do all we can to stop abuses of power.

One way we can do that is by making certain that the great power entrusted to us is not bent to the use of any faction or ideology.

That is why I am so concerned about the fact we will have an investigation of the October surprise charges in the House.

These charges are clearly partisan in origin. The original newspaper article by Gary Sick, former staff aide to President Jimmy Carter, led directly to the investigation.

Let me ask you a question, Mr. Speaker: Do you believe that if similar charges were leveled by the Republican right against a Democratic Party Presidential nominee, we would be holding an investigation?

This October surprise investigation is not one of our brightest ideas, especially in light of the public's revulsion against the excesses we saw on television during Judge Clarence Thomas' ordeal.

IT IS TIME TO TAKE CARE OF OUR OWN

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

Mr. DORGAN of North Dakota. Mr. Speaker, Will Rogers once said that when there is no place left to spit, you either have to swallow your tobacco juice or change with the times.

The President again yesterday demonstrated that he is unwilling and unable to change with the times. He vetoed the bill to provide extended unemployment benefits to those folks who have lost their jobs in a recession and cannot find another.

Frankly, I think the President's priorities are out of line. He said yesterday, again, "Let us give the rich another big tax cut." He also is setting an international travel record hauling American tax dollars around the world to those that ask for help.

I think the President is wrong. I think it is time for us to do what we need to do for families here at home.

We do not need more tax cuts for the rich. We do not need more foreign aid. We need to say to those families who have lost their job in a recession and cannot find another that we are willing to help.

It is time to take care of our own.

RESIGNATION AS MEMBER AND ELECTION AS MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore (Mr. MAZZOLI) laid before the House the following resignation as a member of the Committee on Public Works and Transportation:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 17, 1991.

Hon. THOMAS FOLEY
Speaker of the U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby resign my seat on the Committee on Public Works and Transportation.

Very truly yours,

FRED UPTON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

Mr. LEWIS of California. Mr. Speaker, by direction of the minority leader, I call up a privileged resolution (H. Res. 249) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 249

Resolved, That Mr. Gillmor of Ohio be, and he is hereby, elected to the Committee on Public Works and Transportation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

STOP THE TOMFOOLERY

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

Mr. GEKAS. Mr. Speaker, I am greatly surprised by the October surprise that is about to surprise the House.

This investigation is based, as has been said, on a newspaper or media report about a possible implication of the Reagan and Bush campaign with Iran in 1980.

Why not investigate the Kennedy Presidency connection with the Mafia, or the Jimmy Carter briefing-book idea, or how about George Washington's finances during the Valley Forge incident? And how about the funeral, or the assassination of, as alleged, of Zachary Taylor?

We can do all kinds of investigations in this House. All of them would be making waste of the taxpayers' money and laying us open for more ridicule at the hands of the American public.

Let us stop this tomfoolery. We are going to have a conspiracy on every corner of this Capitol, and there is not enough money in the whole world to finance October surprises.

□ 1010

WINTER OF THEIR DISCONTENT

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

Mr. RHODES. Mr. Speaker, the leaves are falling, the days are getting shorter, and the wind has got a sharper bite to it. October is here. And the Congress is launching an investigation of the so-called October surprise.

The October surprise task force is supposed to investigate charges that the Reagan campaign fiendishly delayed the release of the American hostages held in Iran.

These charges come from sources whose integrity is questionable, if not doubtful.

The American people demand action on the crime and highway bills. And the Democrats spend their time chasing down wild rumors and erroneous allegations about the Reagan campaign.

The surprise of October will be the frustrated response of the American people who are tired of the misplaced priorities of the Congress. As the wasteful October surprise investigation drones on through the winter, the public will be further convinced that Congress cannot effectively address their real concerns. For the American people, the October surprise is just the first sign that this will be the winter of their discontent.

HEALTH CARE SIRENS

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

Mr. DOOLEY. Mr. Speaker, sirens are going off all over this country about the sorry state of health care, but the Bush White House has not heard a thing.

Is it any wonder that every major health care proposal currently being debated has been introduced by Democrats?

Senior citizens, business, labor, doctors, and other health care professionals—all have turned to the Democrats in Congress to get something done. They know that domestic issues are foreign at the White House.

This week, a coalition of 285 business groups joined the health care debate. They are working with Chairman ROSTENKOWSKI and Senator BENTSEN to address some of their stated goals.

That's a positive step if we are to rework our health care system so that it helps all Americans.

It is time the Bush White House got engaged on this issue and started listening. Americans are crying for help.

HEALTH CARE CRISIS

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

Mr. HASTERT. Mr. Speaker, we just heard the previous speaker talk about health care in this country. We certainly have seen proposals by the Democrat Members of this Congress. We have seen a proposal by the gentleman from Illinois [Mr. RUSSO] that says we adopt a one-payer provider care program in this country. It happens to cover a lot of people, but it also happens to raise taxes. It raises taxes on individuals 34 percent. It also happens to raise taxes on corporations 34 percent. It also happens to leave a $100 billion deficit at the end of the fiscal year.

Yes, I think we need to look at health care. We need to look at reasonable ways to address health care in this country. But one thing we need not do is tax the American people to death.

A LETTER FROM AN UNEMPLOYED CONSTITUENT

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

Mr. SMITH of Florida. Mr. Speaker, a letter from an unemployed constituent in Miramar, FL.

I've been working since I was 12 years old. I delivered newspapers for the Miami Herald. I've been working my whole life and I've never run into a problem like this in my whole life.

I've been married for 12 years, I have a boy 10 years old and my daughter's 5, they both are in school. I've been unemployed since June 7. I am a union member.

Now I've been out of work since June 7 and my unemployment is getting ready to run out anyday. What am I supposed to do? I am the sole supporter of my home.

I go to the union hall everyday and there's no work not even residential which is only $10 dollars an hour—there's none of that.

And all that unemployment tax money—the federal tax money—I was wondering what they're doing with all that money and I don't know what to do.

The President vetoed it and said it would cost too much.

The unemployment fund I've paying into since I was a kid and now when I need it it's not available.

If I was a single person, if I wasn't trying to raise a family, I wouldn't care. I've trying to raise a family and put a roof over their head and send them to school to get an education.

Here I am 35 years old and this happens.

I've never experienced this before—I can't even afford the insurance on my vehicle so I had to turn the tags in on my car.

I had to cut everything back to the bare necessities.

And I can't even afford a vehicle to look for work.

The President wants to give money to other countries to help get them through the winter but what about people like us who have been working our whole life?—since I was in 7th grade—here I am 35 years old—my kids are one quarter of the way grown and there is no work or anything.

Mr. Speaker, a powerful message to the President of the United States. Stop playing God with people's lives in this country. Let us get an unemployment bill signed.

RETURN TO "THE THRILLING DAYS OF YESTERYEAR"

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

Mr. COX of California. Mr. Speaker, we all remember the words of the announcer of the Lone Ranger show: "Return with us now to those thrilling days of yesteryear."

It appears that the liberal majority is about to do just that. How else can we explain the fact that they are apparently taking seriously their looney tunes conspiracy they call the October surprise.

A return to history can be a useful thing if we learn from it. But it appears that the leftwing in this body has not learned much at all about history. They still do not recognize the legitimacy of Ronald Reagan as President of the United States. They see that his great Presidency represented a rejection by the American people of their leftwing ideas.

So the leftwing in this body cannot admit that President Reagan's ideas were popular. Instead, the Reagan Presidency must have been caused by some great conspiracy.

As a Republican, I hope the majority continues with this ridiculous notion, because it will only serve to further embarrass them in the eyes of the American people. But as a Member of this House, I wish that we would get down to serious business.

Mr. Speaker, why are we rerunning the election of 1980 when there is so much to do in 1991?

EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS

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

Mr. DURBIN. Mr. Speaker, I was very disappointed with yesterday's failed vote in the other body to override the President's veto of a bill to extend unemployment benefits. How can we possibly explain this to the millions of unemployed Americans who have exhausted their unemployment benefits?

Here is a letter that I have just received from one of my constituents. He writes to me:

> I was laid off on July 1 and, while I am hopeful of returning to employment soon, I am only too painfully aware of the tightness of the present job market. I found out in late February that I was to be laid off. Three hundred plus résumés and applications and five months later, I am still looking for a new job.

What we face with this vote is whether or not people just like this gentleman face the prospect of turning to welfare as opposed to staying on unemployment benefits.

The House of Representatives and the Senate have passed a bill extending unemployment benefits twice, extending dignity to the unemployed Americans who are caught in this situation, and twice President Bush has vetoed that bill. We have to revisit this issue. We cannot leave it in this situation. We have to give to these unemployed Americans the same compassion which we are extending to nations around the world.

If we can spend millions of dollars to help them back on their feet, let us spend money to help Americans back on their feet, too.

WATERED DOWN DEMOCRAT CRIME BILL

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

Mr. ZELIFF. Mr. Speaker, enough is enough. Today we debate the watered down Democrats version of the President's crime bill. A bill that guts the most important crime control measures that the President seeks, and which conservatives in the House have sought for years.

The Supreme Court has been pleading with Congress for years to put the brakes on the constant flow of special appeals filed and refiled by prisoners who have already gone through the normal appeals process. The President, and Republicans here in the House, have come up with a plan to do this. It eliminates special appeals 6 months after exhausting the normal appeals process, unless a prisoner can show a violation of State or constitutional law, can rely on a new right, or can produce new evidence. It is a tough standard that will keep frivolous appeals out of our overburdened courts, but allow reconsideration of genuinely questionable convictions.

The new limits proposed in the committee crime bill bends so far over backward to keep from convicting someone of a crime prematurely that a court can never throw the book at really bad offenders because the book is almost never finally closed.

Guilty people should go to jail, innocent people should be exonerated, and victims should be protected by laws that work. Too often, liberals seem fixated on making sure that guilty people go free if an "i" is not dotted or a "t" crossed. Never mind who was killed, raped, or robbed.

Let us pass tough language, like the President recommended, to limit these special appeals and reduce the already overwhelming burden on the Supreme Court.

FAILING AMERICAN AUTO INDUSTRY

(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, in 1986 Detroit sold 16 million cars. In 1990 Detroit sold only 12.5 million cars. There was a 21-percent drop in American-made cars. To boot, now Japan has 30 percent of America's car markets.

□ 1020

What bothers me, Japan only gives a 2-percent opportunity for our cars in their marketplace.

Mr. Speaker, the truth is Japan keeps Detroit out and America keeps the doors wide open for Japan. Meanwhile we are going bankrupt and Congress will do nothing about Japanese illegal trades

Mr. Speaker, what has happened to the Democrat Party? We are debating unemployment benefits on the floor, but we allow the Japanese to come in here, take our marketplace, take our jobs, and we call it free trade.

Mr. Speaker, I think the Democrat Party better take a look at its roots.

ACCEPT NO SUBSTITUTE

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

Mr. EWING. Mr. Speaker, accept no substitute. The amendment to be offered by my colleague, BILL MCCOLLUM, on the exclusionary rule will be the only true reform of this rule.

Nothing frustrates the public more than when a hardened criminal gets out of jail because of a legal technicality.

The means streets of the city turn that much meaner when a known criminal is unleashed on our society, because a defense lawyer is able to find a glitch in the law.

Excluding evidence obtained through the good-faith efforts of a police officer is not only counter-productive, it is stupid.

Do not be fooled by substitute amendments that are soft on crime. No effective substitute to the McCollum amendment has been offered or is pending. Only McCollum offers the best hope for an improved criminal justice system.

Let us close the legal loopholes. Adopt the McCollum amendment, reform the exclusionary rule, and let the police officers do their job.

There is no substitute for effective crime control.

COST-OF-LIVING INCREASE FOR DISABLED VETERANS

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

Mr. APPLEGATE. Mr. Speaker, the cost-of-living increase for disabled veterans and surviving spouses has to be passed as soon as possible. Last year Congress delayed it for 2 months because of inter-House squabbling and bickering.

Now this year we passed that out of this House on July 29, but again it languishes in the other body. I am calling upon the leadership of both the House and the Senate not to allow this to happen again to our veterans.

Secretary Derwinski said that if this is not passed by next week, disabled veterans and surviving spouses are going to have to wait again until February.

Now, there is no rhyme or reason why our veterans should have to wait. They have earned this. Veterans are looking to us for responsible leadership. I think it is time that we gave them some for a change.

THE CRIME BILL

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

Mr. INHOFE. Mr. Speaker, to follow up on what the gentleman from New Hampshire said, I think the gentleman is right on target. We are starting the

second day of debate on the omnibus crime bill in this body. Since we started this debate, 60 people have been murdered, 264 women have been forcibly raped. There have been over 15 robberies that have taken place.

And what are we doing in our liberal infinite wisdom in this institution? We are allowing endless appeals to take place. We are trying to put racial quotas on death row. We are weakening the death penalty, and at the same time we are rendering our citizenry, the honest citizenry in this country, defenseless by taking away their only means of defense.

I think the underlying problem has not really been stated here, but it needs to be stated, and that is that the majority of people in this body do not really believe that punishment is a deterrent to crime.

I would suggest, Mr. Speaker, that the entire Congress go out to Oklahoma, spend a day, talk to real people and come back and pass a bill that punishes people for committing crimes.

MEANINGFUL HABEAS REFORM

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

Mr. SARPALIUS. Mr. Speaker, I have heard loud and clear from my constituents about the need for reform of our criminal justice system. Just yesterday I discussed with the district attorney, Danny Hill, from my home town of Amarillo, about the brutal murder that occurred in Amarillo nearly a decade ago.

On Halloween night, 1982, Johnny Frank Garrett broke into a convent and proceeded to attack a nun, Sister Tedia Benz, a saintly woman 72 years old. Garrett brutally beat, stabbed, raped and then strangled to death this innocent nun. He later admitted that during this brutal beating, she was repeatedly reciting the Lord's Prayer.

Garrett was brought to justice under what criminal system that we have today, or what justice system we have. He was convicted and put on death row.

Well, 9 years have passed since this vicious killer killed this innocent woman. Garrett may not be an expert killer, but he has become an expert in dodging the criminal system that we have today.

Mr. Speaker, I urge my colleagues to support the Hyde amendment, an amendment that truly would take people like Johnny Frank Garrett and give him the punishment that he justly deserves.

TREMENDOUS ECONOMIC CHALLENGES FACING OUR COUNTRY

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

Mr. ROTH. Mr. Speaker, there is good news out of Europe today for our country. Germany and France have told us today that they are going to be establishing a continental army and they do not need us anymore. This should be good news for the Congress, for the administration and for the American taxpayer.

At a time when our defense budget is $300 billion and half of that, $150 billion, goes to defend Europe, I think it is time that we rethink our priorities.

Now, $1 out of every $5 that this Congress spends is borrowed money, money that our children will have to pay.

Now is the time to get in step with the modern world. We are confronted today, not by military challenges, but by tremendous economic challenges.

In just a few days we will be celebrating the 50th anniversary of Pearl Harbor. We are as ill-prepared today in this country to meet the economic challenges as we were 50 years ago to meet the military challenge.

So now it is time for us to get in step for the 1990's and the 21st century so that America can meet the economic challenges and keep America in the 1990's and in the 21st century as the premier country in the world.

IN MEMORY OF TENNESSEE ERNIE FORD

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

Mr. CLEMENT. Mr. Speaker, this morning, the country music family lost a very valued member.

Tennessee Ernie Ford died of a liver ailment at a nearby Reston, VA, hospital.

Known affectionately as "The Ol Pea-Picker" and "Ol Ern," Ford recorded more than 80 albums during a singing career of more than 40 years. He was especially known for his gospel music. One of his recordings, "Sixteen Tons" sold more than 20 million copies worldwide since its release in 1955. The song is a tribute to blue-collar workers, especially coal miners, with lines like "I owe my soul to the company store," and "Another day older and deeper in debt."

Born in Bristol, TN, Ford began his career as a radio announcer for $10 a week. He also worked at stations in San Bernardino, Knoxville, Atlanta, and Pasadena.

He studied voice at the Cincinnati Conservatory of Music, and after serving in World War II as an Army bomber pilot, he was signed by Capitol Records in 1949.

A favorite of fans and fellow artists, Tennessee Ernie Ford will be sorely missed. His bass voice and dramatic singing style are cherished memories.

Mr. Speaker, on behalf of country fans and his fellow citizens, and I know in my family, in the Clement family, he was a very close personal friend of ours and visited with us in Nashville. We convey our condolences to his wife and sons, Brian and Buck.

INTRODUCTION OF BILL TO FULLY FUND 20-WEEK UNEMPLOYMENT EXTENSION

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

Mr. TAYLOR of North Carolina. Mr. Speaker, yesterday the Senate sustained the veto of a bill calling for a 20-week extension of unemployment benefits. While the main thrust of Congress should be fostering an environment for job creation, I am offering a bill that would—unlike all other proposals—fully fund the 20-week extension.

The funds would come first from cuts in the money Congress spends on itself. My bill would:

Repeal the congressional pay raise;

Eliminate all foreign travel by Members of Congress; and

Cut a billion dollars from the congressional budget.

The balance would come from a 30-percent cut in foreign aid to be determined by the President.

Mr. Speaker, Congress has lost the public's respect by extending itself privileges. Now, we have an opportunity to regain some of that lost respect. It is easy to demagogue the President as he tries to be fiscally responsible. This is our chance to show some of that same responsibility. The Congress must cut back the enormous sums it spends on itself. Let us show the Nation Congress is prepared to make the sacrifices necessary to solve our problems and help our people.

I welcome my colleagues to join me in support of my legislation.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 1722), "An act to provide emergency unemployment compensation, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 1720. An act to amend the St. Elizabeths Hospital and District of Columbia Mental Health Services Act to permit the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia with respect to capital improvements necessary for the delivery of mental health services in the District, and for other purposes; and

H. Con. Res. 219. Concurrent resolution making corrections in the enrollment of H.R. 2622.

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

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2038) "An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BOREN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. MURKOWSKI, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. RUDMAN, Mr. GORTON, and Mr. CHAFEE, and from the Committee on Armed Services, Mr. EXON, and Mr. THURMOND, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2426) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1, 3, 5, 15, 19, 22, and 30, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2698) "An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1992, and for other purposes."

The message also announced that the Senate agree to the amendments of the House to the amendments of the Senate numbered 25, 27, 34, 35, 36, 48, 49, 50, 52, 63, 64, 70, 83, 88, 103, 107, 108, 156, 176, 177, 184, 205, and 241, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2942) "An act making appropriations for Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 7, 10, 28, 64, 67, 68, 69, 70, 71, 72, 73, 84, 86, 104, 112, 114, 115, 116, 125, 128, 133, 134, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 152, 153, 154, and 157, to the above-entitled bill.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested.

S. 544. An act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes;

S. 772. An act to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes;

S. 870. An act to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California;

S. 1254. An act to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes; and

S. 1358. An act to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

□ 1030

CONSUMER CREDIT REPORTING REFORM ACT OF 1991

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

Mr. TORRES. Mr. Speaker, today I will be introducing legislation, the Consumer Credit Reporting Reform Act of 1991. I ask you to take careful note that I said "reform," reform of this $1 billion industry which engages in credit reporting on American consumers.

You will remember, Mr. Speaker, that 20 years ago, when this law was first enacted, consumer credit reports were kept in a manila folder like this and perhaps put into a large file cabinet. That is no longer the case.

Mr. Speaker, in the age of technology it is computers, megabytes, it is billions and billions of bits of information. No wonder that there are errors in the American consumers' files.

Recently, a small town in Vermont, Norwich, the whole town was put down as having a bad credit rating, every individual there, simply because of a bad entry into a computer.

My legislation will correct and attempt to correct the inaccuracies in the credit reporting industry.

Moreover, beyond the inaccuracies, the legislation will delve into protecting the privacy of consumers, privacy of American consumers.

DAY 20—THOUGHTS ON THE 1ST ANNIVERSARY OF THE SIGNING OF THE INFAMOUS 1990 BUDGET SUMMIT AGREEMENT

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

Mr. DOOLITTLE. Mr. Speaker, today marks the 20th day until the first anniversary of the signing of the infamous 1990 budget summit agreement. It is funny how we do not hear of Reaganomics anymore. No wonder: by raising taxes over $200 billion and throwing 2 million Americans out of work, last fall's budget agreement repudiated the very essence of the Reagan/Bush economic policies that the economy grows when taxes and government interference are minimal.

But let me remind everyone that Reaganomics did work a lot better than present policies mandated by Congress. As the recent Heritage Foundation study points out, during the Reagan years adjusted income for black Americans soared 16.5 percent after plummeting previously more than 10 percent under the Democrats' policies. Women also benefitted from Reaganomics; their inflation-adjusted median income climbed by more than 28 percent during the 1980's. The average real income of the bottom 20 percent of American families rose nearly 12 percent under Reaganomics after having dropped 12 percent during the Carter administration.

Mr. Speaker, I say it is time we go back to Reaganomics. It worked. The numbers prove it. We do not have any time to waste. The economy needs to get back on the road to growth now.

SSC AND JAPANESE FUNDING

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

Mr. SLATTERY. Mr. Speaker, today I call the attention of my colleagues to the administration's plan to sell Japan part of the superconducting super collider. Among the proposed SSC firesale terms, for a mere $1 billion Japan will become, in the words of President Bush's science adviser, Dr. Bromley, "coowner of the superconducting super collider."

Keep in mind this is a $10 billion project, and for $1 billion the Japanese become coowners.

Under the President's proposal, Japan would manufacture and supply the SSC's dipole superconducting magnets. This will transfer to the Japanese all the benefits of building the magnets cited by Deputy Secretary of Energy Moore in his testimony before Congress.

Once again, Japan gets to take United States research and turn it into high-technology manufactured prod-

ucts that they can sell to us and the United States would agree to contribute an unspecified amount of Japan's "Human Frontier Project." These terms, my friends, are so sweet that, when coupled with the partnership with Germany on quadrapole magnets, the United States will be left with nothing to do but pour concrete and sign checks. But the Japanese know that being coowner of SSC is no bargain at any price, and they are not biting.

The Japanese have not put any money up yet.

My colleagues, we should kill the superconducting super collider now and save our taxpayers $10 billion.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). This will be the last 1-minute for today.

SEND THE PRESIDENT AN UNEMPLOYMENT COMPENSATION BILL THAT HE WILL SIGN

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

Mr. SCHIFF. Mr. Speaker, I am sorry to say that I am tired of hearing the crocodile tears that are being shed for the unemployed. I personally agree that we have a serious problem with unemployment in this country which may last for some period of time. Because of that, I have supported personally one of the bills passed by Congress addressing this issue. However, the President of the United States, the only President we have, declared that he will not support deficit-financed spending for an additional unemployment compensation bill. The President has, however, identified a bill that he will sign immediately if Congress will send it to him. Instead, the Congress has chosen to continue to send to the President bills to aid the unemployed which the Congress knows the President will not sign.

Mr. Speaker, it is really time to help the unemployed now. That can be done, first, by sending the President of the United States a bill that the President has already stated he will sign and the benefits will start flowing immediately and then to pass a growth package to produce more jobs.

MOTION TO INSTRUCT CONFEREES ON H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. DANNEMEYER. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. DANNEMEYER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill, H.R. 2686, be instructed to agree to the provisions contained in amendment numbered 212 of the Senate amendments.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] is recognized for 30 minutes.

Mr. DANNEMEYER. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. COLEMAN].

(By unanimous consent, Mr. COLEMAN Missouri was allowed to speak out of order and to revise and extend his remarks.)

SPECIAL INTERESTS REFUSE TO DISCLOSE CONTRIBUTIONS TO CAMPAIGNS AFFECTING SUPREME COURT NOMINATIONS

Mr. COLEMAN of Missouri. Mr. Speaker, over the past 2 days Americans have raised a loud voice against the outrageous sideshow of rumor, innuendo, and falsehoods perpetrated by the special interests who tried to sway the confirmation proceedings for Justice Clarence Thomas.

Americans are clearly upset that our current laws offer no way to discover who's really behind the special interests that foot the bills for slick public relations campaigns that attempt to either make or break a nominee.

Mr. Speaker, this I know first-hand because last month I asked a dozen of the organizations involved in campaigns for and against Judge Clarence Thomas to voluntarily disclose their contributors. While all say they complied with the letter of current lobbying laws, none were willing to subject themselves to the same standard of accountability that every congressional or Presidential candidate must uphold—that is full disclosure of contributions. This is the response I got:

RESPONSES OF ORGANIZATIONS ENGAGED IN LOBBYING, EITHER FOR OR AGAINST CLARENCE THOMAS, WHICH WERE REQUESTED TO DISCLOSE CONTRIBUTORS ON SEPTEMBER 12, 1991

College Republican National Committee, Washington, D.C.—Declined on grounds that no contributions taken for the purpose of lobbying related to the Thomas confirmation exceeded $100.

Conservative Victory Committee, Alexandria, Virginia.—Declined on grounds that all funds spent on behalf of the committee for this purpose were disbursed by its state election boards, which, by federal law, are not required to disclose sources of contributions. Furthermore, cited refusal to disclose by groups opposing Thomas' confirmation.

Chamber of Commerce of the United States, Washington, D.C.—Declined on grounds that no funds were either "solicited or received" for this purpose. Furthermore, lodged opposition to the legislation, claiming that it would violate rights of freedom of association and petition provided by the First Amendment.

Alliance for Justice, Washington, D.C.—Declined on grounds that disclosure would violate First Amendment freedoms.

Leadership Conference on Civil Rights, Washington, D.C.—Declined to disclose receipts and expenditures specifically related to Thomas lobbying efforts but maintained that the organizations files quarterly financials records with the clerk of the House of Representatives and the secretary of the Senate as required by law.

National Abortion Rights Action League, Washington, D.C.—Declined, citing interest in protecting privacy of contributors.

National Association of Criminal Defense Lawyers, Washington, D.C.—Declined, saying no contributions were solicited or received for this purpose. Furthermore, maintained that no funds were spent for this purpose.

National Organization for Women, Washington, D.C.—Inquiries were not answered.

Now Legal Defense and Education Fund, New York, N.Y.—Declined, citing fact that the organization is chartered as a 501C corporation, and therefore is exempt from federal financial disclosure requirements.

Americans for Democratic Action, Washington, D.C.—Inquiries were not answered.

Citizens Committee To Confirm Clarence Thomas, Washington, D.C.—Declined on grounds that disclosure would, by imposing criminal penalties for violations, discourage exercise of First Amendment rights of free speech, and would "carve out" judicial nomination issues from the rest of the Federal Registration of Lobbying Act.

United States-Mexico Foundation, Washington, D.C.—No verification of organization's legal formation filed with appropriate agency—U.S. Department of Consumers and Regulatory Affairs. Not recognized by Embassy of Mexico.

Mr. Speaker, I think this response shows that the law casts a legal veil over the activities of special interests, which can be used to prevent public's right to know who is paying for these slick campaigns which are geared to affect the outcome of the confirmation process to the Nation's highest court.

The American people believe it is time to remove that veil and reform the confirmation process. I have introduced legislation, H.R. 3226, that will begin this process by requiring all organizations that campaign either for or against nominees to the Supreme Court to provide full financial disclosure.

Mr. Speaker, grassroots participation in any political process in our democracy, including confirmation of Supreme Court Justices, is desirable. The American people and the U.S. Senate must know who is influencing future confirmation proceedings.

Mr. DANNEMEYER. Mr. Speaker, first of all let me express my apology to the House for again addressing this matter, but I feel it is an important issue, not just on the merits of the cause but on the actions of our conferees.

□ 1040

Mr. Speaker, we all know that motions to instruct conferees are not binding on those conferees, but the House will recall yesterday that by a vote of 286 to 135 the House instructed our conferees, with respect to the appropriation for the National Endowment for the Arts and the National Endowment for the Humanities contained in the Interior appropriations bill, to

adopt certain language that had been adopted by the Senate by a vote of 66 to 28 on September 12, and I was advised later on, after the vote in the House, that the conferees met and just stripped out this language that the House overwhelmingly adopted.

I am also advised that the conferees also instruct from that conference report considerations for dealing with raising grazing fees across this land that is of interest to our colleague, the gentleman from Oklahoma [Mr. SYNAR]. Someone has referred to this as the corn for porn, or corn and porn, compromise on the part of the conferees, but I think the House has to address a fundamental issue here.

Mr. Speaker, if our conferees are unable to accommodate the clear wishes of the House, then I think the honorable thing for them to do is to resign and let other conferees be appointed in order that this conference committee will follow the instructions of the House.

We can, perhaps, understand if after a long period of negotiation the conferees come back in 1 week, or 2 or 3 weeks, and tell us that they are unable to accommodate the requests of the House, but within a couple of hours after this adoption by the House of a vote of 286 to 135 that the instruction of the House is just summarily dismissed, I think there is an arrogance there that the House ought not to accept.

So, Mr. Speaker, I suggest to our conferees, "If you can't accommodate what we are clearly instructing you to do, resign, and we will appoint new conferees."

The language that I think is contained in what the House adopted yesterday is quite clear. I will remind my colleagues that this is what it says:

"Notwithstanding any other provision of law, none of the funds made available to the National Endowment for the Arts under this act may be used to promote, disseminate, or produce materials that depict, or describe in a patently offensive way, sexual or excretory activities or organs."

We should understand that the reason that the House is even considering this kind of an amendment is because of the existence in this Nation of a cultural war going on. This cultural war says in effect on one side that God created man and everything in the universe and gave man certain standards to live by. Then the other side of this controversy says there are no standards, man is able to decide anything for his own benefit. It is OK to do anything so long as the perception is that it does not harm somebody else.

Mr. Speaker, this is the fundamental issue that is at stake in this cultural war that is involved in this conference report. The American people demand that, when we expend taxpayers' money, that certain standards be observed.

Yesterday I had the misfortune to read through some of the work product that has been funded by the National Endowment for the Arts. I am not going to take the time of the House to go through the details of that trash again. Needless to say, the existing language in the law has not been adequate to stop the funding that is currently taking place by the NEA using taxpayers' money to fund this trash.

So, I think it is time that this conference report adopt language that is contained in the Senate, adopted September 12, adopted in the House yesterday, and we again instruct our conferees that we are serious about this, we request that they give heed to what the House has resolved, and again I will say, if they cannot accommodate this instruction, let them resign, and we will appoint new conferees and accommodate what the House seeks to do.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, I was told that the gentleman from California [Mr. DANNEMEYER] had described action which I and other conferees of the House took in yesterday's meeting at the conference on the Interior appropriations bill as arrogance. I should like the gentleman and the House both to know that I reject this cry of arrogance, particularly when it comes from him.

The gentleman from California [Mr. DANNEMEYER] consults the Parliamentarians almost every day. He plays the rules as though they were a harp. He should not object when another Member of the House uses the rules in connection with a parliamentary situation.

The gentleman has conceded that it was my right, as chairman of the House conferees, to consider what the House did yesterday as advisory, and indeed it was. My job essentially, as chairman of the conferees, is to protect the House bill. The House bill, as it went into conference, had nothing, had no amendments that were added in the House with respect to the National Endowment for the Arts, and I was attempting to protect it in that same situation.

Supplementing what I have said about the effect of instructions, I read from Deschler, chapter 31, section 10.1:

> Instructions by the House to its conferees are advisory in nature and are not binding as a limitation of their authority.

Mr. Speaker, there is no rule of the House requiring Members to seek further instructions if they are unable to comply with instructions suggested to them. If the gentleman from California [Mr. DANNEMEYER] has any complaint with respect to the action of the House conferees, let him make it in accordance with the rules. Let him make it next week, when we propose to bring the conference report before the House.

Yesterday I was required to come to the floor to respond to the gentleman's motion, and leave, and suspend, the conference for 4 hours. As a result of that, we were unable to finish the conference yesterday.

The conference has again been convened. They are meeting downstairs, and the second ranking member of the conference is acting in my place in the conference, and I will resume that as soon as we have disposed of this motion.

I do not propose to take all the time. I want to get back to the conference. I will recognize only one person to speak, the gentleman from Illinois [Mr. DURBIN], after which I propose to yield back my time.

Mr. Speaker, I yield 3 minutes to the gentleman from Illionis [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, those who have listened to the statement made by the gentleman from California [Mr. DANNEMEYER] about his concern and frustration over the question of obscenity should, I think, be apprised as well that this House of Representatives over the last several years has attempted to find various ways to stop those people at the National Endowment for the Arts who approve grants, from approving those grants with taxpayers' funds for projects which the vast majority of the Members of the House of Representatives and the vast majority of Americans find offensive. I will concede to the gentleman from California that I find them offensive, too. I am embarrassed by them.

What we have tried to do year in and year out is to redefine obscenity on the floor of the House of Representatives in the hopes that we will strike that perfect definition that will result in the National Endowment for the Arts not approving another embarrassing project. We do not want to toss out the whole National Endowment because we realize that for every two or three questionable or offensive projects that there were literally thousands of projects funded, arts and music, across America, in my hometown and in other places, that are valuable, things that America can be proud of, things that help young men and women come to understand the arts and music and make a real contribution to America. So, we try each year to redefine obscenity in the hopes that the people at the National Endowment for the Arts in reading a new set of words will be able to avoid this embarrassment of funding something which many Members and most Americans find obscene and offensive.

□ 1050

We have failed. We have failed as courts have failed over the last century to define this term. Ultimately the

buck stops with the people at the National Endowment for the Arts, with the executive director, Mr. Frohnmayer, with the appointees of President Bush who make these decisions on these projects, and the people they appoint to look at each and every one of them.

What I have found mystifying is that the anger of the gentleman from the Republican side of the aisle is not directed at the appointees of President Bush who approve these projects. These are the people who are making the mistakes that embarrass us. Instead, the gentleman tries valiantly year in and year out to redefine "obscenity" and try to find a way to avoid this embarrassment in the future.

I would suggest to the gentleman that the problem lies not with the words in our bill, the problem lies not with the definition of "obscenity"; the problem lies with the people who read the words and apply them. If the gentleman would take his case to the President, perhaps he would find that would be his appropriate day in court.

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

Mr. DURBIN. I am happy to yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I will ask a simple question. How much money can the National Endowment for the Arts spend if we do not appropriate the money?

Mr. DURBIN. Does the gentleman understand, though——

Mr. DANNEMEYER. I would ask the gentleman to please answer my question.

Mr. DURBIN. Absolutely you would cut them off.

Mr. DANNEMEYER. That is right.

Mr. DURBIN. And because of the fact you are offended by several projects which you find to be offensive and obscene—and I agree they are—you would cut off funding for arts and music projects across America. That is a small amount of money, but it is an important piece of our contribution for promotion of art in America. That would be a tragedy.

The SPEAKER pro tempore. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

Mr. YATES. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois [Mr. DURBIN] and I ask the gentleman to yield to me.

Mr. DURBIN. I am happy to yield to the subcommittee chairman.

Mr. YATES. Mr. Speaker, the effort was made by the gentleman from Illinois [Mr. CRANE] when our bill on which we are now having a conference was going through the House, to kill all the funds for the National Endowment for the Arts. I say this in response to what the gentleman points out. That motion to kill all the funds for the National Endowment for the Arts was defeated by a vote of 361 to 66. So the House does support the National Endowment for the Arts.

Mr. DURBIN. The House does support it. And I think the gentleman from Illinois would concede that we spend a relatively small amount of money for an important contribution to what is the culture and heritage of America.

Mr. YATES. The gentleman is exactly correct. No matter how we attempt to define language, that language still has to be administered by the chairman of the National Endowment for the Arts. The fault, if it lies at all in this case—and the gentleman from California believes it does—is with respect to a few items out of 4,500 grants that are administered every year. Those grants are approved by the present administrator under language that is more comprehensive in defining "obscenity" than is the language the gentleman from California wants to include.

Mr. DURBIN. Mr. Speaker, I would just say to the gentleman that I supported the language which was in the authorizing bill. I think it is valid and good language, and the people in good faith in applying it would avoid funding projects that would embarrass the gentleman from California and the gentleman from Illinois.

The people who are applying this language to these grants are appointees of the President, of the gentleman's own party. I would ask the gentleman to please take his case to the President and the White House when he makes his appointment. Trying to redefine "obscenity" here on the floor every year is a futile effort.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me. That is an interesting discussion that just took place. One of the things we are trying to do is make certain that the law gives people at the NEA the proper authority. What would happen is, if we would pass the Senate amendment, it would make an absolute demand on the NEA not to fund obscene art, instead of the present law which allows it to go ahead and fund the obscene art and then eventually work it out in the courts, and it seems to me that is a much stronger standard than what we ought to be doing.

I want to get to the basic point. I heard the gentleman from Illinois tell us a minute ago that the whole point of what he had done in conference was that he had protected the House position. I am a little confused by that. I thought the House position on grazing fees was fairly clear. The grazing fee position of the House was that we wanted to raise the amount of the grazing fees. As I understand it, in the corn-for-porn deal, what we did was, we traded away the House position on grazing fees in return for some modified position of the Senate, and so we got neither. The House voted yesterday on the floor that we wanted tougher porn standards. The committee traded that away, saying that they were simply defending the House position, and when the House position comes to grazing fees, they traded that away, too.

What does the House get out of this? The House got its position traded away in both instances, and what we got was corn for porn. I just do not understand where it is that we somehow were the benefactors of this great deal.

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

Mr. WALKER. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I suggest that the gentleman read the conference report after we conclude it. As soon as we finish this debate, I am going back to the conference to complete our discussions on the conference report so that we can sign it as quickly as possible and bring it to the floor, and at that time the gentleman will be in a position to review what the actions of the conference committee were.

Mr. WALKER. We understand that, but I guess some of us feel that the position of the House was reflected in the conference committee, not just reflected after the conference committee finishes and the deal is brought back and the whole deal is all meshed together and then the arguments are made. But if you kill this conference report, you kill this whole host of things. We think that on the individual items the conference report ought to reflect the will of the House. In this instance the will of the House was clearly indicated yesterday on the pornography issue. The conference committee evidently has decided to ignore it.

The House position on grazing fees has been very clearly indicated, yet evidently the conference committee has decided to ignore it. I would simply suggest that we need as a House to have some confidence that our position is being reflected and not just when the conference committee report comes back, but during the deliberations that take place that produce that conference report. That is what we are concerned about today.

If Members share that kind of concern, I suggest that they vote with the gentleman from California [Mr. DANNEMEYER] on his motion to further instruct.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I find myself today in the most awkward position I think I have ever been in here in the U.S. Congress. As the chief sponsor of the grazing fee amendment which the House has, not once but twice, clearly indicated they want to raise, and also being one who is adamantly

opposed to what the gentleman from California is trying to do with the National Endowment for the Arts, I am faced with a dilemma since the trade yesterday in the conference was between the grazing amendment and the National Endowment for the Arts, as to how I am to satisfy both of those interests which I have.

I have come to the conclusion that one recourse, if not the only recourse I may have, is to support the gentleman from California in order that he may succeed in the National Endowment for the Arts so that this house of cards can collapse and we can really get a true indication and also implementation of the grazing fee sentiments of this House in the conference report of the Subcommittee on Interior.

I have not come to that final conclusion yet, but for those of us who have stood with our chairman, the gentleman from Illinois—and I want to say there is no one who has deeper respect for the gentleman, because he has been in many ways a mentor to me over the years—I am hard pressed to understand how we could have had a trade on two completely different and separate subjects that will affect the House and particularly for a Member who has been as supportive as he can be for the chairman on the National Endowment for the Arts.

I do not know what I am going to do, but for those Members who are watching this and those who are following this debate, this is the dilemma we find ourselves in today, and I hope as Members come to the floor to vote on this, they will recognize this vote has more significance than just for the National Endowment for the Arts, and it will have implications with respect to the entire conference report of the Subcommittee on Interior.

Mr. DANNEMEYER. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding this time to me. Mr. Speaker, I really did not intend to get in this debate, but as I sit here, I cannot help but think that we are doing it again; we are providing more reasons for the public to look upon us with less than enthusiasm.

First of all, on the issue of the National Endowment for the Arts, the gentleman from Illinois—from downstate Illinois as distinguished from the gentleman from upstate Illinois—thought he made a telling point by saying that our President after all has appointed the director. That does not foreclose the issue, because our President is one branch of Government and we are another.

The issue is, What does Congress do about compelling taxpayers to sponsor with their money patently offensive, obscene, pornographic art? We may say that is in the eye of the beholder. I would be happy to submit some of this smut that we have to pay for and thus sponsor to any jury in the world to determine it unacceptable.

□ 1100

I agree that the gentleman who runs this agency is wrong, and the people administering it are not administering it in the public interest. I assert that. I do not want to throw the program out. I want to help aspiring artists. But I want public money to for public art, not somebody's private prurient interests.

If the gentleman administering it now, no matter who appoints him, is maladministering it, this Congress has a responsibility to the taxpayer. I wish that your concern would elevate itself beyond simply saying, "And it offends me too." I would do something about it. We can change the law here. We ought to change the law.

Mr. Speaker, a trade for grazing fees for the liberal NEA standard is something else that I think, forgive me, smacks of disreputability. A trade? Something of value for your vote? To me, that is an awful trade, chickens for horses. Of course, I was not there and I do not know how the Members conduct themselves in the inner sanctums of conference committees. But I should think grazing is grazing, and smut is smut, and never the twain should meet.

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

Mr. HYDE. I yield to my friend from downstate Illinois.

Mr. DURBIN. Mr. Speaker, I thank the gentleman from Illinois for yielding. The gentleman from Illinois [Mr. HYDE] is probably one of the most respected Members in this Chamber when it comes to interpretations of constitutional law. I do think the gentleman would readily concede that courts have tried for decades to come up with an airtight definition of obscenity so that there would not be an instance where the American people would be offended or their money spent unwisely in the name of art, when in fact something pornographic or obscene is being funded. They have failed many times, and that is why courts continue to evaluate this principle and redefine it.

Mr. Speaker, I just happen to believe that we are going to find ourselves year in and year out running against the same problem. We are not going to come up with that airtight definition. It will depend on appointees by the President to apply the language, and I think the language already in the authorizing bill is adequate for people of good will to preserve us from these embarrassments.

Mr. HYDE. Mr. Speaker, reclaiming my time, I respectfully disagree. I think we ought to go the last mile in sending a message to these people that we represent, our taxpaying public, and they resent bitterly having to pay for some of the smut, and that is a dignified word for some of the stuff that we are forced to pay for and sponsor. We ought to be thinking of how to stop that, at the very least.

Before my time elapses, I want to pay tribute to the gentleman from California [Mr. DANNEMEYER], my friend, who catches unshirted hell from people because he stands up for principles that he believes in. I admire him and respect him, and I wish there were more like the gentleman from California. I admire both the gentlemen from Illinois, Mr. YATES and Mr. DURBIN, but I especially revere the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, yesterday I voted with the gentleman from California [Mr. DANNEMEYER] on this subject for the first time. In every instance in the past that this issue has come before the House I have supported the position which has been espoused by the gentleman from Illinois [Mr. YATES] and by the ranking Republican member, the gentleman from Ohio [Mr. REGULA], in the hopes that the NEA would get the message.

Mr. Speaker, we have exhorted them, we have begged them, we have pleaded with them to stop this stuff, and they just keep going on their merry way.

As one individual Member of the House, I've had it. So yesterday I did support the Dannemeyer motion to instruct.

Now I have to say I find myself in great sympathy with the confusion of the gentleman from Oklahoma [Mr. SYNAR], because I have opposed the gentleman from Oklahoma's grazing fees proposition in the House consistently. I have supported the position of the Senate on grazing fees.

So now what do I do? I think the gentleman from Oklahoma [Mr. SYNAR] and I ought to leave the floor and pair ourselves on this issue because we find ourselves each in a position from which there is no escape as a result of the negotiations that were entered into by the House conferees yesterday.

Mr. Speaker, I want to reiterate one thing: I feel very strongly that Members of good faith and good will in this House have done everything that they possibly can over the course of the past 3 or so years to try to get the attention of the National Endowment for the Arts. Regardless of which side of this aisle we sit on, regardless of which kind of philosophy we espouse, we cannot tolerate the expenditure of taxpayer funds for obscene material. I do not think there is a Member of this House who disagrees with that proposition. We obviously disagree about how we go about it.

Mr. Speaker, in my judgment, exhortations, pleading, begging, has not worked. Therefore, the language that the gentleman from California [Mr.

DANNEMEYER] has presented is appropriate. I just wish we did not have to deal with this trade that was presented to us.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me say I rise really in great sadness. I think it is almost ironic that we are dealing with what happened yesterday while we had the crime bill on the floor. I remember I believe a year ago we had a very similar moment when the House passed a motion to instruct on very, very strong crime conditions, and, within 3 or 4 hours, the conferees dropped everything the House had instructed them to include.

Mr. Speaker, I would just say, and I say this with the greatest respect to my friend, the gentleman from Illinois [Mr. YATES], who has done so much in so many ways for the arts and so much in so many ways for all sorts of things that Americans value and treasure, one of the reasons the country is increasingly angry about the legislative branch is the country cannot understand seeing the Members of the House vote by overwhelming numbers for a certain position, and, within 2 or 3 hours, seeing that position gutted in a conference committee.

Mr. Speaker, I think it is particularly important that we vote on this today, both to reassert the right of the House as the core institution from which conferees come, to in fact state its will, to in fact publicly vote for what it believes in. But in addition, I believe the public has the right to hold us accountable.

Conferees are appointed by the House on behalf of the House to represent the House. If conferees become purely free agents, totally ignoring the actions of the House, totally ignoring the wishes of the membership, I think that it makes it very hard for the average American to be able to understand what happened and how they can have their will expressed through their representatives in a free society.

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

Mr. GINGRICH. I am glad to yield to my good friend, the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I will tell the gentleman from Georgia [Mr. GINGRICH] that my responsibility, as I explained earlier to the House while the gentleman was not on the floor, my responsibility is to do the best I can to sustain the position of the House in the bill that has gone to conference.

With respect to the instructions that I received yesterday, I had read from the rules of the House and the precedents that the instructions of the House to the conferees are advisory. I do take them into consideration.

There are many issues here. I am sure the gentleman from Georgia [Mr. GINGRICH] has been in conference. There are many issues that we cannot sustain. There are many issues where we have to surrender certain principles.

Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I am doing my best as chairman of the House conferees to handle all those issues. Some Members have their eyes on one issue in connection with a motion that was made by the gentleman from California [Mr. DANNEMEYER] yesterday. That is advisory to the conferees. I considered that in connection with the other responsibilities I had as chairman of the House conferees.

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

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

Mr. GINGRICH. Mr. Speaker, I would simply say to my very distinguished friend, unless I am mistaken, the gentleman gave up the position of the House on pornography in order to give up the position of the House on grazing fees.

Mr. YATES. Mr. Speaker, reclaiming my time, there are a number of issues that go into the total bargaining that is taking place, the negotiations that are taking place. This is one of the issues that came up at that particular time.

Mr. Speaker, I would say to the gentleman from Georgia [Mr. GINGRICH], the conference is not yet concluded. I have a substitute in my place right now, may I say to the gentleman, while the conference is still going on. I want to get back there and conclude the conference. I want to bring it to the House, at which time I expect the gentleman will again make one of his eloquent statements opposing what the conferees did in many respects.

Therefore, let me go back to my job. Let me bring out the conference report, bring it to the floor, and I anticipate what the gentleman will say at that time.

Mr. GINGRICH. If the gentleman will yield further, since the gentleman from Illinois [Mr. YATES] is still in conference, then if the House were to decide to advise the conferees emphatically, hopefully it might have some impact, if it knowingly then decided to send the signal that in fact the House would like this position.

Mr. YATES. Mr. Speaker, reclaiming my time, I am the servant of the House, may I say to the gentleman from Georgia [Mr. GINGRICH]. I will tell the gentleman that if I can get back to my conference, we will conclude it in about an hour.

□ 1110

If you want to direct me after we are through working there, that is something you may want to consider. But as of now, I propose to go back, finish the conference, bring the conference report to the floor so that the House may continue to try to meet its goal of adjournment by Thanksgiving.

Mr. GINGRICH. I thank the gentleman.

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

Mr. DANNEMEYER. Mr. Speaker, I yield myself 1 minute.

Let me say Mr. Speaker, that in the last Congress we had to vote four times on the issue of religious liberty in connection with instructing conferees, and we were finally able to prevail on those instructions relating to Georgetown University. and I would hope that we do not have to vote four times in this, the 102d Congress, in order to have the House's position prevail.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion to instruct offered by the gentleman from California [Mr. Dannemeyer].

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

Mr. DANNEMEYER. 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 287, nays 133, not voting 13, as follows:

[Roll No. 314]

YEAS—287

Alexander	Coble	Gaydos
Allard	Coleman (MO)	Gekas
Anderson	Coleman (TX)	Geren
Andrews (TX)	Combest	Gibbons
Annunzio	Condit	Gilchrest
Anthony	Cooper	Gillmor
Archer	Costello	Gingrich
Armey	Coughlin	Glickman
Baker	Cox (CA)	Goodling
Ballenger	Cramer	Gordon
Barnard	Crane	Goss
Barrett	Cunningham	Gradison
Barton	Dannemeyer	Guarini
Bateman	Darden	Gunderson
Bennett	Davis	Hall (OH)
Bentley	de la Garza	Hall (TX)
Bereuter	DeLay	Hamilton
Bevill	Dickinson	Hammerschmidt
Bilbray	Dicks	Hancock
Bilirakis	Donnelly	Hansen
Bliley	Dooley	Harris
Boehner	Doolittle	Hastert
Borski	Dorgan (ND)	Hayes (LA)
Boucher	Dornan (CA)	Hefley
Brewster	Dreier	Hefner
Brooks	Duncan	Henry
Broomfield	Dwyer	Herger
Browder	Early	Hoagland
Bruce	Edwards (TX)	Hobson
Bryant	Emerson	Hochbrueckner
Bunning	English	Hubbard
Burton	Erdreich	Huckaby
Bustamante	Espy	Hunter
Byron	Ewing	Hutto
Camp	Fawell	Hyde
Campbell (CO)	Fields	Inhofe
Carper	Franks (CT)	Ireland
Chandler	Frost	Jacobs
Chapman	Gallegly	James
Clement	Gallo	Jenkins

Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Manton
Marlenee
Martin
Martinez
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morrison
Murphy
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Olin
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skelton
Slattery
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—133

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Berman
Boehlert
Boxer
Brown
Campbell (CA)
Cardin
Clay
Clinger
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Engel
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gilman
Gonzalez
Grandy
Green
Hatcher
Hayes (IL)
Hertel
Horn
Horton
Houghton
Hoyer
Hughes
Jefferson
Johnston
Jones (GA)
Kildee
Kopetski
Kostmayer
LaFalce
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Machtley
Markey
Matsui
Mazzoli
McDermott
McHugh
Mfume
Miller (CA)
Mineta
Mink
Moran
Morella
Mrazek
Murtha
Nagle
Nowak
Oakar
Oberstar
Obey
Olver
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Rangel
Reed
Richardson
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Skeen
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Stark
Stokes
Studds
Swift
Synar
Torres
Unsoeld
Vento
Washington
Weiss
Wheat
Williams
Wolpe
Wyden
Yates

NOT VOTING—13

Applegate
Bonior
Callahan
Carr
Edwards (OK)
Gephardt
Holloway
Hopkins
Moakley
Thornton
Towns
Waters
Waxman

□ 1136

Mr. MINETA changed his vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO DISCHARGE MANAGERS AND APPOINT NEW CONFEREES ON H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. DANNEMEYER. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. DANNEMEYER moves to discharge the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2686, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, and to appoint new conferees.

MOTION TO TABLE OFFERED BY MR. DERRICK

Mr. DERRICK. Mr. Speaker, I offer a motion to table.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DERRICK moves to lay on the table the motion offered by the gentleman from California.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, is the motion to table debatable?

The SPEAKER pro tempore. The motion to table is not debatable.

Mr. DANNEMEYER. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, is the motion to table amendable so as to table it to a specific time?

The SPEAKER pro tempore. The Chair would advise the gentleman that it is not amendable.

The question is on the motion to table offered by the gentleman from South Carolina [Mr. DERRICK].

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

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 286, nays 136, not voting 11, as follows:

[Roll No. 315]

AYES—286

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
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
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ray
Reed
Rhodes
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt

Staggers	Torres	Weiss
Stark	Torricelli	Wheat
Stenholm	Traficant	Whitten
Studds	Traxler	Williams
Swett	Unsoeld	Wilson
Swift	Valentine	Wise
Synar	Vento	Wolpe
Tallon	Visclosky	Wyden
Tanner	Volkmer	Yates
Tauzin	Vucanovich	Yatron
Thomas (GA)	Walsh	Young (AK)
Thomas (WY)	Washington	
Thornton	Waters	

NOES—136

Applegate	Hammerschmidt	Ridge
Archer	Hancock	Riggs
Armey	Hansen	Rinaldo
Baker	Hastert	Ritter
Ballenger	Hefley	Roberts
Barrett	Henry	Rogers
Barton	Herger	Rohrabacher
Bateman	Hobson	Ros-Lehtinen
Bentley	Hunter	Roth
Bereuter	Hyde	Roukema
Biliraki	Inhofe	Santorum
Bliley	Ireland	Sarpalius
Boehner	James	Saxton
Broomfield	Johnson (TX)	Schaefer
Bunning	Kasich	Schiff
Burton	Klug	Schulze
Camp	Lagomarsino	Sensenbrenner
Campbell (CA)	Laughlin	Shaw
Chandler	Lent	Shays
Coble	Lewis (FL)	Shuster
Combest	Livingston	Slaughter (VA)
Cox (CA)	Machtley	Smith (NJ)
Crane	Marlenee	Smith (OR)
Cunningham	Martin	Smith (TX)
Dannemeyer	McCandless	Snowe
DeLay	McCollum	Solomon
Dickinson	McCrery	Spence
Doolittle	McEwen	Stearns
Dornan (CA)	McGrath	Stokes
Dreier	McMillan (NC)	Stump
Duncan	Meyers	Sundquist
Emerson	Michel	Taylor (MS)
Ewing	Miller (OH)	Taylor (NC)
Fawell	Molinari	Thomas (CA)
Fields	Moorhead	Upton
Franks (CT)	Nichols	Vander Jagt
Gallegly	Nussle	Walker
Gekas	Oxley	Weber
Gilchrest	Packard	Weldon
Gillmor	Paxon	Wolf
Gingrich	Perkins	Wylie
Goodling	Petri	Young (FL)
Goss	Porter	Zeliff
Gradison	Ramstad	Zimmer
Gunderson	Ravenel	
Hall (TX)	Regula	

NOT VOTING—11

Callahan	Mrazek	Stallings
Edwards (OK)	Murtha	Towns
Holloway	Sanders	Waxman
Hopkins	Sangmeister	

□ 1159

Mr. HALL of Texas changed his vote from "aye" to "no."

Messrs. TALLON, KENNEDY, and DAVIS changed their votes from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1200

ACCEPTANCE OF HABEAS CORPUS AMENDMENTS TO H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. FISH. Mr. Speaker, I ask unanimous consent that the text of the amendment in the nature of a substitute made on order under the rule of the bill (H.R. 3371) to control and prevent crime, be amended by the language of the amendment I have at the desk.

The SPEAKER pro tempore. (Mr. MAZZOLI). The Clerk will report the amendment.

The Clerk read as follows:

Amendments offered by Mr. FISH: On page 70, after "15 years" in line 13, strike the remainder of line 13, lines 14 and 15, and through "sought" in line 16, and insert as a substitute: "of experience as a prosecutor or defense counsel in criminal felony cases".

On page 70, after "stages," in line 19, strike the remainder of line 19, lines 20-23, and through "death" in line 24, and insert as a substitute: "3 years of experience as a prosecutor of defense counsel in criminal felony cases".

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

Mr. BROOKS. Mr. Speaker, reserving the right to object, would the distinguished gentleman from New York explain the purpose of his request?

Mr. FISH. Mr. Speaker, if the gentleman will yield, I would be happy to explain the request.

Mr. BROOKS. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, at the outset, just for the edification of my colleagues, I learned this morning that this amendment to the committee bill has to be made in the House rather than in the Committee of the Whole, and my colleagues on both sides of the aisle have granted me this delay in proceeding with the habeas corpus amendments.

This goes to title XI of the bill that came out of the Committee on the Judiciary which deals with habeas corpus. Specifically, on page 70, the language in referring to counsel to be appointed for the trial or sentencing stages or for the appellate and post-conviction stages requires 5 years of experience in the representation of criminal defendants in felony cases, and experience in at least one case in which the death penalty was sought.

This was alluded to yesterday by several of our colleagues, including our colleague, the gentleman from New Jersey [Mr. HUGHES] in general debate as being unduly restrictive in the selection of competent counsel to represent defendants. My amendment simply expands the pool of lawyers who have been prosecutors as well as defense counsel, and it drops the requirement that they have to have been involved in one capital case.

It is my understanding that the ranking members of the respective subcommittees on the minority side, the Subcommittee on Crime and the Subcommittee on Civil and Constitutional Law, have no objection to this, and that the matter has been cleared with the chairman and the subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES], the gentleman from California [Mr. EDWARDS], and the gentleman from New York, [Mr. SCHUMER]. I understand that the subcommittee chairmen on the majority side have no objection to this unanimous-consent request.

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

Mr. HYDE. Mr. Speaker, reserving the right to object, I would just like to ask the gentleman from New York a question.

I understand what he is doing, and I think this makes a bad bill a little better, although not enough, unfortunately. The gentleman is trying to remedy the situation in the bill which says you cannot be appointed a defense counsel in a collateral proceeding unless you have had 5 years as a criminal defense lawyer; the gentleman would shorten that to 3 years?

Mr. FISH. No. Mr. Speaker, if the gentleman will yield, we leave it at 5 years.

Mr. HYDE. You leave it at 5 years, but you can have been a prosecutor as well as a defense lawyer, and that permits former U.S. attorneys and assistant U.S. attorneys who are eminently qualified to act as defense counsel; is that correct?

Mr. FISH. That is correct.

Mr. HYDE. But what you are not touching, you are not amending at all that part of the Brooks bill which says that when these counsel are appointed for indigent accused for the purposes of collateral review, the appointment is not made by a judge but it is made by the defense bar; you are leaving that alone, is that correct?

Mr. FISH. The gentleman is correct.

Mr. HYDE. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

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

Mr. BROOKS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. HUGHES] for a further explanation.

Mr. HUGHES. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding.

Mr. Speaker, I just want to congratulate the gentleman from New York [Mr. FISH] and thank the gentleman from California [Mr. EDWARDS], the chairman of the subcommittee, because in subcommittee and in full committee there was recognition that the standards were much too stringent. The gentleman has put his finger on one of my major concerns in the bill.

We would have limited much of the defense bar who would be competent in trying these cases under the language of the bill because very few attorneys do in fact handle capital cases. That is not what we want to do. We want to make sure that competent counsel is

appointed because we recognize that about 40 percent of our problems with habeas corpus proceedings are from inept counsel. Forty percent of the capital cases are reversed because of incompetent counsel.

Mr. BROOKS. Mr. Speaker, I would ask the gentleman from New Jersey [Mr. HUGHES], does this not delay the entire procedure by making prosecutors go back time and again and try cases again?

Mr. HUGHES. Mr. Speaker, the gentleman from Texas is absolutely right. Sometimes the reversal takes place 12 to 15 years after the case was tried and the conviction is held. Only on the second or successive petition has that reversal taken place because of incompetent counsel. So we have found that we have wasted a lot of resources and a lot of time.

Mr. Speaker, this is a good amendment.

Mr. BROOKS. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

REQUEST FOR CONSIDERATION OF THE DOLE-MICHEL UNEMPLOYMENT BILL

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent to bring up the Dole-Michel unemployment bill.

The SPEAKER pro tempore. The Chair will state that under the Speaker's guidelines which have been announced earlier, the Chair will not recognize the gentleman for that purpose.

Mr. GINGRICH. I thank the Chair.

ACCEPTANCE OF AMENDMENT TO TITLE XIX OF H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that the text of the amendment made in order under the rule on the bill (H.R. 3371) to control and prevent crime, be amended by the language of the amendment which I have at the desk.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BERMAN: On page 215, strike line 14 and all that follows through line 8 on page 216 and insert:

SEC. 1958. SPECIAL RULE FOR CERTAIN HABEAS CORPUS PETITIONS RELATING TO DEATH SENTENCES.

Any race bias claim.

(1) asserted under Batson v. Ky, 476 U.S. 79 (1986); and

(2) seeking relief with respect to a sentence of death imposed before the date of the enactment of this Act,

Whether or not previously raised or determined, unless determined on the merits in a Federal habeas corpus proceeding, may be raised in a proceeding commenced under chapter 153 of title 28, United States Code, not later than 1 year after the date of the enactment of this Act and shall be determined on the merits. In determining the merits of that claim, the law in effect at the time of the determination shall apply, and the petitioner shall have the burden of showing intentional racial discrimination.

Mr. BERMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, I think we ought to get an explanation of what the gentleman is doing, and I am glad to yield to the gentleman from California for that purpose.

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding to me under his reservation.

Mr. Speaker, this will narrow the language in the text of the bill that came from the committee with respect to race claims in capital punishment cases. This has been discussed with the gentleman from Illinois [Mr. HYDE], and he has indicated to me that he has no objection to our making this narrowing amendment.

Mr. WALKER. Mr. Speaker, that is my understanding.

Will the gentleman tell us just for the RECORD what the nature of the narrowing is?

Mr. BERMAN. Mr. Speaker, the nature of the substitute amendment will make sure that habeas corpus petitions in race bias claims will be limited only to cases coming pursuant to Batson versus Kentucky, one Supreme Court case only.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

OMNIBUS CRIME CONTROL ACT OF 1991

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 247 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. 3371.

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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. 3371) to control and prevent crime, with Mr. SKAGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 16, 1991, pending was Amendment No. 6 printed in House Report 102-253 offered by the gentleman from Florida [Mr. MCCOLLUM].

The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 7½ minutes and the gentleman from Texas [Mr. BROOKS] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

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

Mr. Chairman, I wish to inform Members that this particular amendment was folded into the Gekas amendment that we passed last night, the last vote that we took. It was not in the Gekas amendment in the Committee on the Judiciary, it was put by the gentleman from Pennsylvania [Mr. GEKAS] into his amendment.

Mr. Chairman, I want to explain it, but I will, after I explain it, ask unanimous consent to withdraw it, because in the version I have offered it, it has already been adopted.

Mr. Chairman, the amendment that I have here and that is in the Gekas amendment now and was passed provides a couple of additional provisions that were left out when the committee considered the McCollum amendment with respect to drug kingpin death penalties.

If Members will recall, we had a debate over that also in a separate amendment last night when an effort was made to strike what was in the bill. What is in the bill from the very first get-go is the part of the McCollum death penalty provision on drug kingpins dealing with that situation where drug kingpins sell twice the amount of narcotics necessary currently to get a life imprisonment sentence. That was in the bill coming out of the Committee on the Judiciary.

What we are now talking about here are two other prongs of the drug kingpin death penalty that were not in the original Judiciary bill. The first of those two provisions is a case where a death actually occurs in a situation where there is a drug kingpin, but where in the bill that came out of the Committee on the Judiciary, you had to have the usual actual knowing or intent to kill.

What I had offered originally and offered in the last Congress, and was passed here on the floor and what was adopted last night by the Gekas amendment, is a provision where if you have a death by a drug kingpin as a part of a drug enterprise like this, that reckless disregard is a sufficient standard.

The reason why it is so important that that be allowed and why it was adopted by this body is that we have situations like occurred in Detroit a

couple weeks ago, where someone who is a rival crack dealer burns down the rival crack house. He does not know that a mother and her infant baby are in the crack house, but they are burned to death in that process. That murder would not have been covered by the provision; in fact, it would not have been murder by the provision that came out of the Committee on the Judiciary. But with a reckless disregard standard with respect to this provision, it would be.

The second prong, and I think this is more unique and different and needs explanation, deals with the fact that also added as a part of the drug kingpin death penalty provision is the situation where, as a part of a continuing criminal enterprise, the principal administrator, organizer, or leader of the enterprise, either orders or directs in some way someone to kill, to attempt to kill, one who is a prosecutor, a juror, a witness, or a member of the family or household of such a person, with an intent to obstruct the proceedings that are coming up against him, the investigation, or the trial.

Mr. Chairman, I think that is a very important addition. There ought to be a death penalty in that situation, even though an attempt is involved and perhaps not the actual murder itself. I think that it rises clearly to the same kind of degree of concern that we have when we just talked about simply selling narcotics in large enough quantities in order to be assured that we have the public concern involved in this situation, with how egregious it is.

Mr. Chairman, this is the only way that we have as a country to control the kind of things that are being perpetrated by drug kingpins against those who would be involved in prosecuting them or investigating them. They make awful attempts at lives, and this would provide a clear sanction against that. I think it is an important addition.

Mr. Chairman, having said this and related what is involved in the amendment itself, and having related what I have done up to this point in time, I ask unanimous consent to withdraw this amendment.

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

There was no objection.

The CHAIRMAN. Under the rule, it is now in order to consider amendment No. 7 printed in part 2 of House Report 102–253.

AMENDMENT OFFERED BY MR. HYDE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE:

Page 65, strike line 11 and all that follows through line 24 on page 74 and insert the following:

TITLE XI—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 1101. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1102. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) The time at which State remedies are exhausted.

"(2) The time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action.

"(3) The time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

"(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 1103. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged as a criminal against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 1104. AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. if no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. 1105. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsections, "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended--

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection

"(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by inserting after subsection (c) a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding at the end the following:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.

"(i) An adjudication of a claim in State proceedings is full and fair within the meaning of this section, and of section 2259 of this title, unless the adjudication—

"(1) was conducted in a manner inconsistent with the procedural requirements of Federal law that are applicable to the State proceeding,

"(2) was contrary to or involved an arbitrary or unreasonable interpretation or application of clearly established Federal law, or

"(3) involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.".

SEC. 1106. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph

and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) The time at which the judgment of conviction becomes final.

"(2) The time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action.

"(3) The time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

"(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 1111. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991".

SEC. 1112. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Application to State unitary review procedures.

"2262. Limitation periods for determining petitions.

"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State had invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it. The court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings. A full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct, and the prisoner shall have the burden of rebutting this presumption by clear and convincing evidence.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedures

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence to death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180 day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§ 2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of such application unless a response pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. HYDE] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Does the gentleman from Texas [Mr. BROOKS] rise in opposition?

Mr. BROOKS. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I rise in support of the Hyde amendment on habeas corpus. My support for it is based on my 8½–10½ years experience as a State prosecutor. I have studied this amendment and given it very careful consideration in light of my 19 years experience in the State criminal justice system at the State level. This amendment is absolutely essential to meaningful habeas corpus reform. It would improve the process. The committee bill would make matters worse.

Justice is scarce to nonexistent in our criminal justice system today, because we have no finality of judgment. Finality of judgment is one of the most important goals of our judicial system, because it is an essential component of justice itself. When a judgment of conviction is never final and is always open to attack based upon some change in law or some new legal theory proposed by the latest in an endless series of lawyers, we can have no justice. When a criminal is never told with finality that his punishment must be served, we can have no justice. When the victim or a victim's family is never told with finality that their ordeal is over, there can be no justice. If we are to have justice, there must be finality of judgment so that our society can say with certainty that guilt has been determined, that punishment has been inflicted, and that it is over.

The habeas provisions of the committee bill will not further finality of judgment. Instead, they will result in even less finality of judgment than we have now. Among other things, the habeas provisions in the committee bill would destroy the nonretroactivity doctrine of the *Teague* v. *Lane*, 489 U.S. 288 (1989), decision and related cases. I know from my years on the State trial court bench that nothing is more frustrating and more unfair than to have a case reversed and have to retry it because the rules were changed after the trial. A judge exercises all possible caution, and he considers and carefully decides all legal issues in accordance with the latest Supreme Court decisions. What the committee bill would mean is that no matter how cautious, how careful, how diligent, and how respectful of existing precedent a State court judge is, his rulings are never safe from some unforeseen opinion issued in the distant future.

There can be no finality of judgment when litigation is constantly open to reexamination based upon rules that are announced years and years after guilt is determined and punishment imposed. I support the Hyde habeas corpus amendments, because unless the committee bill is amended it will overrule the Teague nonretroactivity doctrine and thus destroy what little finality of judgment we have today.

I also favor the Hyde habeas corpus amendments because of their "full and fair adjudication" provision. Under this provision, a Federal court would defer to the State courts' judgment concerning an issue if, but only if, that decision has been arrived at under full and fair procedures and it is also not an arbitrary or unreasonable decision.

The full and fair provision is the most valuable step we can take to-

wards finality of judgment, because it will end the indefensible situation in which a single Federal court judge second guesses the considered and entirely reasonable judgment of more than a dozen State judges. Under the law as it exists today, one Federal judge can overrule a State trial court judge, five State intermediate appellate court judges, and nine State supreme court judges even in situations in which their judgment and decision on a particular issue is as fairly arrived at and as reasonable in result as the opinion of the one Federal judge. Moreover, 1 Federal judge can overrule those 15 State judges even when the U.S. Supreme Court has itself denied review in the case on direct appeal.

You can gauge the value that a provision will have for finality of judgment by the extreme reaction it provokes from those whose business and desire it is to fight finality of judgment at all costs. Opponents of finality of judgment say that the full and fair adjudication provision will end habeas corpus review. Of course, that is nonsense.

Under the full and fair provision, it is the Federal habeas courts that will have the final say on whether the State courts have given full and fair review to the contentions of the Federal habeas petitioner. Only if the Federal habeas courts find that the State court procedures were full and fair, and only if the Federal habeas courts find that the State court decision on the issue was reasonable will the Federal courts defer. That is an absolutely crucial point which bears repeating. The full and fair review provision would have absolutely no effect whatsoever unless the Federal courts themselves decide that the State court procedures were fair, and unless the Federal courts also decide that the State courts reached a reasonable decision in the matter.

The only habeas corpus review that will be ended by this provision is the second guessing of those State court decisions that the Federal habeas courts decide are reasonable decisions fairly arrived at by the State courts. It is still the Federal courts that will decide which State court decisions are reasonable. It is a sad commentary on our judicial system that such a moderate proposal can be viewed as revolutionary.

Contrary to what has been said, the full and fair adjudication provision will not allow State courts to trample on Federal constitutional rights, because the Federal habeas courts will never find that that is reasonable. Nor will the provision result in the innocent being convicted or executed. No Federal habeas court would ever find that that is reasonable.

We vote on a lot of legislation in this Congress, and all of it is important to someone or to some group. However, legislation which seeks to do something about the problem of crime and which seeks to improve our criminal justice system is important to every single person in this country. I want to tell you that based upon the 19 years I spent laboring in the justice system before I came to Congress, the Hyde amendment habeas corpus provisions are the most important single piece of legislation that this Congress has considered concerning our criminal justice system. The National Association of Attorneys General, the National District Attorneys Association, and victims and survivors groups all support the provisions of the Hyde amendment.

If we are to have finality, if we are to have justice, then it is essential that we not disturb the nonretroactivity doctrine and that we adopt the full and fair adjudication provision. It is essential that we enact the Hyde habeas corpus amendment.

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

Mr. Chairman, I want to express my vehement opposition to this amendment. I strongly share the opinion that changes, reforms, and limitations are needed to reduce the length of time occurring between conviction of heinous murderers and their execution. My views on the need for capital punishment for certain unforgivable offenses are very well known. However, endless hearings and delays—many of which are spawned by attorneys unable to follow the complex procedure that applies in habeas corpus proceedings—have unfortunately cast into question the validity of one of our most cherished rights, and of the workings of the judicial system itself.

Having stated my commitment to useful and practical reform, I must, however, seriously question the direction which the gentleman from Illinois wishes to take us in raising this amendment. Only a year ago, the gentleman—a very distinguished and erudite lawyer—stood before this body and literally brought down the rule on the crime bill because his amendment on habeas corpus at that time was not made in order for a vote. Eventually, we did consider what the gentleman had to offer; and as a body, we adopted his amendment at that time. Ultimately, the Hyde amendment from the 101st Congress was not enacted, but the lessons derived from it were certainly remembered by me and many other Members. For this reason, the Judiciary Committee this year reported a habeas corpus provision that closely comports with the very proposal which the gentleman from Illinois sought last year.

A year has passed, and the gentleman comes forward again. But, he comes not to support that amendment which the committee passed and which was modeled on his handiwork. Instead, he comes before this body to advocate an amendment that would radically depart from his previous proposal and would, in essence, eviscerate the entire concept of habeas corpus under a procedural haze of glib rhetoric. It mocks plain and common usage to say that an amendment which destroys a doctrine is a reform package.

If our objective here is to reduce delays, achieve finality, and promote efficiency in the habeas corpus process, the habeas provision in H.R. 3371 does exactly that. But, if the objective is really to dismiss at one stroke a fundamental doctrine that goes back at least 750 years in Anglo-Saxon and American history, then such a radical intent should be forcefully and directly stated.

Let us give precise attention to what the Hyde amendment does. At bottom, it creates a pleasant sounding phrase—"full and fair adjudication"—that makes us initially feel that we are acting responsibly in the area of administration of justice. How could one be opposed to a provision containing the words "full and fair"? It sounds so constitutionally grounded in due process and equal protection of the laws. Yet the fine print taketh away what the nice label giveth. The fine print says that if a State simply declares that a person was given a full and fair proceeding, the actual fact of whether the 14th amendment protections of due process and equal protection were provided does not matter.

The amendment is almost the equivalent of demanding that a Federal court could not pierce the deep, dark veil surrounding due process so long as the magic words of "full and fair" are offered up.

While I have great confidence in the State courts, I do not believe that the doctrine of habeas corpus should be suspended when fundamental constitutional safeguards are not met. When they are not, the Judiciary Committee provision—the Hyde provision of yesteryear—will ensure a very limited and prompt review by a Federal court.

That is the very least we can do to ensure that the "great writ," as Blackstone termed it, remains basic to our judicial system in those rare cases when justice has not been given a chance to work.

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

□ 1220

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, almost all of us could relate to Mr. and Mrs. Collins and the pride and the love that they felt for their daughter. She was beautiful, bright, accomplished, athletic, full of spunk and fun. Until July 12, 1985, when she was jogging, and a man grabbed her from behind, a man that as far as I am concerned should not have been out in civilized society but was. And he was white. There is no issue of race here whatsoever.

But he grabbed her from behind, smashed her face into his automobile until her face was unrecognizable and then sexually tortured her, put a branch through the length of her body repeatedly until she died. The branch was found embedded the length of her body when she was found.

There was no question of guilt here, when the evidence was overwhelming, absolute. And so he confessed, and then when he confessed, he claimed multiple personality disorders. He was examined by dozens of psychiatrists and their unanimous conclusion was that he did not suffer from any isms but he was a very cruel person.

I am not going to go any further into this person's background because under current law and under this House bill it is simply too easy to find reasons for further Federal appeals.

This was 6 years ago. No question of guilt. I cannot describe in detail what happened to the Collins' daughter, but her father has had to do this for 6 years, will have to do that for years more.

What punishment, what revictimization? I have heard these arguments, and I want to believe and agree with my side of the aisle. I cannot in this case.

The point is that he was arrested over 6 years ago. It took 20 more months to get to trial. He was convicted 4½ years ago and since then has continually been able to appeal. It will be years of more hell for Mr. and Mrs. Collins under current law and under this bill because this bill does not set adepuate time limits on how long this case can be dragged out.

The Hyde amendment on the other hand sets a statute of limitations. I have to make the point that it is time we brought the punishment of innocent survivors to closure. It is not fair what we are doing.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. JENKINS], a distinguished member of the Committee on Ways and Means.

□ 1250

Mr. JENKINS. Mr. Chairman, I voted yes on the Hyde amendment last year. But this year I am voting no, and I strongly urge my colleagues to vote no.

Since the Civil War, Federal habeas corpus has been the principal means for protecting our Bill of Rights in State criminal cases.

Last year the Hyde amendment would have streamlined habeas corpus. I support that. This year the Hyde amendment is radically different. It will end habeas corpus. I oppose that.

We must let the Federal courts have one chance to hear Federal constitutional claims. But the Hyde amendment would bar Federal courts from correcting erroneous State court interpretations of the Bill of Rights, so long as the claim was "fully and fairly adjudicated." This is the key difference between the Hyde amendment this year and last.

What "full and fair adjudication" really means is that if the State court proceeding was procedurally adequate, the fact that the State court was dead wrong on the law is irrelevant. The Federal courts are powerless to correct the error. When the Senate adopted virtually the same language in 1983, then-Attorney General William French Smith admitted the intent was the repeal habeas corpus.

Enacting this standard into law goes way too far. This is what attorneys general like William Guste of Louisiana, and Lee Fisher of Ohio, and Robert Abrams of New York say, and Chief Justice Rehnquist, the U.S. Judicial Conference, the American Bar Association, Federal and State judges, legal scholars, and practitioners from all perspectives say.

In death penalty cases, Federal habeas corpus may be the only thing standing between criminal defendants and death. An ABA study shows that, in capital cases, Federal courts overturn an astounding 40 percent of State prisoners' convictions or sentences. Forty percent of those on death row who do not deserve to die—who may be innocent—may be executed if this amendment becomes law.

Everyone agrees that the current system is inefficient, that cases take too long, that prisoners can abuse habeas corpus by filing one petition after another.

The Brooks-Jenkins-Derrick proposal in H.R. 3371 takes care of these problems. It doesn't abolish habeas corpus, as this amendment would. It only streamlines it.

During this past week, many of us watched the Thomas hearings in the Senate, and have been very critical of the process, and have stated that the process is unfair—either to Thomas or to Hill or both. Even Judge Thomas has said this is a lynching, and many have agreed. They do not have the privilege of habeas corpus in this process, they have no appeal to the decision. But, both have had the advantage of high dollar legal support from special interest groups.

How will an accused person who cannot afford a high dollar defense team, such as Thomas and Hill have, ever receive a proper trial without the opportunity of an appeal? It is not uncommon for the prejudice of a community to be reflected in the outcome of a trial. The rate of reversals in capital cases is presently around 40 percent. Without an appeal, this 40 percent would be imprisoned or executed despite the principals set forth in our very own Constitution. The appeals process is long and tedious, for both defendant and prosecutor, but we are obligated to provide an appeal to satisfy justice that any person executed was rightfully executed.

It is essential that we understand the gravity of the situation when we consider limiting this privilege by barring Federal courts from reviewing these cases. The example that has become classic in this argument is that of accused murderer Leo Frank, a fellow Georgian who was not allowed to attend critical portions of his own trial due to the mob that waited to lynch him. In addition, a witness that could have exonerated him was not allowed to testify due to the same mob. Although this was a clear violation of his sixth amendment rights "to be confronted with the witnesses against him" and "to have compulsory process for obtaining witnesses in his favor," Federal courts were barred from reviewing this case as the State courts had met the standard of a "full and fair" adjudication. That is to say, the State court had conducted a "procedurally correct" trial. Leo Frank was posthumously exonerated by the actual murderer, a result that could have been avoided had the Federal courts been able to examine his case.

Mr. Chairman, I ask my colleagues to join me in voting against this amendment. This will not streamline the review of habeas cases, it will add a whole new generation of litigation to the problem we have now. Under the Hyde amendment, Federal courts are barred from reviewing habeas claims. But there are three exceptions to this rule. If we think we have a backup of cases now, just wait until every prisoner who would file a habeas appeal files three claims for an exception. We will not be streamlining anything. We will be tripling the problem we now have. Believe me, the Hyde amendment is a litigator's dream. In the name of streamlining, the problem we now have is replaced with another.

By contrast, title XI of the Judiciary Committee's bill addresses the fundamental problems with habeas delays: Time and number. Neither time nor the number of appeals is presently limited, and it allows a prisoner to file endless claims which considerably delay final resolution of the case. Under the committee bill, time is limited to 1 year and the number is limited to one appeal only.

Mr. Chairman, I urge my colleagues on both sides of the aisle to vote against the Hyde amendment.

Mr. HYDE. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Chairman, I thank the gentleman very much for yielding me this time.

Mr. Chairman, I rise in strong support of Congressman HENRY HYDE'S habeas corpus amendment. It is time to put finality into the lawful, proper criminal conviction process.

Mr. Chairman, there are those who argue that this amendment will take away constitutional rights. But I would suggest that our Founding Fathers never envisioned a system that would be clogged with unnecessary appeals. They envisioned a system that would be fair, and reasonable, and more important, they envisioned a system which would be final in a reasonable time.

I would urge my colleagues to support this important amendment.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. DERRICK], a distinguished member of the Rules Committee.

Mr. DERRICK. Mr. Chairman, we are not just tampering this morning with a right that was guaranteed to us under the Constitution. That would be serious enough. But we are tampering with a right that has been guaranteed in the English common law for the last 700 or 800 years. We are looking at a right that is one of the basic rights guaranteed to individuals in this country and throughout our heritage.

Let me give an example. In a State court A is convicted of a crime. A year or two later B comes up and says, "No, he didn't do it; I did it." It is my opinion, under the Hyde amendment, there would not be review at the Federal level for A even though someone else admitted committing the crime.

There have been a lot of prosecutors around through my office as they have been through yours, and my prosecutors came to see me yesterday, and quite frankly, after we had an opportunity to sit down and discuss it for just a few minutes they said not to worry about that, it is OK and we are not upset about that. We can handle that.

Something else that has not been brought up is that the bill is supported by the U.S. Judicial Conference, former U.S. attorneys general, current and former Federal and State judges and prosecutors, hundreds of law deans and professors throughout this country, eminent historians and the American Bar Association, and State and local bars nationwide. I ask my colleagues, if the bill was going to do all the horrible things that the Hyde amendment and those who sponsor it suggest it would do, would this distinguished group of Americans support the judiciary bill? I suggest that they would not.

Justice delayed is justice denied. Under the judiciary bill there is a 1-year statute of limitations. There is a very limited, one petition with the exception of extraordinary cases. These are basically the things that our people, the people in this country have complained about for years, because someone takes 8 years or 9 years after a judgment to get to the final adjudication of the matter. All of this is taken together with competent counsel. This is one of the most serious votes that we will cast, and I ask Members to please vote against the Hyde amendment.

Mr. HYDE. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from New York [Mr. FISH].

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to my distinguished friend, the gentleman from New York.

The CHAIRMAN. The gentleman from New York [Mr. FISH] is recognized for a total of 3½ minutes.

Mr. FISH. Mr. Chairman, I thank my colleagues for yielding me this time.

Mr. Chairman, our vote on this amendment by my colleague and friend from Illinois touches one of the most fundamental rights in Anglo-American jurisprudence. We deal here with habeas corpus, the great writ of liberty. I know that some of my colleagues insist that modern habeas corpus for State prisoners is different from the common law writ protected by the Constitution. But the development of habeas corpus did not end in 1787 when the Constitution was adopted. Nor did it end in 1867, when the statute we are amending today was enacted. The great writ is a living instrument of our liberty. It stands now where it has always stood, to protect the rights of our citizens against arbitrary imprisonment, even death. I would not want to trifle with habeas corpus. I trust this House feels the same and that the gentleman's amendment will not be adopted.

I agree that habeas corpus today is time consuming, inefficient, and in need of reform—particularly in death penalty cases. That is why we adopted my colleague's amendment last year. But last year's Hyde amendment contained only the verbatim recommendation of Justice Powell's committee. My colleague's amendment this year is different. The Powell Committee did not propose this "full and fair" adjudication standard. If adopted, this standard leaves the Federal courts without power to remedy constitutional violations if State courts have considered the issue in a procedurally fair forum. The Powell Committee assumed that the Federal courts would continue to do what they have always done, but recommended that we make a number of procedural changes to expedite the processing of cases.

It is clear that the attempted definition of "full and fair adjudication" does not alleviate these concerns. The judiciary, the ABA, and much of the legal community strongly opposes "full and fair," even as defined by the gentleman's amendment.

The Hyde amendment this year is a far cry from the Powell Committee. If any language this year essentially adopts the Powell Committee recommendations, it is the language in the committee bill, title XI.

I call on this House to read these competing proposals, and seriously consider what the committee has produced this year. The changes against the committee language are unfair. This bill would not create more delays and litigation, and it certainly would not frustrate the implementation of the death penalty. By contrast, this bill would establish a strict statute of limitations in death penalty cases, cut off virtually all multiple petitions from the same prisoner, and bar the Federal courts from granting relief on the basis of changes in the Law. Mr. Chairman, none of these measures is in current law; each would restrict habeas litigation considerably.

Proponents of the Hyde amendment pick away at the details. For example, their bill has a limitation period of 6 months, while the committee bill provides for 1 year. I, for one, think it makes all the sense in the world to have a 1-year rule, so long as it is strict and is relaxed only for reasons not in the prisoner's control. To cite one example, under the committee bill the 1-year period does not begin to run until competent counsel has been assigned to a case.

But matters such as these are insignificant next to the extraordinarily important steps the committee bill takes in requiring competent, experienced lawyers in death penalty cases, from trial on. If we mean to expedite habeas litigation and also to be fair, this is the only way to do it. Competent counsel will improve the State process. It recognizes the incompetent counsels are responsible for errors in capital litigation. It gets to the reason finality has been delayed.

A lot has been said about the rules governing second or successive petitions from the same prisoner. Under the committee bill, a successive petition must be dismissed unless the prisoner shows one of two things—either State authorities prevented him or her from raising the claim in the first petition, or the facts supporting the claim could not have been discovered at the time the first petition has filed. Even then, the Federal court must dismiss unless the claim goes to the prisoner's guilt or to the validity of a death sentence. This is the U.S. Judicial Conference recommendation.

Proponents of the gentleman's amendment complain that this is still not strict enough. Under Hyde, a prisoner would not be able to challenge a death sentence in a second petition, even if State officials unconstitutionally kept him or her from raising the claim earlier. I frankly do not understand the justice, or the sense, of that position.

These are complex bills, and I could go on. Let me finish simply with this. I support reasonable, meaningful, even tough reforms of habeas corpus. But I cannot support doing away with the writ. That is what the gentleman's amendment would do. I urge the House to reject it.

□ 1240

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

Mr. Chairman, first of all, forgive me, but we are not dealing with the great writ as two of the last speakers have said. The great writ of habeas corpus in the Constitution is involved when the executive is holding someone without charge.

We are dealing with statutory habeas corpus. Now, unfortunately, nobody seems to notice, including the Judicial Conference, that we have amended the bill to define what full and fair means.

If you want to reform habeas corpus, you want to stop relitigating, retrying the same issues again and again and again. The defendant has a trial, an appeal, an appeal to the Supreme Court, a direct appeal, then initiates collateral review through the State courts, then he moves over to the Federal system for Federal habeas corpus review.

Now, the Federal judge takes cognizance of what went on in the State courts, and only will assign validity to matters of fact, of law, and of procedure if they were dealt with reasonable consonant with the definition we have supplied in our bill.

The Judicial Conference, which wrote to Chairman BROOKS, says they are opposed to full and fair. They never consulted our amendment, our definition. We called them this morning. They never heard of it. They only looked at the Senate bill. So their letter is out of date.

You know, 15 minutes to discuss habeas corpus is an absurdity, and it was done, in my judgment, to keep us quiet so we cannot adequately discuss this, so I have got to resort to authority.

Here is a letter from a Democrat State's attorney from the County of Fairfax, VA.

Let me tell you what he says:

This bill—

Meaning the Brooks bill—

expands the rights of criminals, does little for victims, and will effectively end the death penalty in all of the States.

Here is what he says, and this is the Democrat State's attorney, Robert F. Horan, Jr.:

I urge you to vote for the Hyde amendment that will curb abuse of habeas corpus procedure, defer to full and fair State court adjudications and leave intact the retroactivity doctrine established in Teague v. Lane.

Now, listen to this, and I am quoting:

It pains me somewhat as a lifelong Democrat to sound like a cheerleader for the republicans on this bill. I truly believe that the American people have a perception that the Democratic Party is soft on crime. It is bills such as this that add to that perception. Giving the criminal more tools with which to avoid justice simply makes no sense to me.

The National District Attorneys' Association supports the Hyde amendment, 30 attorneys general, bipartisan, from around the country, support the Hyde amendment. We heard yesterday from my resourceful friend from Texas, a letter from an exattorney general, Jim Mattox. He served in this House, no conservative he. Well, let me point out that the present attorney general, and I assume he is a Democrat, Dan Morales, supports the Hyde amendment, and I have his letter from Texas. Moreover, here is a resolution from the Texas District-County Attorneys' Association supporting the Hyde amendment.

So all of these people would not be supporting the Hyde amendment unless it had some merit.

Do not be misled. Full and fair adjudication is determined by the Federal judge of the Federal habeas corpus petition and within a definition that requires it not to be arbitrary but to be reasonable, not just as to procedure but as to the facts and as to the law as well as to the procedure.

There must be an end to litigation. There must be finality, and so we get to finality by reforming habeas corpus, as the overwhelming majority of States' attorneys, attorneys general, and law enforcement want it reformed, and that is the Hyde amendment, not a regressive step back which is the Brooks-Edwards amendment, and never forget, the gentleman from California [Mr. EDWARDS], my dear friend and chairman of my subcommittee, is an adamant opponent of the death penalty.

Support the Hyde amendment.

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

Mr. HYDE. Mr. Chairman, for whatever time I have, I yield to the gentleman.

Mr. WASHINGTON. I just want to ask one question. Would the gentleman agree with me that an example cited by our friend from Virginia, that inasmuch as that case is still in the State court system that his position does not have anything to do with this amendment one way or the other?

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

Mr. HYDE. I am happy to yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I can answer that. As we have discussed, the point is it is being appealed to the Federal court. And the point is that there is no question of guilt or innocence, and the bill allows appeal or other reasons than guilt or innocence. That is the issue.

Mr. WASHINGTON. I would ask the gentleman from Illinois [Mr. HYDE] if he would tell our friend that this does not have anything to do with direct appeal. I believe he is misinformed.

The CHAIRMAN. The gentleman in the well controls the time.

Mr. HYDE. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the meaningful habeas corpus reforms in Mr. HYDE's amendment.

In California, convicted murderer Robert Alton Harris has been beating the system through an apparently unlimited number of lengthy appeals since 1978, when he was sentenced to death. Both California Attorney General Dan Lungren and Ventura County District Attorney Michael Bradbury join me in supporting the enactment of meaningful habeas corpus reform that limits the ability of convicted criminals to unfairly abuse the judicial system at taxpayers expenses.

I urge my colleagues to join me in voting to amend the habeas corpus provisions in H.R. 3371 to provide for real reform. We must not continue to put the minds of convicted criminals at lease with the idea that they can make a mockery out of our justice system.

Mr. HYDE. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, today, I rise in support of the Hyde amendment to H.R. 3371.

Mr. Jack Collins is a constituent who—in his own tragic story—demonstrates clearly and powerfully the reason why the Hyde amendment must replace the committee language.

As Mr. Collins testified before the House and Senate Judiciary Committees earlier this year, his beloved only daughter, Suzanne, was the victim of a brutal crime on July 12, 1985, when she was jogging on the Memphis Naval Air Station base in Tennessee. As Mr. Collins recalled, a man by the name of Mr. Smedley Alley grabbed Suzanne from behind, choked her into a state of semiconsciousness, and abducted her from the base. He then took her to a county park where he smashed her face against his car until she was unrecognizable, raped her, and sadistically tortured her sexually in a way that is too extreme to describe on this floor, and then savagely killed her. This attack was so brutal and so cruel that the Collins' were unable to have an open coffin at their daughter's funeral.

Suzanne Collins' attacker did not go unnoticed. Two fellow Marines, responding to Suzanne's screams, ran after Alley and were able to clearly identify his vehicle leading to his arrest. Seeing that the evidence against him was incontrovertible, Mr. Alley confessed to the crime. He later pleaded insanity claiming that he suffered from multiple personality disorder. Dozens of psychiatrists studied Mr. Alley and concluded unanimously that he did not suffer for any "isms", but was rather an extremely cruel person. He was convicted and sentenced to death.

The point of my appeal is this: Mr. Alley was first arrested over 6 years ago. It took 20 months to get to trial. Since then, it has been continuously appealed in the State courts on both

direct and collateral habeas corpus appeals. Alley is currently on his third appeal, having had an appeal to the Tennessee State Supreme Court and the U.S. Supreme Court both fail. A year from now—more than 7 years after the crime was committed—we expect that Alley will appeal his case yet again—this time under Federal habeas corpus.

While these appeals go on and on, Mr. and Mrs. Collins must each time relive the nightmare horror their daughter experienced.

The House crime bill contains a provision which seeks to reform Federal habeas corpus. Mr. Speaker, I argue that the crime bill does not go far enough. I argue that we must adopt a strong, effective reform of habeas corpus that speeds up the judicial process and ends the suffering felt by the thousands of Mr. and Mrs. Collins across the country. I argue that we should adopt the Hyde amendment to H.R. 3371.

The Hyde amendment sets a statute of limitations of 6 months for filing a habeas petition consistent. This statute is consistent with the Powell Commission's recommendation on habeas corpus reform. The Hyde amendment also sets a time limit on the disposition adjudication of habeas corpus cases in Federal courts—110 days in district courts and 90 days in appeals court. Most importantly, the Hyde amendment allows cases to be appealed under Federal habeas corpus reform only if it regards the guilt or innocence of the defendant. Cases cannot be appealed incessantly on technical or procedural grounds. Thus, the Hyde amendment ensures that the rights of victims are addressed and while the rights of criminal are protected.

This amendment takes a necessary step in closing the most glaring and inequitable "loophole" in our judicial system by limiting the endless appeals process—a process which does little in terms of fulfilling justice but rather continues to torment families like the Collins and further undermine the faith the American people have in our criminal justice system.

How much more grinding punishment can we in good conscience inflict on the Mr. and Mrs. Collins' of this country. How much longer can we ask them to relive a nightmare time and time again?

I urge my colleagues to bring a sensible end to the interminable habeas corpus appeals that are blocking our judicial system. I urge my colleagues to join me to voting for the Hyde amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. COX].

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

Mr. COX of Illinois. I am happy to yield to the gentleman from Oregon.

Mr. KOPETSKI. Mr. Chairman, I ask my colleague from Illinois, as a former prosecutor, do you think the definition of full and fair adjudication in the Hyde amendment takes care of the problem that has the legal community up in arms?

Mr. COX. No, as a matter of fact I think it makes the problem worse.

First, the definition will create new delays in capital and noncapital cases, because the Federal courts will have to figure out whether the State review was full and fair.

Second, the definition is so extreme and so narrow that nearly every State court decision will be declared full and fair. Not only must the State court be wrong about Federal constitutional claims, but it must have deliberately ignored clearly established Federal law.

Third, Federal law is often not clearly established, but the Federal courts would now have this new issue to determine as well.

That is why this is a court-stripping amendment and I strongly oppose it.

□ 1250

Mr. KOPETSKI. As a former prosecutor, what is the gentleman's opinion of the committee bill?

Mr. COX of Illinois. I agree with the many current and former prosecutors who oppose the amendment of the gentleman from Illinois and support the committee bill. The committee bill is a dramatic restriction on Federal habeas corpus, but it does not eliminate it, as the amendment by my colleague from Illinois would. The committee bill reduces delays dramatically and does give one, but only one, fair appeal to the Federal courts.

Mr. KOPETSKI. Mr. Chairman, I rise today in opposition to the Hyde amendment.

Mr. Chairman, our English ancestors fought for habeas corpus until it was guaranteed by the Magna Carta. Our Founding Fathers fought for the right of habeas corpus to ensure that the State will not wrongfully punish citizens. They considered it to be the highest safeguard of liberty. In this year of the bicentennial of the Bill of Rights, we should affirm the importance of habeas corpus, not abolish it.

Mr. Chairman, habeas corpus is the principal way for Federal courts to enforce the bill of rights in criminal cases. Why is habeas corpus so important? The American Bar Association found that in 40 percent of death penalty cases reviewed by the Federal courts, the State court conviction or sentence was based on serious violations of constitutional rights. This is not to say that 40 percent of these convictions were thrown out; it simply meant that the defendant was entitled to a new trial or new sentencing. Because of our habeas corpus procedure, some of these people were fairly retried, others were resentenced to life terms, others were acquitted of all charges, and yes, still others faced their original sentences.

Mr. Chairman, under the able leadership of Chairman BROOKS and Chairman EDWARDS, the committee crafted a compromise to expedite habeas proceedings and promote finality, while at the same time ensuring that capital cases are fairly processed at all stages of the criminal justice system.

Specifically, this bill has a 1-year statute of limitations. It also prohibits successive petitions in virtually all circumstances. It eliminates last minute requests for stays of execution. These provisions stipulate that new rules of law—a clear break from precedent—will never apply in habeas corpus proceedings, a standard even tougher than the Teague case, which says new rules may apply in certain situations. Under this bill, Federal habeas courts may not retroactively apply a new rule even though a defendant's conviction would be unconstitutional if the rule was law before the conviction became final. Lastly, this bill ensures that States will provide competent counsel in capital cases, from the trial forward. This will do more to expedite capital cases than any other provision. It will decrease the number of unnecessary appeals, retrials and resentencings, and is critical if we are going to try these cases fairly.

It is ironic to me that just 3 months ago this House debated granting most-favored-nation status to the People's Republic of China. In that debate, many argued that we should not grant China MFN status because they do not guarantee fundamental rights, like habeas corpus, to their citizens. Now 3 months later, this House is considering an amendment that will in effect eliminate habeas corpus. If this amendment is enacted, defendants will be executed despite the fact that they were convicted or sentenced unconstitutionally. Innocent people will be executed if this amendment becomes law.

Mr. Chairman, I urge my colleagues to reject the Hyde amendment.

Mr. BROOKS. Mr. Chairman, I yield the balance of our time to the gentleman from New Jersey [Mr. HUGHES], a distinguished member of the subcommittee.

Mr. HUGHES. Mr. Chairman, I rise in the strongest opposition to this amendment.

This amendment relates to the most important portion of the crime bill. If enacted, the amendment would gut the Federal writ of habeas corpus, one of the most fundamental rights under our Constitution. In the words of former New Jersey Chief Justice and Gov. Richard J. Hughes, "the full and fair provision would be tough not on crime, but on the Constitution."

Habeas corpus is the process whereby Federal courts may remedy violations of rights under the Federal Constitution which occur in State proceedings, usually State criminal proceedings.

It is not a loophole, or a clever lawyer's trick, or a vehicle for "getting off on a mere technicality"—it is a fundamental right under our system.

We are told that many State attorneys general and prosecutors support the Hyde amendment, therefore it must be good. It is not surprising that they like it. Federal habeas corpus is designed to address constitutional er-

rors made in the State proceedings. It is, in the parlance we all know, oversight. Few oversightees welcome oversight.

More noteworthy is that many prosecutors and State attorneys general do not support the Hyde amendment. It is too radical and destructive to our system of justice for them to support, even though it offers seductive attractions to their natural self interest in avoiding annoying and sometimes embarrassing oversight.

There are many, many flaws in the Hyde amendment—far too many for us to address in the 15 minutes alloted. I will therefore address only the two most fundamental flaws.

The first goes to the heart of the proposal—indeed, to the name with which the amendment marches forward—"full and fair."

Under the amendment, Federal courts would be prohibited from granting a writ of habeas corpus—and I quote—"with respect to any claim that has been fully and fairly adjudicated in State proceedings."

The fatal flaw in this proposal is that a State court decision can be full, fair, and, at the same time, dead wrong. "Full and fair" goes to procedural rights—a lower court can meticulously observe these procedural rights, while clearly misunderstanding, misinterpreting, and misapplying Federal constitutional requirements.

When we pointed out this flaw in committee markup, proponents of the amendment argued that the clear language of the amendment does not mean what it says. The argument was made by Mr. MCCOLLUM that the Federal courts "are going to have to determine whether or not there was a reasonable interpretation of Federal law, and there's going to be considerable sweeping opportunity here for the Federal court to get involved."

Proponents of full and fair have apparently concluded that this invitation for runaway judicial activism will not wash. They have amended the amendment in an attempt to define "full and fair adjudication." I commend them for recognizing this necessity.

However, the revised amendment does not make clear that "Federal courts are going to have to determine whether or not there was a reasonable interpretation of Federal law." If they had done this, I would have to reconsider my strong opposition.

On the contrary, the hasty fix makes the amendment even worse. It makes explicit what was only implicit before. By defining full and fair in the manner it does, the amendment explicitly forbids Federal courts from overturning erronious determinations of Federal law. Under this amendment, such erroneous rulings are deemed to be "full and fair" unless they are not just wrong, but "arbitrary or unreasonable". Not just arbitrary or unreasonable, but arbitrary or unreasonable and involving "clearly established Federal law."

The Department of Justice explanation of this new language is instructive as to the intent and meaning of this language. The Department states that this language still permits Federal courts to reverse State errors "where a State court defied or disregarded Supreme Court precedent."

The Federal writ of habeas corpus exists to correct erroneous applications of law. It is not limited to rulings which defy or show contempt for Supreme Court precedent. It is not limited to rulings which are both erroneous and arbitrary, nor ones which are erroneous and unreasonable.

There is no good faith exception built into the writ of habeas corpus. Nor is it limited to Federal law which is some sort of super law. The escape clause built into the new Hyde amendment by the requirement that the Federal law being violated must be "clearly established" law seems to do just this.

Can anyone tell what clearly established means? It probably means that if the 12 Circuit Courts of Appeal are not in total agreement on a legal point, it is not "clearly established", and does have to be followed by State courts. What about a Supreme Court ruling which is less than unanimous?

The second fundamental flaw in the Hyde amendment is its failure to deal with the biggest contributing factor in the chaos which surrounds the administration of the death penalty in the United States today.

That problem is inadequate counsel. Forty percent of all death penalty cases are overturned on review. The most frequent cause is inadequate legal representation of the defendant during State proceedings.

The Hyde amendment gives each State two choices regarding counsel.

First, do nothing. Make no changes in your present system of providing—or not providing—appointed lawyers in post conviction proceedings, or in the standards for appointed counsel to defend death penalty cases. Unfortunately, States with the worst problems are the ones most likely to stay with business as usual, since there is a slight cost for opting in to even more radical restraints on Federal habeas in death cases.

Second, States can agree to appoint counsel to represent persons under sentence of death when those sentences are reviewed in State collateral proceedings. State habeas corpus. No specific qualifications or standards are set for lawyers who are so appointed.

In exchange for this nominal commitment on the part of a State, the rules for Federal habeas corpus review of death penalty cases arising in that State become even more stringent than those applicable to nondeath penalty cases under the "full and fair" gutting of all habeas corpus writs.

Federal writs must then be filed in 180 days in death cases, instead of in one year in the case of non-death penalty cases.

Federal courts, including the Supreme Court, would be mandated to conclude habeas corpus proceedings in unreasonably short time periods.

In the case of persons whose death sentences have already been reviewed, virtually all opportunity for an extraordinary second review is barred. For example, if it is later discovered that the prosecution fabricated evidence or encouraged perjured testimony, a new review would be permitted only if the new discovery would likely reverse the finding of guilt—not if it would only overturn the death penalty. Perjured testimony that formed the basis of an essential aggravating factor to justify a death sentence would not. Neither would a landmark Supreme Court decision such as that in Coker versus Georgia—death penalty for rape is disproportionate punishment—since that defect, however fundamental, goes only to the sentence and not to guilt.

Protecting "full and fair" State decisions sounds great. However, protecting "full, fair, and dead wrong" is not so great. That is what this amendment calls for. It should be rejected.

Mr. SCHEUER. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Illinois. This amendment is unnecessary and dangerous. It is unnecessary because the bill already streamlines the habeas corpus review process, and it is dangerous because it threatens a precious civil liberty guaranteed by the Constitution.

This is not only my opinion, but also the opinion of many prosecutors, judges, and legal scholars, many of whom are strong advocates of the death penalty.

Floyd Abrams—one of the Nation's leading authorities on the Constitution.

Francis Bellotti and James Shannon—former attorneys general from Massachusetts.

Lindy Boggs—our former colleague from Louisiana.

Hyman Bookbinder—of the American Jewish Committee.

Guido Calabresi—Dean of Yale Law School.

L. Stanley Chauvin, John Curtin, and Robert Raven—all former Presidents of the American Bar Association.

W.J. Michael Cody—former attorney general from Tennessee.

Stanley Fuld—former Chief Judge of the New York State Court of Appeals.

Joseph Grodin—former Justice of the California Supreme Court.

Gerald Gunther—professor of law from Stanford University, author of a superb and widely read constitutional law textbook.

Rev. Theodore Hesburgh—former president of Notre Dame.

Charles Mathias—former Republican Senator from Maryland.

Jim Mattox—former attorney general from Texas.

Elliot Richardson—former Republican U.S. Attorney General.

Peter Rodino—former chairman of the House Judiciary Committee.

Whitney North Seymour—former U.S. attorney.

Robert Spire—former attorney general from Nebraska.

Mr. Chairman, this is only a partial list of those that oppose this amendment. There are many more who believe this amendment is unnecessary, a threat to our precious freedoms, and unconstitutional. Listen to these experts. Vote no on the Hyde amendment.

Mrs. MINK. Mr. Chairman, I rise in opposition to the Hyde amendment. The writ of habeas corpus is one of our fundamental constitutional safeguards. Under it the Federal courts have become the final guarantors of justice to all, rich or poor, black or white. The Hyde amendment will for the sake of speed and economy, remove historic protections and safeguards.

As we confront problems in our legal system it is absolutely essential that we not lose sight of the principles upon which our Nation was founded. When our founders made their claim for the right to self government, the right to habeas corpus was at the heart of their demands, and it is clear that in the preservation of this right they handed down to us a profoundly difficult task to implement. Such is the challenge of democracy. I am prepared to participate in the search for ways to ease that challenge, but not if we find solutions which eliminate it.

The Hyde amendment would result in the elevation of form over substance in our juridical process. Federal courts would loose their jurisdiction to review any claim that has been "fully and fairly adjudicated" in State courts; as such, they would only be able to ask whether the State courts employed proper procedures when they considered and rejected a defendant's Federal constitutional claim, and then whether the State courts reached a reasonable result. If both questions are answered in the affirmative, then the Federal court would be stripped of its habeas jurisdiction.

What is significant in the application of the administration's "fully and fairly adjudicated" provision is that at no time will the Federal court be able to consider whether the State courts reached a correct result in adjudicating the prisoner's Federal constitutional claim. Results that are wrong, but which were reached by proper procedures would be immune from Federal review. This may expedite the process, but it would do so in exactly the wrong way—by destroying the safeguard.

Moreover, the full and fair provision would fundamentally threaten the uniformity of our constitutional rights. Throughout our history, Federal courts have provided an indispensable constitutional backstop to State courts, ensuring that the constitution is not interpreted differently between the States. Lack of uniform Federal court review could result in a patchwork quilt of constitutional protections. The same time-honored and timeless guarantees found in our Bill of Rights could soon mean one thing in one State, another in a second, and perhaps nothing in the third. Our national motto, E Pluribus Unum—out of many, one—might be stood on its head, for out of one Constitution could spring many interpretations. For these reasons Federal courts must be available to endore and ensure uniform Federal rights from coast to coast.

To be sure, there are changes that need to be made in our legal system, and we must consider drastic measures—but if those changes are so fundamental as to obliterate the basic rights that sets our Government apart from dictatorships, and if those measures eliminate the ability of citizens to be treated fairly in our courts, than we as Government will have forfeited our leadership among free nations.

I have heard many people discuss the war on crime, and I want to win that war as much as anyone—it is imperative, though, that in fighting that war we not lose sight of what we are fighting for. I urge my colleagues to vote no on the Hyde amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the noes 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 208, noes 218, answered "present" 1, not voting 6, as follows:

[Roll No. 316]

AYES—208

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Borski
Brewster
Broomfield
Browder
Brown
Bunning
Burton
Camp
Campbell (CA)
Campbell (CO)
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gillmor
Gingrich
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hobson
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kasich
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Machtley
Marlenee
Martin
Martinez
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Moran
Morrison
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—218

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bilbray
Bonior
Boucher
Boxer
Brooks
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Nagle
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—6

Callahan	Hopkins	McCurdy
Holloway	Huckaby	Waxman

□ 1311

Mr. RAHALL, Mr. GORDON and Mrs. JOHNSON of Connecticut changed their vote from "aye" to "no."

Mr. CRAMER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS EN BLOC OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. BROOKS: Page 175, strike line 8 and all that follows through line 7 on page 176, and insert the following:

SEC. 1803. AVAILABILITY OF THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND FOR CERTAIN GRANTS.

Section 524(c) of title 28, United States Code is amended by adding at the end the following new paragraph:

"(12)(A) In addition to the purposes otherwise provided for in this subsection, the Fund shall be available, subject to appropriation, for the purpose of supporting drug abuse treatment and prevention through grant programs under title V or title XIX of the Public Health Services Act.

"(B) Amounts made available under subparagraph (A)—

"(i) may be transferred only from excess unobligated amounts in the Fund and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1); and

"(ii) shall, with respect to each fiscal year, equal 25 percent of the total of such excess amounts for that fiscal year.

"(C) Amounts made available under this paragraph for treatment and prevention referred to in subparagraph (A) shall be used to supplement, rather than replace, amounts that would be otherwise available for such treatment and prevention.".

SEC. 1803A. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1803B. NOMINAL CONSIDERATION SALES OF LOW VALUE REAL PROPERTY TO CERTAIN TAX EXEMPT ORGANIZATIONS.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(4)(A) If any property referred to in paragraph (1)(B) is low value real property located in a metropolitan statistical area, the Attorney General shall have the authority to offer such property for sale, for nominal consideration, to tax exempt organizations that provide direct services furthering community-based crime control, housing, or education efforts in such area.

"(B) As used in this paragraph—

"(1) the term 'low value real property' means, with respect to a metropolitan statistical area, real property that is appraised at less than 40 percent of the median value of comparable real property in the metropolitan statistical area; and

"(2) the term 'tax exempt organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code.".

Page 126, after line 14, insert the following:

SEC. . PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISION OF P.L. 101-516 WHICH CONDITIONS PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THAT STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of Public Law 101-516, section 333. This program shall notify the Governors and State Representatives of the requirements of Public Law 1-1-516, section 333.

Page 155, after the matter following line 4, insert the following:

SEC. . MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "not more than $250" and inserting "under this title"; and

(2) by adding at the end "For the purposes of this section, the term 'sells' includes trades, barters, or exchanges for anything of value.".

Page 21, line 20, after "model" insert "in English and in Spanish".

Page 23, line 19, strike "and".

Page 23, line 21, strike the period and insert "; and".

Page 23, after line 21, insert the following new paragraph:

"(6) a description of educational materials to be developed in Spanish.".

Page 51, line 20, insert between "State" and "," the following: "or where the threat of a drug-related emergency exists to part of a State bordering part of a foreign country where a drug-related emergency is known to exist".

Page 52, line 5, insert "drug smuggling" between "which" and "drug trafficking".

Page 53, line 5, insert "drug smuggling" between "drug trafficking" and ",".

Page 225, strike lines 8 through 18.

Page 227, strike line 18 and all that follows through line 3 on page 229.

Redesignate the sections of subtitle A of title XX accordingly.

Page 14, after line 20, insert the following subtitle heading:

Subtitle A—Grants for Substance Abuse Treatment 2

Page 20, after line 22, insert the following new subtitle:

Subtitle B—Study on Effectiveness of Residential Treatment and Assessment of Effect of Alcohol on Crime

SEC. 311. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State.

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

Page 230, after line 4, insert the following:

SEC. 2018. STUDY OF INCENDIARY AMMUNITION; REPORT TO CONGRESS.

(a) STUDY—The Secretary of the Treasury shall conduct a study of the incendiary ammunition offered for sale under the brand name "Dragon's Breath" and also known as the "Three Second Flame Thrower", and all incendiary ammunition of similar function or effect, for the purpose of determining whether there is a reasonable sporting use for such ammunition and whether there is a reasonable use for such ammunition in law enforcement.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on the Judiciary of the House of Representatives a report containing the results of the study required by subsection (a) and recommendations for such legislative or administrative action, with respect to the ammunition referred to in subsection (a), as the Secretary deems appropriate.

Page, 178, line 17, strike the period and insert "; and".

Page 178, after line 17, insert the following:

"(5) to improve the knowledge of health professionals regarding domestic violence and facilitate cooperation between health professionals, social service providers, and law enforcement personnel to better assist victims of domestic violence.".

Page 178, line 15, strike "and".

Page 175, line 22, strike ", as determined by the Attorney General,".

Page 176, after line 3, insert the following:

"(C) The authority under subparagraphs (A) and (B) to transfer amounts and obligate those transferred amounts shall exist in any fiscal year only to the extent provided for such fiscal year in appropriations Acts.".

Page 176, line 4, strike "(C)" and insert "(D)".

Page 21, line 16, insert ", in consultation with the Secretary of Education," before "may".

Page 21, line 19, and page 24, line 17, insert ", in consultation with the Secretary of Education," before "shall" each place it appears on such lines.

Page 118, line 11, strike "; and" and insert in lieu thereof a period, and strike lines 12 and 13.

Page 143, line 6, insert ", in consultation with the Secretary of Education," before "shall"; and strike all after "research" on line 8 through line 12, and insert in lieu thereof the following: "the effectiveness of campus sexual assault policies for institutions of postsecondary education.".

Page 145, line 8, insert "with the concurrence of the Secretary of Education," after "General".

Page 145, after line 8, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(c) REPORT.—The Secretary of Education shall review the results of the research au-

thorized by this section, and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by September 1, 1995, coordinating such report with the report and dissemination required under section 485(f)(4) of the Higher Education Act of 1965, as amended.

Page 145, line 12, strike "legal aspects of campus violence" and insert "expertise in campus security".

Page 177, strike lines 15 through 17, and insert in lieu thereof the following:

"or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

Page 187, line 14, insert "and the Secretary of Labor" after "Development".

Page 195, after line 10 insert the following:

(5) A representative of the Department of Labor, who shall be selected by the Secretary of Labor.

Page 126, after line 14, insert the following new section:

SEC. 15 . USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

Page 126, after line 14, insert the following:

SEC. 1507. TRAUMA CENTERS AND DRUG-RELATED VIOLENCE.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence arising from the abuse of drugs. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the population of patients that has been served by the center for the period specified in subparagraph (B) includes a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the America College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 2-year period specified in section 1242(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the 3-year period beginning on the date that the center first receives payments under the grant; and

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A).

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994. The authorization of appropriations established in the preceding sentence is in addition to amounts made available under section 524(c)(12) of title 28, United States Code.".

SEC. 1508. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

Page 175, beginning on line 14, strike "the Fund shall be available" and all that follows through line 17 and insert the following: "the Fund shall be available for the purpose of carrying out part D of title XII of the Public Health Service Act.".

Page 176, line 5, strike "for block grants" and all that follows through "(A)" and insert "for the purpose described in subparagraph (A)".

Page 176, line 7, strike "for such block grants" and insert "for such purpose".

Page 79, after line 3, insert the following new subsection:

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting the following new section:

SEC. 1200. The program established under this part shall be known as the "Irwin Rutman Retired Safety Officers Benefit Program".

Page 300, after line 11, add the following:

SEC. 2433. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by adding the following new section:

"§ 2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 109A of title 18, United States

Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

SEC. 2434. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 38. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon,—

"(1) perform an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious bodily injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States and—

"(A) the perpetrator of the prohibited activity engages in terrorism or acts on behalf of a terrorist group;

"(B) the activity violates subsection (a)(1) and the person against whom the violence is directed is engaged in international air travel;

"(C) the activity violates subsection (a)(2) and the facility or aircraft destroyed or damaged is owned by or leased by a foreign flag carrier or the services disrupted are primarily for the benefit of such a carrier; or

"(D) the activity is not prohibited as a crime by the law of the State in which the airport is located; or

"(2) the prohibited activity takes place outside of the United States an the offender is later found in the United States.

"(c) For the purposes of this section, the terms 'terrorism' and 'terrorist group' have, respectively, the meanings given those terms in section 140 of Public Law 100-204 (22 U.S.C. 2656f).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 2435 OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chaoter 111 of title 18, United States Code, is amended by adding at the end the following:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if the act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship to its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (6); or

"(8) attempts to do any act prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results, from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years of for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group;

"(ii) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(iii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iv) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) As used in this section, the term—

"(1) the term 'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft; but such term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) the term 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country of a lateral limit of that country's territorial sea with an adjacent country;

"(3) the terms 'terrorism' and terrorist group' have respectively, the meanings given those terms in section 140 of Public Law 100-204 (22 U.S.C. 265f)

"(4) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(5) the term 'terrorital sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(6) the term 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (4); or

"(6) attempts to do anything prohibited under paragraphs (1) through (5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States, if—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group; or

"(ii) if the activity is not prohibited as a crime by the State in which the activity takes place;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform lo-

cated on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 2436. CLERICAL AMENDMENTS.

The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 2437. EFFECTIVE DATES.

Sections 2435 and 2436 of this Act and the amendments made by such sections shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 2438. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 2439. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1120. Murder by escaped prisoners

"(a) IN GENERAL.—Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.".

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1118 of this title.".

(b) CLERICAL AMENDMENT:—The table of sections at the beginning of chapter of title 18, United States Code, is amended by adding at the end the following:

"1120. Murder by escaped prisoners.".

Page 158, line 8, after the period insert "These conditions may not be based on race, creed, color, national origin, gender, or age."

Page 40, line 3, insert ", including alcohol abuse," after "abuse".

Page 160, strike line 10 and all that follows through line 13 and insert the following:

"(f) PARTICIPATION STATES OR LOCALITY:—A State or locality may participate in the program, if the legislature of such State, or of the State in which such locality is located, has conceded, by filing an agreement to comply with the terms and conditions of the program with the Attorney General.".

Page 155, beginning in line 11, strike "Establishment " and all that follows through "(a)" in line 15.

Page 155, beginning in line 20, strike the open quotation marks each place they appear down through those on line 22 on page 160.

Page 160, line 24, strike the close quotation marks.

Page 161, strike lines 1 through 3 and the matter which follows line 3.

Page 153, line 1, strike "AMENDMENT" and insert "AMENDMENTS".

Page 153, line 4, Insert "(a) DEFINITION OF GAMBLING SHIP IN TITLE 18.—" before "The first paragraph".

Page 153, after line 9, insert the following:

(b) JOHNSON ACT.—The Act of January 2, 1951 (15 U.S.C. 1171 et seq.), commonly referred to as the "Johnson Act", is amended—

(1) by striking section 1(d) and inserting the following:

"(d) The term 'interstate or foreign commerce' means commerce from a point in any State or possession to any point outside that State or possession, except that term does not include commerce described in subsection (e)(2).";

(2) by striking section 1(e) and inserting the following:

"(e) The term 'intrastate commerce' means commerce—

"(1) wholly within one State or possession of the United States; or

"(2) from a point in any State or possession to any point outside that State or possession, if that commerce—

"(A) can only be conducted by transit through a point that is not within any State or possession, and

"(B) is not conducted to or through a point in a foreign country or another State or possession."; and

(3) in section 5, by inserting "(a)" before "It shall be unlawful", and by adding at the end the following new subsection:

"(b) Subsection (a) applies to a gambling device being transported on board a vessel only if that vessel is a gambling ship under chapter 50 of title 18, United States Code.".

Mr. SENSENBRENNER. Mr. Chairman, I reserve a point of order against the en bloc amendments.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] is recognized in support of the en bloc amendments for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. EMERSON. Mr. Chairman, I oppose the en bloc amendments.

The CHAIRMAN. The gentleman from Missouri [Mr. EMERSON] will control the 10 minutes in opposition.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. WALKER. Mr. Chairman, is the en bloc amendment going to be read? I mean, we are having trouble on our side finding out what is in it.

The CHAIRMAN. Pursuant to the rule, the en bloc amendment is considered as read.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Chairman.

By what process could we assure that the en bloc amendment is read, since it is not clear at this point exactly what is in it?

The CHAIRMAN. The Chair will direct the Clerk to designate, by number, the various amendments that were included in the rule that have now been included in the en bloc amendment so that Members may be advised.

Mr. WALKER. That would be helpful.

Mr. SENSENBRENNER. I have a further parliamentary inquiry, Mr. Chairman.

Mr. Chairman, are the provisions of the amendments contained in the en bloc amendment identical to the provisions that were reported in the House report accompanying the rule that was adopted by the House, or, alternatively, have any of these amendments been modified in any way?

The CHAIRMAN. The Clerk will designate all of the amendments that have been subsumed in the en bloc and will indicate which, if any, have been modified, and again the Chair will direct the Clerk to report.

The Clerk read as follows:

No. 13, as modified; Nos. 18, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41 as modified, 42, 43 as modified, 44, 45, 46, 47, and 48.

Mr. SENSENBRENNER. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. SENSENBRENNER. Mr. Chairman, would it be in order, under the rule, for the Clerk to read these three amendments that have been modified, since there are no texts of the modifications on the minority side?

The CHAIRMAN. If the gentleman from Wisconsin [Mr. SENSENBRENNER] wishes to ask unanimous consent for the Clerk to do so, he may.

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent to have the Clerk read the modifications of amendments 13, 41, and 43, which have been modified by the chairman, the gentleman from Texas [Mr. BROOKS].

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

There was no objection.

□ 1320

The Clerk read the modification to amendments No. 13, 41, and 43, as follows:

Page 175, line 14, strike out "the Fund" and all that follows through line 17 and insert in lieu thereof the following:

", subject to appropriation, the Attorney General shall make excess unobligated amounts in the Fund available for the purposes of—

"(i) establishing residential substance abuse treatment services for pregnant addicts and their children, pursuant to section 509F of the Public Health Service Act;

"(ii) supporting prevention demonstration programs to deter substance abuse among high risk youth, pursuant to section 509A of the Public Health Service Act; and

"(iii) carrying out part D of title XII of the Public Health Service Act.".

Page 175, line 24, strike out "and" after the semicolon at the end.

Page 176, strike out lines 1 through 3, and insert in lieu thereof the following:

"(ii) subject to clause (i), shall, with respect to each fiscal year, equal 25 percent of the total of such excess amounts for that fiscal year, with 6.25 percent of such total for the purpose described in subparagraph (A)(i), 6.25 percent of such total for the purpose described in subparagraph (A)(ii), and 12.5 percent of such total for the purpose described in subparagraph (A)(iii); and

"(iii) shall be made available before amounts are made available under paragraph (1)(H) and before such unobligated amounts are made available for the Special Forfeiture Fund or any other purpose.

Page 176, line 5, strike out "block grants" and insert in lieu thereof "programs".

Page 176, line 5, strike out "block grants" and insert in lieu thereof "programs".

Page 184, after line 2, insert the following:

SEC. 1823. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1824. NOMINAL CONSIDERATION SALES OF LOW VALUE REAL PROPERTY TO CERTAIN TAX EXEMPT ORGANIZATIONS.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(4)(A) If any property referred to in paragraph (1)(B) is low value real property located in a metropolitan statistical area, the Attorney General shall have the authority to offer such property for sale, for nominal consideration, to tax exempt organizations that provide direct services furthering community-based crime control, housing, or education efforts in such area.

"(B) As used in this paragraph—

"(1) the term 'low value real property' means, with respect to a metropolitan statistical area, real property that is appraised at less than 40 percent of the median value of comparable real property in the metropolitan statistical area; and

"(2) the term 'tax exempt organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code.".

Page 126, after line 15, insert the following:

SEC. 1506. TRAUMA CENTERS AND DRUG-RELATED VIOLENCE.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

PART D—TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence arising from the abuse of drugs. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the population of patients that has been served by the center for the period specified in subparagraph (B) includes a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involves is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 2-year period specified in section 1242(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the 3-year period beginning on the date that the center first receives payments under the grant; and

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A).

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994. The authorization of appropriations established in the preceding sentence is in addition to amounts made available under section 524(c)(12) of title 28, United States Code.".

"SEC. 1507. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

At the end of the amendment add the following:

SEC. 2440. LAW ENFORCEMENT AND MILITARY EXEMPTION FROM THE PROHIBITION AGAINST POSSESSION OR TRANSFER OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 925(a) of title 18, United States Code, is amended by adding at the end the following:

"(6) For the purposes of this subsection, the term 'ammunition' includes large capacity ammunition feeding devices, as defined in section 921 of this title.".

Mr. SENSENBRENNER (during the reading). Mr. Chairman, we now have a copy of the modification. I ask unanimous consent that further reading of this modification be dispensed with, and that it be printed in the RECORD.

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

There was no objection.

The CHAIRMAN. We will continue with the reading of the modification to amendment No. 41.

The Clerk continued the reading of modifications to amendments Nos. 41 and 43.

Mr. SENSENBRENNER (during the reading). Mr. Chairman, we have a copy of this modification, and I ask unanimous consent that further reading of this modification be dispensed with and that it be printed in the RECORD.

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

There was no objection.

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Chairman, I make a point of order against the modification to amend No. 43.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SENSENBRENNER. Mr. Chairman, the modified version of amendment No. 43 is not germane to amendment No. 43 as it appears in the report of the Committee on rules, and it is, therefore, in violation of House Resolution 247 and the rules of the House.

House Resolution 247, which is the rule on the crime bill, states in the relevant part, and I quote from page 3, line 3 through line 8:

It shall be in order at any time for the chairman of the Committee on the Judiciary to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in part 2 of the report of the Committee on Rules.

The modification that the Clerk just read is not germane to amendment No. 43. Amendment No. 43 purports to expand the death penalty to three terrorist-related crimes. The modification as read by the Clerk expands a law enforcement and military exemption from the prohibition against possession and transfer of large capacity ammunition feeding devices. This is entirely an unrelated modification to the amendment. It has nothing whatsoever to do with the death penalty that is proposed in amendment No. 43. It is my clear violation of the germaneness rules, and I ask the chair to sustain my point of order.

The CHAIRMAN. Does the gentleman from Texas [Mr. BROOKS] wish to be heard on the point of order?

Mr. BROOKS. I do, Mr. Chairman.

Mr. Chairman, the underlying amendment relates to a series of topics concerning crimes and punishment for those crimes. The diverse nature of the crimes covered by the section makes it susceptible to a broad range of germane amendments. The crimes included range from child molestation to maritime navigation to murder by escaped prisoners. The sanctions included range from a term of years in prison to the death penalty.

The modification to the amendment relates to defining an exception from the class of persons who would be criminally liable for possession of certain large capacity ammunition feeding devices.

Since the modification relates to classes of persons who are subject to criminal liability, it is a germane modification of the underlying amendment.

Mr. WALKER. Mr. Speaker, I wish to be heard on the point of order.

The CHAIRMAN. The gentleman from Pennsylvania is recognized on the point of order.

Mr. WALKER. Mr. Chairman, under the rule adopted by the House it is clear that the modification has to be made germane to the specific amendment, not to the overall bill and not to the overall content of the en bloc amendments. The rule is very clear that the modification has to be made to the specific amendment in question.

In this particular instance that is not being done. There is nothing in amendment No. 43 which relates to law enforcement and military exemption from the prohibition against possession or transfer of large capacity ammunition feeding devices.

Therefore, the chairman's point that his amendment goes to the overall en bloc amendment does not relate here because the amendment specific to terrorist activity is what he would have to be germane to. He has not met that test, so, therefore, under the rule adopted by the House he cannot modify his amendment in this way.

The CHAIRMAN (Mr. SKAGGS). The Chair is prepared to rule.

The gentleman from Wisconsin [Mr. SENSENBRENNER] makes a point of order that the modification to the amendment No. 43 contained in the amendments en bloc offered by the chairman of the Committee on the Judiciary [Mr. BROOKS] is not germane. While the rule governing consideration of this bill, House Resolution 247, authorizes the chairman to offer amendments en bloc and waives all points of order against such amendments, any modification in an amendment printed in the report of the Committee on Rules must be germane thereto. Amendment No. 43 adds seven new sections to the bill to impose criminal penalties in various chapters of the Criminal Code ranging from any term of years to death for a variety of behavior from child molestation, violence at airports, violence or threatening communications against maritime navigation and fixed platforms, and murder by escaped prisoners. The modification simply adds a clarification in the intended application of another criminal offense which amends a chapter of the Criminal Code relating in part to the use as well as possession of dangerous weapons. Given the diverse nature of both the crimes and the sanctions contained in the amendment, a modification concerning another related criminal offense is germane. As precedent the Chair cites chapter 28, section 9.2 of Procedure in the U.S. House of Representatives (Fourth Edition): "Where a bill defines several unlawful acts, an amendment proposing to include another unlawful act of the same class is germane." The Chair overrules the point of order.

The gentleman from Texas [Mr. BROOKS] is recognized in support of his amendment.

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

Mr. Chairman, as I indicated in my opening statement, the Judiciary Committee has brought to the House floor a comprehensive crime package, covering all aspects of the criminal law—and then some.

Nonetheless, the committee makes no claim to having all the good ideas; and, it's a good thing—if the number and quality of some of the amendments filed are any indication.

In working on our crime bill, the Judiciary Committee made a determined effort to stay within its jurisdiction. So, there are a wide range of issues it could not and did not properly cover.

Of the amendments filed, there are a number that I believe are noncontroversial, or are relatively noncontroversial, or were requested by other committees with subject matter jurisdiction. Because I think that this body should be given the chance to vote on them, I am now offering them in an en bloc amendment.

This is in no way meant to cut off debate on any of these important amendments. However, we do have a long way to go before we can sleep, the deep comforting sleep of those who know they have done all they can—within our Federal Constitution—to strengthen our criminal laws and to protect our citizens. The Members who made the proposals covered by this en bloc amendment have graciously agreed to help us get there.

This en bloc includes amendments from both Republicans and Democrats. It ranges widely—covering many different subject areas—from Congresswoman OAKAR'S amendment on alcohol use and crime to Congressman GOODLING'S amendment on criminal records, from Congressman MCCANDLESS' amendment on military medals to Congressman DERRICK'S amendment on

dragon's breath incendiary ammunition, from Congresswoman SLAUGHTER'S amendment on a national commission to support law enforcement to Congresswoman MOLINARI'S naming a program in honor of a valiant retired police officer. The list goes on, and I make note of just a few.

In addition, and as made in order, there is an amendment that makes clear the term "ammunition" includes large capacity feeding devices This ensures that there is no restriction on the use of such devices by Federal, State, and local law enforcement agencies or by our military forces.

The gentleman from Texas, Congressman LAMAR SMITH, a valued and respected member of the Judiciary Committee, and the gentleman from California, Congressman DON EDWARDS, the distinguished chairman of the committee's Subcommittee on Civil and Constitutional Rights, have worked together in bipartisan harmony to craft amendment No. 32. That amendment creates a new felony offense for providing nonhumanitarian support or resources to terrorists, knowing or intending that they will be used to prepare for, carry out, or conceal specific terrorist-related offenses.

Congressman KOPETSKI, a new member of this body and the Judiciary Committee who is already making his mark, has several important amendments—two that will make the bill's Motor Vehicle Decal Program more workable, and one that makes sure alcohol abuse is covered in the program dealing with young offenders.

I am sure that all of the Members included in the en bloc care a lot about their amendments, but they also care about getting a final crime bill in some reasonable amount of time—like, in our foreseeable lifetimes. So, with their gracious cooperation, and in the interest of moving the debate along, this en bloc amendment is now offered.

I thank all these Members for their efforts to perfect the bill and to assist in the fight against crime. I ask your support for the amendment.

□ 1330

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

Mr. Chairman, I rise in opposition to the Brooks en bloc amendment. Until yesterday a number of us opposed this rule because of procedures that it would or would not allow. I think that the offering of this particular en bloc amendment at this time is a full reason for which the rule should not have been adopted.

The procedure vis-a-vis this en block amendment has been very devious. As a matter of fact, until 1:05 p.m., and I noted the time, no one on this side could even find out what was in the en block amendments. I have been spending a great deal of the morning trying to find out, because there has been a substantive amendment about which I have been concerned would be included in the en bloc amendment, and it was.

The chairman tells us that these are all relatively noncontroversial amendments, that there are a lot of Republican amendments that have been included, together with a number of Democrat amendments that have been included, and they are all relatively innocuous. They name some program after a police officer or do some other thing that is good.

It may well be that in this en bloc amendment there are more good things than bad, but I do not think we should move the en block amendment and say, "Oh, boy, here is something where we can condense in time what we are going to be debating in this bill and pass things in a bundle here," without looking very, very carefully at what is in these amendments.

Mr. Chairman, I think there probably is a lot of good in the en bloc amendments, perhaps a lot more than bad. But I am particularly opposed, and this has not been spoken to, to the Bustamante language amendment which is included in the en bloc amendment. This amendment would require two things: First, it would require the Bureau of Justice Assistance to develop its safe schools model project in Spanish.

The second thing this amendment would do is require each and every school that wants to submit an application for the safe schools grant to develop educational materials in Spanish.

Mr. Chairman, frankly I do not think that makes sense. What of school districts that do not have Spanish speakers? What of school districts where the primary secondary language is Cantonese or Vietnamese or German or French or Italian or Portuguese, or any other language other than Spanish?

If each and every school needs to develop Spanish language materials, do we not need to require each and every school in America that wants to keep its kids off drugs to develop materials in all 150 languages that are spoken in America?

Mr. Chairman, most of us would agree that that would in fact be a very bad precedent and would contribute to the Balkanization of America along language lines as well as the Bustamante amendment contributing to the Balkanization of America along language lines.

Mr. Chairman, we want to avoid, not enhance, the kind of activity that this Balkanization is leading to, such as the disunion of our neighbor to the north, Canada.

The Language of Government Act declaring English to be the official language of the U.S. Government, just the official language, now has in this House 105 cosponsors. English is the unifying language in this country, and the Federal Government should conduct its business in English.

Mr. Chairman, this en bloc grouping probably has many very beneficial amendments. This amendment not only adds to the increasing division of America along linguistic and ethnic lines, but by allowing special privileges to a select second language group, it effectively discriminates against the speakers of more than 140 other languages in this country.

The Bustamante amendment included in this en bloc amendment is bad precedent for America. I urge Members, unless we are certain of knowing what is in the en bloc amendment, to vote against it. This is just one onerous example that I have found, something that even if you do not agree with my position on it, if you violently disagree with my position on it, deserves a full and fair discussion in this House.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Missouri for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Missouri [Mr. EMERSON] in opposition to the Bustamante amendment.

Mr. Chairman, there is a major change contained in this en bloc amendment with respect to the assets forfeiture fund, which are the proceeds of the sale of property which has been seized by law enforcement as a result of it being used in the drug trade.

Presently there are two funds. One is the special fund, which can be used for all kinds of programs, and then there is the regular asset forfeiture fund, which is used to support law enforcement.

There are two amendments that are contained in the en bloc amendment, one by the gentleman from Michigan [Mr. CONYERS], and the other by the gentleman from California [Mr. WAXMAN], that siphon money out of the regular fund that aids law enforcement to provide for low cost or nominal consideration sales of low value real estate property to certain tax-exempt organizations, as well as to provide grants for trauma centers which treat people who are addicted to drugs.

Mr. Chairman, I personally see nothing wrong with either of these programs. What is objectionable, very objectionable, is taking funds away that law enforcement needs for its antidrug programs, its drug interdiction programs, its programs of arresting drug pushers and prosecuting them and sending them to jail for this kind of social engineering.

Mr. Chairman, I would say that anybody that wants to support law enforcement and wants to give law enforcement the funding that is nec-

essary to do the best job it possibly can do, to stop this poison from coming out on our streets any more, should oppose the en bloc amendment and keep the regular asset forfeiture fund whole, rather than siphoning it off as the two amendments that are included in the en bloc amendment propose to do.

The law enforcement vote on the en bloc amendment is no.

Mr. EMERSON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. SUNDQUIST].

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

Mr. Chairman, if we did not have this onerous rule, I would try to make a point of order at this point, because as I understand en bloc amendment No. 13 and en bloc amendment No. 14, they should go through the Committee on Ways and Means.

□ 1340

As I understand what happened as I recall the Committee on Ways and Means, we rejected a different concept that would be similar to one of these by the gentleman from New Jersey [Mr. GUARINI], I believe. And so what we are having here is, we are acting on an area that concerns the Committee on Ways and Means. And if it was not for this rule, both of those en bloc amendments, it is my understanding, would be out of order. So I rise in objection to the en bloc amendment and would urge my colleagues to vote no.

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

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I do not want to take my full 2 minutes.

As I understand it, in the en bloc is not only the provision to clean up the ammunition feeding devices that make it so that it is exempt as far as the military and as far as the fleet, that before when the bill came out it was clear that the police and the military were not exempt. And as a result of this, that would be in there. I do not understand that if we have my amendment in the en bloc amendment, the second part of my original amendment that does away, in other words, strikes the provisions in the bill that pertain to multiple sales of guns, handguns, and strikes also the provision that requires dealers for licenses to get licenses or renewals, that they have to have local authority approval.

I ask the gentleman, is that correct? Is that in the en bloc?

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

Mr. VOLKMER. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, that is my understanding.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VOLKMER. Mr. Chairman, at this time I would like to inquire, if the en bloc amendment fails, that does not mean that all these amendments fail?

The CHAIRMAN. The gentleman is correct.

Mr. VOLKMER. And they would be taken seriatim as each one comes up?

The CHAIRMAN. That is correct.

Mr. EMERSON. Mr. Chairman, I yield myself 15 seconds.

I simply want to note that I agree that there may be a lot of good amendments in this en bloc process, but they have stuck a lot of onerous stuff in here that could not get by on its own. Hoping, with these numerous good, little amendments, they are accommodating the Members and their individual wishes, in order to get the bill to pass.

Mr. Chairman, I yield 45 seconds to the gentleman from Tennessee [Mr. SUNDQUIST].

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

Would the chairman address the question in a colloquy as to whether the funds in Nos. 13 and 40 are only Justice funds and there are no Custom funds in there? On amendments that I just discussed, 13 and 40, are those funds only Justice Department funds?

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

Mr. SUNDQUIST. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, they are Justice funds. In fact, I put the amendment in in subcommittee, and it sets aside 25 percent of just surplus Justice funds. It has nothing to do with the Customs forfeiture funds. The Department of Justice funds, they will compromise only one thing.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, if I may add to what the gentleman from New Jersey has just stated, this money does not come out of the Department of Justice funds that are used to prosecute drug dealers. This is the 25 percent of the excess unobligated asset forfeiture funds, and it combines the program of the gentleman from California [Mr. WAXMAN] that does something that is very important to us, because it does not add any additional dollars to the Drug Treatment and Prevention Program.

It is beginning to now deal with the treatment programs for people who cannot afford to wait in lines that are 3 and 4 months long. I think it is extremely important.

The other part of this en bloc amendment that I would like to refer to quickly is the Commission on National Abuse initiated by my colleagues, the gentleman from New York [Mr. HORTON] and the gentleman from New York [Mr. RANGEL].

Mr. EMERSON. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I came over here to congratulate the gentleman from Texas [Mr. BROOKS] as qualifying in the running for king of pork. Because this amendment the gentleman put together picks up all those cats and dogs and hopefully from his viewpoint is going to permit this bill to be passed. But let me point out to my colleagues there is a new authorization in here, $50 million for trauma centers that should come out of the Subcommittee on Health and the Environment where I serve. It should not be attached to this crime train going through the Congress today. I hope that the Members will say that we do not want to use this crime bill for this procedure. I ask for a "no" vote.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. JONES], the distinguished chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Chairman, I rise in support of the amendment offered by Chairman BROOKS. It includes a provision of interest to the Committee on Merchant Marine and Fisheries.

The committee amendment includes my amendment that will correct an unintentional inequity. Section 1722 of H.R. 3371, as reported, clarifies the authority for foreign-flag vessels leaving from U.S. ports on overnight voyages, or when they are beyond the territorial sea of the United States, to offer gambling. As written, this permission applied only to foreign-flag ships. My amendment, which has now been included, will allow U.S.-flag vessels to offer the same activity under the same conditions.

Every day, huge numbers of American citizens sail on foreign-flag ships from ports in Florida, Puerto Rico, the Virgin Islands, the Gulf of Mexico, and elsewhere. Nearly all of these ships offer gambling, and U.S. law allows them to do so.

At the same time, Federal law effectively bans gambling on U.S.-flag passenger ships that operate in international waters. This is one reason we have virtually no passenger ships under the American flag.

Mr. Chairman, American maritime industries have a hard enough time without the Federal Government giving a statutory advantage to their foreign-flag competitors.

The committee bill, coupled with my amendment, will allow U.S.-flag ships the opportunity to offer gambling to the same extent as their foreign-flag rivals.

This is no subsidy for the U.S. maritime industry. It won't cost the Government a dime.

It merely gives our ships the same opportunity given those of other nations.

Mr. EMERSON. Mr. Chairman, I yield one-half minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, the Chair has ruled that if the en bloc amendment goes down, it does not preclude bringing up each of the individual amendments contained in the en bloc amendment.

The only way that we are going to be able to separate out the good provisions of the en bloc amendment from the bad ones is by voting down the en bloc amendment.

Then we can pass the good ones and reject the bad ones. I urge a "no" vote.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I would like to thank Chairman BROOKS and the rest of the Judiciary Committee for their excellent work in shaping this crime package. I'd also like to thank Mr. SCHUMER of the Subcommittee on Crime and Mr. EDWARDS of the Civil and Constitutional Rights Subcommittee for their efforts. Crime is one issue which touches the lives of virtually every American in some fashion, and I am pleased to support this package as it seeks to address this troubling issue.

Mr. Chairman, my amendment simply directs the National Institute of Justice to conduct two studies on alcohol and crime. As the primary Federal sponsor of research into crime control since its inception in 1968, the National Institute of Justice has never once studied the most widely used and abused drug in America—alcohol—and its potential link to criminal activity. This amendment will correct what I view as an academic oversight.

Alcohol's presence in criminal situations is well documented. According to a 1986 survey of State prison inmates, 54 percent of all inmates were under the influence of some substance at the time of their offense. Of these inmates, alcohol was used more frequently than all other substances. In fact, alcohol alone was the most prevalent substance in murder, negligent manslaughter, sex offenses, assault, and other violent crimes. Twice as many victims of violent crimes, including rape, reported their attackers to be under the influence of alcohol compared to other drugs. In aggravated assaults, offenders were three times more likely to be under the influence of alcohol than any other substance. Alcohol is also the substance most frequently involved in domestic violence assaults, and the preferred illegal drug of our youth. I could literally go on and on.

There still exists a debate over the extent to which alcohol plays a causal role in crime. Despite the previous statistics, our Government refuses to admit their is a link. In fact, the 1990 HHS report entitled "Alcohol and Health" states that "despite the apparent positive correlation, a direct causal link between alcohol and crime has not been established." This same report suggests that high arrest rates after bars close are attributed to police being on guard at these times. I ask, Mr. Speaker, if there is no link between alcohol use and crime, why are the police on guard during these hours? Research on alcohol and crime in general is often conflicting and spotty at best, and we need the National Institute of Justice to examine this issue, research which I believe is long overdue.

My amendment will direct the NIJ to compare the recidivism rates of offenders who were under the influence of alcohol—or alcohol in combination with other drugs—who receive residential treatment with those who do not receive residential treatment. It should be noted, Mr. Chairman, that pleas by Lionel Dahmer to get his son Jeffrey treatment for his unarrested alcoholism went unheeded long before the horrifying, tragic murders in Milwaukee became known to the Nation. Among all convicts on parole, alcohol problems are present in a staggering 76 percent. If we can address the alcohol problem while the individual is in the custody of the State, perhaps we can effectively prevent those same offenders who were under the influence at the time of their offense from further criminal behavior. The only way we can determine this is through examination of recidivism rates.

This amendment also directs the NIJ to do a nationwide assessment of alcohol as a factor in crime, focusing on domestic and violent criminal activity. One area in which all researchers agree is that alcohol plays a significant role in domestic violence and abuse. In the family, studies have shown that over 50 percent of abuse incidents are related to the use of alcohol alone. Research regarding alcohol's role in the most feared type of crimes—violent crimes—is also insufficient, but scientists have discovered that alcohol increases aggressive behavior in laboratory animals. If for no other reason, a national assessment of alcohol's role as a factor in crime is necessitated simply for economic reasons: At the local corrections level, alcohol abuse costs our Nation three times as much as all other abused substances—$1.25 billion versus $460 million.

I have contacted the National Institute of Justice and have been assured that this amendment fits in perfectly with their 1992 research plan. I would also suggest that the NIJ conduct this study in consultation with the National Institute on Alcohol Abuse and Alcoholism, and urge NIAAA to conduct a similar study in this area.

It is time we assess the potential causal link between alcohol and crime on a national level, Mr. Chairman, and I urge my colleagues to support this amendment.

Let me give a specific example, in May 1989, Lionel Dahmer appeared before Judge Gardner in a Milwaukee courtroom, pleading for treatment for his son Jeffrey's alcoholism. Despite the efforts of Lionel working with Jeff's parole officers, no kind of treatment program was initiated. In May 1990, Lionel Dahmer contacted Judge Gardner again, this time in a letter, beseeching the court to help Jeff get treatment because—in his words—"I have tremendous reservations regarding Jeff's chances when he hits the streets. Every incident, including the most recent conviction for sex offense has been associated with and initiated by alcohol in Jeff's case."

Mr. Chairman, Jeffrey Dahmer never got that treatment. As we all know, Jeff Dahmer went on to kill 17 people in the most shocking grisly murders our Nation has ever seen. It is preposterous for our Government to claim that, as a 1990 HHS report states, "A casual link between alcohol and crime has not been established." I would say it's because we've refused to study it and provide the evidence for the correlation. My amendment will study the potential link between alcohol and crime—an area which our Justice Department has never studied—and perhaps we will discover that the most used and abused drug in America has much more serious effects than we ever imagined. Jeff Dahmer's father was certain there was causal link between alcohol and crime. We cannot overlook this area any longer.

And yet, the National Institute of Justice has never studied links between crime and alcohol. We must put the subject of alcohol in the realm of public policy.

THE FATHER'S LETTER

Jeffrey L. Dahmer's father, Lionel H., wrote this letter to a Wisconsin judge on March 1, 1990, to urge treatment for his son, who was about to be released from prison. Jeffrey Dahmer was convicted in 1988 of second-degree sexual assault for offering a 13-year-old boy $50 to pose for nude photos. Jeffrey Dahmer was released from prison. The 13-year-old boy's brother may have been one of his victims.

Judge WILLIAM D. GARDNER,
Safety Bldg., Milwaukee, WI.

DEAR JUDGE GARDNER: I am writing in regard to my son, Jeff Dahmer, who is scheduled to be released from the House of Correction on 10th street the first part of March, 1990. The reason that I am writing to you is to ask if you would please do what you can to define and maximize the treatment that was mandated in the Court record on 5-24-89.

Ever since 5-24-89, when I appeared with Jeff and spoke in your Courtroom, I have experienced an extremely frustrating time trying to urge initiation of some type of treatment. It was not until almost Dec., 1989 that G. Boyle told me that there existed no coordination of action between your area, his area, and the Parole area.

Since Dec. I have been focusing most of my efforts towards Gary Parker, Jeff's in-house

Parole supervisor. Although Gary was not able to provide viable reason why some kind of treatment was not initiated way back in June, 1989, he has been extremely courteous and helpful of late in my many phone conversations with him. Gary said that he would recommend evaluation, as a first step for Jeff right now, at some alcoholic treatment facility in Milwaukee.

My biggest concern as Jeff is released the first part of this month is that the same situation may ensue which existed in a prior conviction for indecent exposure while intoxicated (approx. 1988 or 1987). Jeff was ordered to obtain therapy for one year with a Dr. Rosen, a woman clinical psychologist. Nine months into the treatment, when I finally was told by Jeff of his treatment, I made a paid visit to Dr. Rosen. I discovered that she was not a specialist in treating alcoholism and that there were no critical evaluations nor feedback to the Court or Parole people so that changes could be made due to no progress being made in her sessions. Based upon this and several conversations with Jeff's prior generic case load Parole Officers, I have tremendous reservations regarding Jeff's chances when he hits the streets.

In closing, may I relate to you what I was told during a long discussion with a psychologist and then I will leave my plea with you to initiate anything that you deem appropriate. A clinical psychologist, with a specialty in treating alcoholics here in Ohio, said that, although it is a fact that the vast majority do not want treatment, he has shown a 78% (permanent) success rate by mandating a minimum of 2 years active participation in AA, concurrent with a minimum of 2 years therapy with a clinical psychologist specializing in alcoholism. He further emphasized the absolute necessity of an effective monitoring system to continually evaluate progress, with changes, if progress is not being made or if it is judged that Jeff is not cooperating in an ongoing fashion. Every incident, including the most recent conviction for sex offense has been associated with and initiated by alcohol in Jeff's case. I sincerely hope that you might intervene in some way to help my son who I love very much and for whom I want a better life. I think it best to ensure my relationship with Jeff that no one tell him of my efforts towards effective treatment. I do feel that though this may be our last chance to institute something lasting and that you can hold the key—

LIONEL H. DAHMER.

Let me give statistics:

Despite all the statistics, a 1990 HHS report entitled "Alcohol and health" stated that "despite the apparent positive correlation between alcohol and crime, a direct causal link has not been established."

In 1989, alcohol accounted for 3.2 million arrests, whereas drug abuse accounted for 1.3 million, not including the role alcohol plays in abuse, neglect, violent offenses, or other crimes.

At the local corrections level, alcohol abuse costs our Nation $1.25 billion, three times as much as all other abused substances.

Fifty-four percent of all prison inmates said they were under the influence of some drug at the time of their offense. Among these, alcohol alone was the most prevalent factor versus drugs or drugs and alcohol combined for the offenses of: Murder, negligent manslaughter, sex offenses, assault, arson, and other violent crimes.

Twice as many victims of violent crimes, including rape, reported their attackers to be under the influence of alcohol compared to other drugs.

Alcohol alone is the most prevalent factor in public-order and weapons offenses.

Alcohol alone was the most prevalent factor in the most feared type of offense, violent crimes.

Among inmates, alcohol problems are present in 76 percent of parolees and 56 percent of their spouses.

Recent studies have determined that with small amounts of alcohol, aggressive behavior increases in laboratory animals.

Thirty-three percent of all prison inmates drank daily in the year before their crime.

Over 50 percent of all abuse incidents are related to the use of alcohol alone.

Eighty-four percent of abuse/neglected children had at least one parent who abused alcohol.

Therefore, support my amendment to have the National Institute of Justice study the link between alcohol and crime.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California [Mr. EDWARDS], chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Chairman, I want to commend the gentleman from Texas for carefully crafting this amendment. The gentleman from Texas, the author of the amendment, agreed with us that it must be clear that the concept of material support is tied directly to a list of specific criminal violations. Am I correct that under this statute the material support at issue must be used in connection with an actual violation of one of the listed provisions?

Mr. SMITH of Texas. Mr. Chairman, if the gentleman will yield, the gentleman is correct. For a prosecution to occur under this amendment, there must be a violation of one of the statutes listed in this amendment.

Mr. EDWARDS of California. And do I also correctly read the amendment that an investigation under this section cannot be initiated and continued solely on the basis of expression of political support for a group or cause?

Mr. SMITH of Texas. Again the gentleman is correct.

Mr. EDWARDS of California. With that understanding, I am happy to support the amendment. I commend the gentleman from Texas.

□ 1350

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I suggest to my colleagues from Wisconsin and California that the parts of the bill they do not like passed last year. They are talking about the Waxman amendment that does what we ought to be doing for trauma care centers and people who have to work on law enforcement officers who have been wounded in the line of duty.

Mr. Chairman, I rise today in support of the en bloc amendment, one of which is the Waxman amendment to H.R. 3371, the Omnibus Crime Control Act of 1991. This amendment strengthens the trauma system of this country and thereby aids the victims of drug-related violence. Among these victims are law enforcement officials, abused children, and other victims such as the students on their lunch break at Austin High School in El Paso, TX, who were shot last year in a gang-related drive-by shootings.

The trauma centers that provide care to these victims are themselves falling victim to the rapid increases in social problems threatening our Nation, among them chemical and substance abuse, gang violence, and child abuse. Trauma centers in Houston, Los Angeles, Chicago, and Miami have shut their doors, it is clear that our Nation's fragile trauma network is crumbling.

In El Paso, our community adopted a comprehensive trauma care network in October 1988. The system has saved the lives of people throughout west Texas and southern New Mexico, but is beginning to buckle. The public hospital in El Paso, which is the hub of the trauma system, faces severe financial strain due, in large part, to the increase in uncompensated care resulting from drug-related violence. In fact, Thomason Hospital, in the El Paso County hospital district, received a 50-percent tax increase from the community for this fiscal year. Due to this increase, El Paso, the sixth poorest city in the Nation, now has the highest county tax rate in Texas. For El Paso, this hospital represents the only game in town when it comes to civilian trauma care. Its failure would be felt by all of west Texas and parts of southern New Mexico.

But this represents only one example of a problem occurring across our Nation. This fragile trauma care network is in the business of saving lives. Nothing can be more important.

Mr. Chairman, in addition this amendment contains the Lowey amendment to H.R. 3371, the Omnibus Crime Control Act of 1991. This amendment restores authorization for the High Intensity Drug Trafficking Areas [HIDTA] Program. This program has been providing funds to law enforcement officers struggling to combat drug trafficking activities in those areas of our Nation where their efforts are most crucial: along the borders and at major ports. The southwest border, for example, is a principal corridor for moving drugs—especially marijuana, heroin, and cocaine—into the United States. The southwest border HIDTA has provided funds for a coordinated Federal, State, and military effort along this border. El Paso County, which is part of the southwest HIDTA, has used their portion of this funding to establish a special unit devoted to preventing these drug traffickers from enjoying the spoils of their criminal labor. The officers of this unit, which began operation on October 1, will work

with Federal officers of the DEA, the IRS and the FBI to seize assets purchased with drug money. This is only one example of the ways in which this program is assisting law enforcement officers fighting on the front lines of the war against drugs. I urge my colleagues to approve the en block amendment.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I thank the gentleman for yielding time and rise in strong support of the en bloc amendments, especially No. 40 offered by the gentleman from Georgia [Mr. ROWLAND] and myself.

Mr. Chairman, I rise in strong support of the Rowland-Darden amendment. This amendment enhances an already well-crafted bill, and I urge my colleagues' support.

Quite simply, our amendment would allow the U.S. Attorney General to transfer title of forfeited property appropriate for use as a public area to the chief executive officer of the State in which the property is located. As you may know, one of the goals of the Department of Justice's forfeiture program is to enhance cooperation among Federal, State and local law-enforcement agencies through equitable sharing of assets recovered through this program. I can think of no better enhancement than providing States involved in drug enforcement with properties suitable for parks or historic preservation. Nor is there a better use for property confiscated from criminals involved in the insidious drug trade than for the benefit of communities plagued by this type of activity.

In my own community, Cobb County, GA, a parcel of land recently confiscated by the Drug Enforcement Agency would be eminently suited for a county nature park. This land, located in Austell, is heavily forested with trees, shrubs, and plants indigenous to the area, and features springs, waterfalls, and other examples of natural beauty almost impossible to find in our rapidly growing area. Cobb County has experienced unprecedented growth and development over the last decade, and many of our open spaces have been lost to high rises and subdivisions. I see no reason to deny to the people of this community the recreational use of land already owned by the Government.

Our amendment does not seek the wholesale confiscation of private property on the whim of a Government official. This is property already owned by the Federal Government as the result of criminal activity, and subject to appropriate disposition. Allowing this land to be used for parks would be of lasting benefit both to the environment and to the public. With our budget already strained, we must find new ways of preserving and protecting our natural resources without incurring additional unnecessary costs. Our amendment provides a reasonable and responsible alternative and I urge the committee's support. I want to especially thank and commend my colleague from Georgia, Mr. ROWLAND, for his leadership and support.

Our amendment is supported by the Governor of Georgia, the director of the Department of Public Safety of Georgia and all public and law-enforcement officials directly concerned with this property.

The following letters of support are self-explanatory:

GEORGIA BUREAU OF INVESTIGATION,
Decatur, GA, October 17, 1991.

Hon. GEORGE (BUDDY) DARDEN,
Hon. ROY ROWLAND,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMEN: This is a letter of strong support for the proposed amendment to the Controlled Substances Act that would allow the Attorney General of the United States to transfer the title for real property to the chief executive officer of the state in which the property resides if the property is to be used for recreation, historical purposes or for the preservation of natural conditions.

As you are aware, the Drug Enforcement Administration State and Local Task Force, of which the Georgia Bureau of Investigation is a participant, recently confiscated a 35 acre tract of land at 570 Lake Careco Road, Austell, Georgia. This tract of land is highly unusual for a metropolitan area in that it is heavily forested with old growth trees and native azaleas and has outstanding springs, waterfalls, and other natural resources. The availability of this type of land in a rapidly growing suburban area such as Cobb County presents a unique opportunity to create a park that will benefit all of our citizens.

It is the intention of the Cobb County Parks and Recreation Department to establish a nature center and park on this land. While we understand that the Justice Department normally sells assets such as this and uses the proceeds to support local law enforcement, this is a unique opportunity to create a place of natural beauty and recreation from this seized property.

I thank you for introducing this amendment into the 1991 Omnibus Crime Control Act. While we will not receive funds for local law enforcement as a result of this decision, our environment will gain greatly from the creation of a nature park in one of the fastest growing parts of Georgia.

Sincerely,

J. ROBERT HAMRICK,
Director.

DEPARTMENT OF PUBLIC SAFETY,
Atlanta, GA, October 16, 1991.

Hon. GEORGE (BUDDY) DARDEN,
Hon. ROY ROWLAND,
U.S. House of Representatives,
Washington, DC.

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Sincerely,

COL. RONALD L. BOWMAN,
Commissioner.

COBB COUNTY
BOARD OF COMMISSIONERS,
Marietta, GA, October 17, 1991.

Hon. GEORGE "BUDDY" DARDEN,
Hon. ROY ROWLAND,
U.S. House of Representatives,
Washington, DC.

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It is the intention of the Cobb County Parks, Recreation, and Cultural Affairs Department to establish a nature center and park on this land. While we understand that the Justice Department normally sells assets such as this and uses the proceeds to support local law enforcement, this is a unique opportunity to create a place of natural beauty and recreation from this seized property.

We thank you for introducing this amendment into the 1991 Omnibus Crime Control Act. While we will not receive funds for local law enforcement as a result of this decision, our environment will gain greatly from the creation of a nature park in one of the fastest growing parts of our county.

Sincerely,

PHILIP L. SECRIST,
Chairman.
SHERIFF BILL HUTSON,
ROBERT E. HIGHTOWER,
Director of Public Safety.

Mr. DERRICK. Mr. Chairman, several weeks ago, the American Federation of Police brought to my attention an advertisement that ran in the Shotgun News. Quite frankly, I was astounded at what I read.

The ad offered a 3-round pak of 12-guage fire spewing ammunition called Dragon's Breath, a shell that will turn any shotgun into a 3-second flame thrower. According to the advertisement, the ammo shoots out high temperature metals 300 or more feet and will totally engulf a target in a 4,000 degree fireball.

I personally question the usefulness or need for this type of ammunition. The American Federation of Police tells me that flame throwers are not required for police work. I certainly can't think of a civilian use for this ammunition. Yet, Dragon's Breath can be easily ob-

tained by calling or faxing in your order to a company right in my congressional district.

My amendment, which Chairman BROOKS has incorporated into the en bloc amendment, calls for a Treasury Department study of this particular brand as well as other similar flame throwing incendiary ammunitions. We need to be sure that ammunition of this type is properly and accurately categorized.

Mr. Chairman, both Mr. BROOKS and Mr. SCHUMER were receptive to my amendment, and I appreciate very much their allowing me to address my concern with this proposal.

Mr. SANTORUM. Mr. Chairman, I would like to express my support of an important piece of legislation for our country's youth and for our educational system. I am referring to the Safe Schools Act contained in the crime bill that we will be voting on today.

The Safe Schools Act recognizes and attempts to address the escalating battle that is being fought every day. The war on crime and drugs is no longer being fought in just our Nation's inner cities, but has spread to the 23 suburban school districts I represent. Today children in this country can't simply focus on getting an education. They have to deal with the pressures of resisting drugs and staying safe in their own schools. This program will work to develop education and training programs for the prevention of crime, violence, and drug abuse. It will also establish counseling programs for the growing number of students who have been victimized within the schools.

However, this program does not simply focus on prevention and counseling, but it also implements some decisive measures to combat violence, especially in inner-city school districts. The Safe Schools Act calls for crime prevention equipment, such as metal detectors and video-surveillance devices. With the increasing amount of gang violence, this measure will attempt to eliminate organized crime activity in schools.

Mr. Chairman, we must make our children's schools a place where they can be instructed, not intimidated. The Safe Schools Act is a step in the right direction. Let us work to make our youth safe once again.

Ms. MOLINARI. Mr. Chairman, on a late October evening in 1990, a 55-year-old retired police officer, who had served on the police force for 23 years, observed a crime in progress. Driven by instinct and a sense of duty, the retired officer, Irwin Rutman, rushed to the aid of a fellow citizen. After a difficult physical struggle, Irwin Rutman was shot to death by a ruthless mugger on a dark Manhattan subway train.

Irwin Rutman left behind a wife and four young sons. If this tragedy had taken place earlier, while Rutman was still on active duty, his family would have been eligible for up to $100,000 in death benefits under the Public Safety Officers' Benefits Act. But because he was retired at the time of his heroic act, his family was left in dire financial straits.

This glaring inequity in the law that establishes eligiblity for those death benefits prompted me to introduce a bill, the Irwin Rutman Retired Safety Officers Benefits Act, to extend the same death and disability benefits to retired public safety professionals that would have been available to them or their families if they had been on active duty and were killed or disabled while attempting a rescue or responding to a fire or other police emergency.

When public safety officers retire, can we seriously expect them to shed their instincts and their training? Of course not. That is why Irwin Rutman so willingly risked his life in the interest of public safety.

When the Judiciary Committee reviewed my bill and incorporated it into this crime bill, the committee made two significant changes. The bill no longer applies retroactively, so Irwin Rutman's family derives no financial benefit even though the families of retired safety officers who follow in his footsteps after the bill is enacted would benefit. Finally, the section of the crime bill that extends these benefits to retired public safety officers is no longer named in his honor.

If we cannot extend death benefits to Irwin Rutman's surviving family, at least we can memorialize his name in the appropriate section of this bill.

Mr. GOODLING. Mr. Chairman, I rise in support of several provisions contained in the en bloc amendments offered by Congressman BROOKS.

First and foremost, I appreciate Mr. BROOK's acceptance of an amendment I was going to offer which would draw a clear distinction between the educational and law enforcement records maintained by colleges and universities.

In the past few years, colleges and universities have come under a great deal of criticism because of their refusal to release law enforcement information. In reality, schools are not covering up crime; they are abiding by the law.

As currently interpreted by the Department of Education, the Family Educational Rights and Privacy Act, better known as the Buckley amendment, prevents the release of law enforcement records as well as the educational records it was actually intended to protect from unauthorized release.

My amendment would allow the release of records kept by a law enforcement unit or the educational agency or institution which were created by that law enforcement unit for the purpose of law enforcement.

While the Senate crime bill, S. 1241, addresses this same issue, it only exempts campus law enforcement records covered by State open records laws. I believe the law should apply equally. Last year, the Congress enacted the Student Right-to-Know and Campus Security Act which requires institutions of higher education to make available to students important information on campus security and campus crime. It was our hope that the provision of this information to students would allow them to take steps to insure they did not become the victim of campus crime.

One provision in this new law permits schools to provide alleged victims with the results of any disciplinary proceeding conducted by the institution against the alleged perpetrator of such crime. I have been informed by schools that they are not currently providing such information to victims as they are concerned that it would violate the Buckley amendment—and yet this provision appears in the same section of the General Education Provisions Act as the Buckley amendment. Enactment of the Senate amendment would only allow victims residing in States with open records laws to receive information as to the disciplinary action taken against the perpetrator of a crime such as sexual assault. My amendment would assure this information is provided to all victims.

Another reason we need to pass this amendment is a recent lawsuit filed against the Secretary of Education, Lamar Alexander, by the Student Press Law Center and several students from various campus newspapers. The purpose of the lawsuit is to force the Secretary to require schools to release law enforcement records such as investigation reports and student arrest records. However, as I indicated earlier, the Secretary believes he does not have the authority to allow schools to release this information. Passage of this amendment would eliminate the need for this lawsuit and allow the release of law enforcment records.

I would also like to speak in support of several amendments which were to have been offered by my colleague on the Education and Labor Committee, DALE KILDEE.

In particular, I am pleased to see that we are calling for coordination of a report on campus sexual assault to be conducted by the Attorney General with a report on campus crime to be issued by the Secretary of Education is September 1995.

It is important, Mr. Chairman, that we do not have a fragmented effort to address the very real problem of crime on college campuses. As mentioned earlier, we just enacted the Student Right-to-Know and Campus Security Act last year. One section of this new law calls upon the Secretary of Education to disseminate information on effective campus security programs and practices on September 1, 1995. This information is to be based on reports received from colleges and universities. It is only logical that information received as a part of the Attorney General's study on sexual assault should be included as a part of that report, particularly since we are amending the current campus crime reporting law to required the reporting of all sexual offenses, not just rape.

These are important amendments and I am pleased to see they are included in Mr. BROOKS' package of amendments.

Mr. MCDERMOTT. Mr. Chairman, I rise in support of this amendment. Domestic violence is a hidden crime in this country, whose victims often suffer in silence. But it is widespread, affecting millions of families each year.

Domestic violence has become a major public health problem in this country. Each year, thousands of women go to their doctors or the emergency room for the serious injuries they receive at the hands of their abusive partners and the debilitating stress they endure. In fact, domestic violence accounts for more injuries to women than auto accidents, rape and muggings combined. It accounts for roughly one-third of hospital emergency room admissions for women.

Yet our health professionals generally have little or no training in recognizing this violence as a cause of injury. Victims, of course, rarely volunteer the true reason for their injury.

Health care providers need to be knowledgeable enough about the nature of domestic violence to treat them with competence and compassion and to refer them for help—help that will allow them to stop or leave the abuse before it results in permanent injury or murder. Health professionals are in a unique position to intervene and can do so effectively.

This amendment would allow funds to be used for the purpose of training health care professionals. If we are to stop the plague of violence against women in this country, everyone must be involved. This amendment will facilitate education about domestic violence that is critically needed and I urge my colleagues to support it.

Mr. WAXMAN. Mr. Chairman, I am pleased to rise in support of the amendment offered by the distinguished gentleman from Texas [Mr. BROOKS]. I want to express particular support for three provisions dealing with the needs of trauma care centers, making excess forfeiture funds available for public health purposes, and modifying procedures for the disposition of forfeited real property.

The amendment authorizes $50 million in fiscal year 1992 to help trauma centers cope with the tremendous costs associated with caring for the victims of the drug-related violence. The amendment is similar to a proposal approved overwhelmingly by the House last year during its consideration of the 1990 crime bill.

Trauma centers are the MASH units in the war against illegal drugs. Like their MASH predecessors in Korea and Vietnam, trauma centers are on the front lines of the drug war.

Violence associated with the illicit drug culture is on the increase. The number of trauma patients suffering penetrating trauma, generally gun and knife wounds, is also increasing. The responsibility for providing medical care to these patients, including many law enforcement officers, falls on the Nation's trauma care centers.

In recent years, trauma centers have experienced an increase in uncompensated medical costs because a growing number of patients injured by the drug war are unable to pay for care. As a result, many trauma centers have been placed in financial jeopardy. Many private hospitals have withdrawn from trauma center systems. Many public hospitals, particularly those accepting increasing numbers of trauma patients after the withdrawal of private hospitals, are approaching a stage of medical collapse.

Trauma centers save lives, but the cost of care is expensive. While uncompensated costs are an all too common problem for hospitals, the plight for trauma centers is particularly grave due to the severity of injuries they treat and the growing number of injuries resulting from the illicit drug culture.

Areas of our inner cities have become virtual battle zones as rival drug gangs vie for turf and control. A disproportionately large number of trauma patients, particularly those suffering from knife and gun wounds, test positive for drugs. The costs of caring for them and sometimes the innocent victims of their attacks is huge.

While the President's national drug strategy did not address the important role trauma centers play in the drug war, it is a simple fact that drug-related violence is a major factor in the decline of trauma care nationwide.

The closing of trauma centers is a serious threat to any community. When a trauma center closes, its lifesaving services are denied to all patients. Patients include law enforcement officers wounded in the line of duty. They include the thousands injured in automobile accidents—a risk each of us, our families and constituents face daily.

Last May the General Accounting Office issued a disturbing report noting that 60 trauma care centers have closed in the past 5 years. These include centers in Miami, Houston, Philadelphia, Los Angeles, and Chicago. This decline can be traced in large part to increased crime and violence associated with the drug war. The GAO concluded that the closing of additional trauma centers could threaten the access of Americans to prompt treatment of severe injury. The amendment helps to address the needs of the trauma care system before additional centers close their doors.

The American College of Surgeons recently wrote the House urging Members to support this amendment. Dr. Paul A. Ebert, director of the college wrote:

> Urban trauma centers have reported outstanding increases in the number of severity of penetrating injuries as a result (of) the increase in drug-related crime and violence. Penetrating trauma victims consume vast amounts of hospital resources. In the face of these tremendous financial losses, many urban hospitals are dropping out of their local trauma care networks.
>
> When trauma centers drop out of the system, a domino effect results, with the remaining centers being required to assume a tremendous increase in the severity of their case-mix and the size of their uncompensated care burden.
>
> The deterioration of our trauma systems does not merely translate into unnecessary deaths among the perpetrators of violent crime, or even their innocent bystanders. The failure to address the financial concerns of our beleaguered trauma centers now could result in a loss of access to care for all trauma patients. It is the family member in an automobile accident, the child who falls from his bicycle, the friend hurt while cutting his grass or the constituent injured by machinery at his place of work who may not have access to the lifesaving care they need. Anyone who is unfortunately enough to be injured will be in danger if our trauma centers close.
>
> Trauma centers bear a large share of the cost of drug violence, but they do not share in any of the federal programs to redistribute the assets seized from drug dealers.

Dr. Elbert called upon the House to "assure that all Americans have access to vital trauma care services by supporting the amendment."

If we are to effectively wage a war on drugs, we dare not allow the Nation's trauma care system to fail.

Mr. Chairman, I also want to support provisions directing that a portion of amounts declared excess in the Justice Department's assets forfeiture fund be directed to support public health programs, including trauma care centers. In addition to assisting trauma centers, funds from the assets forfeiture fund would also be allocated to expand substance abuse prevention programs directed at high risk youth and establish new residential treatment programs for pregnant addicts. These are two important public health programs administered by the Department of Health and Human Services' Office for Substance Abuse Prevention.

Mr. Chairman, I also want to support provisions of the amendment authored by the gentlemen from Georgia, Dr. ROWLAND and Mr. DARDEN, to encourage the use of forfeited real property for recreational or historic purposes or for the preservation of natural conditions.

The amendment grants the Attorney General authority to transfer to States the title of forfeited real property which is of historic or recreational value. The amendment would authorize the Attorney General to grant the request of a Governor that forfeited real property of historical or recreation value be deeded to States desiring to preserve such land for the benefit of its citizenry. In such circumstances States would be required to maintain the property for this purpose in perpetuity. Title would revert back to the United States in the event the property was used otherwise.

Current law is inflexible on this subject. When real property is determined to be of no value to the Federal Government, the Attorney General is required to put the property up for sale. We were surprised to learn that current law requires the Attorney General to sell such property even when States request the property be converted to public use. While this may be appropriate action for the disposition of forfeited cars, speedboats or houses, in those limited circumstances when a natural area is suitable for use as a State park or wildlife preserve, Federal law should possess the flexibility to defer to a greater public interest.

The interests of a State in preserving natural areas for public benefit, particularly the benefit of young people seeking recreational alternatives to the streets, should take priority over whatever temporary monetary advantage might be achieved by selling such property to private interests.

There is special urgency to this proposal. It involves the fate of a 36-acre, heavily forested track of land located in Cobb County, GA. Title to the land is currently held by the Department of Justice and a public sale for development is threatened. Georgia Gov. Zell Miller has written the Attorney General citing the property as unique and expressing the State's desire to preserve the land as a park or nature preserve.

The amendment is a modest but vitally important proposal that will assist Georgia and other States to preserve their natural heritage.

Mr. Chairman, I urge support for the amendment.

Mr. CONYERS. Mr. Chairman, the crime bill that is before us today deals with only 2 percent of the crimes committed in the United States. Crime is by and large a State problem, not a Federal problem. Which is why our job should be to help the States as much as possible through grant programs. The amendment on asset forfeiture will do just that.

At no cost to our taxpayers, we can put additional dollars into drug treatment and prevention programs. Prevention and treatment are key to stopping drug use. But current prevention programs do not effectively reach the urban poor. And waiting lists for treatment pro-

grams for people who cannot afford to pay are still 3 to 4 months long. The problem is money.

My amendment will designate 25 percent of excess unobligated asset forfeiture funds of the Justice Department to support the most critically underfunded drug abuse treatment and prevention programs: Treatment for pregnant addicts and their children, prevention programs that target high risk youth, and trauma centers in the areas most severely affected by drug-related violence.

In addition, my amendment will make crack houses and other marginal real properties seized by the U.S. Marshal Service available to nonprofit organizations that provide community-based crime control, housing or educational efforts. These properties are seldom used by the public because they have little resale value. But they could be of great use in local efforts to combat drug abuse. My amendment will make it possible for inner city communities to put to good use property that is currently torn down or abandoned.

COMMISSION

On behalf of myself, FRANK HORTON, the ranking minority member of the Government Operations Committee and CHARLIE RANGEL, chairman of the Select Committee on Narcotics Abuse and Control, I am also offering an amendment to create a national commission to examine the root causes of drug abuse in the United States.

Twenty years ago, a National Commission on Drug Abuse initiated by President Nixon found that research on the roots of the drug problem in the United States was essential to preventing drug abuse. Regrettably for our country, this recommendation was not followed.

Since 1972, only 4.6 percent of drug abuse research funding has been spent on root causes. We don't know how to measure root causes or how they actually contribute to drug abuse. We don't know which risk factors are obstacles to treatment, nor which factors should be targeted in prevention policy and programs.

We are fighting a multibillion-dollar drug war without adequate information.

This commission will examine the root causes of drug use and abuse in the United States and make recommendations for improvement in policy to reduce the use of drugs. The time has come to include the root causes of drug use in our thinking about national drug policy.

Mr. SOLOMON. Mr. Chairman, today I am offering an amendment to the crime bill which would require the Attorney General, in consultation with the Secretary of Transportation, to implement a national awareness program for section 333, the Drivers' License Suspension Program, of Public Law 101–516.

As you may know, the Congress enacted my legislation that requires States to enact legislation to suspend the drivers' licenses of individuals who are convicted of any drug offense. If the States fail to enact these laws, they stand to lose 5 percent of their Federal highway funds annually.

The Drivers' License Suspension Program has had great results in New Jersey and Oregon, and I am looking forward to its implementation across the entire United States.

However, there is 1 year left before the States will begin to lose their funding if they don't put the drivers' license suspension law into place. And I am putting the States on notice that we here in the Congress will not extend the deadline for compliance with this important drug prevention law. It is far too valuable to be put off and the compliance deadline has been more than fair.

So all you Governors and State legislatures be aware that time is of the essence and you have 1 year left. Time is running out for States like New York and California which stand to lose over $100 million in Federal highway funds, if they fail to act.

So I would urge your support for my amendment to let your State know for the last time, either pass this necessary drug prevention law or plan on living without Federal highway funds.

Mrs. LOWEY of New York. Mr. Chairman, I rise to thank the committee for incorporating into this en bloc amendment two important amendments that I authored.

The first of my amendments included in the en bloc would address one of the most innovative, important, and forward-looking parts of this excellent bill, title VIII—the Drug Emergency Areas Act. This title will provide local governments across the country with funding to fight the war on drugs through a variety of means. I strongly support this title.

Unfortunately, the way that it is currently drafted, title VIII would strike the authorization for another weapon in our antidrug arsenal which has proven to be very effective, the high-intensity drug trafficking areas [HIDTA] program. Repeal of HIDTA was never debated in either the Crime Subcommittee or in the full Judiciary Committee. No one has yet come forward to suggest that HIDTA should in fact be abolished.

HIDTA should not be eliminated. It is a first-rate program, an example of the kind of thing that we ought to be doing to make our country safer. Congress realized, when it enacted this program in 1988, that stopping drug trafficking in the places where that heinous activity is centered is smart policy for the entire country. By making a concerted effort to fight drug traffickers in New York, Miami, Houston, Los Angeles, and along the Mexican Border, the choke points of the drug trade, we make life easier for law enforcement officials in Vermont, Alabama, Kansas, Oregon, Ohio, and throughout this Nation. If you want to fight drug kingpins, go to where they are. It's common sense.

The HIDTA program has provided startup funds for the Houston major drug squads initiative and the Southern California drug task force. Miami area officials have used HIDTA funds to establish an institutional money laundering task force and an interdiction task force. The beleaguered law enforcement agencies along our Nation's Southwest border have been reinvigorated by these funds.

And in the New York area, HIDTA funds have been used to strengthen existing programs by bringing in additional FBI, DEA, and Secret Service agents. The funds are being used to track down drug fugitives and protect witnesses from the predators who they seek to help put behind bars. In Westchester County, HIDTA funds are used to fund important law enforcement endeavors.

This work does not just help the areas that are directly affected. The dedication, bravery, and hard work of the law enforcement professionals in the HIDTA areas makes the job of every cop, every prosecutor, every soldier in the drug war across this Nation that much easier.

This is a good program, an effective program, a program that is being used to fight crime and drugs even as we stand here debating this issue. We need to expand our anti-drug efforts. We should not give up on a program that is working. We should save high-intensity drug trafficking areas. That will be achieved through this en bloc amendment.

My second amendment in the en bloc addresses the widespread use of illegal drugs, which is directly responsible for the soaring crime rates across this country over the past 20 years. That comes as no surprise. With the development of crack and the resurgence of heroin use, this has become clearer and clearer. Drug users will commit more than 9 million serious crimes this year. This has got to stop. We simply must do a better job of getting people off of drugs.

Doing so will require a strong commitment to drug treatment. Simply put, treatment prevents crime. It works.

Unfortunately, we have yet to commit ourselves to making treatment a central part of our war against drugs. It's estimated that there are more than ten million people who need treatment for alcohol or drug abuse in this country right now. But there are fewer than a million and a half spaces in treatment programs. As a result, waiting lists are unconscionably long.

In the parts of this country that have been hardest hit, it can take years to get into an effective program. Every day that one of these people stays on a waiting list is a day when they might lose their resolve and turn instead to a life of crime to support their habit. We must do a better job if we're going to be successful in stopping crime by ending the drug scourge.

An important step towards doing that is to set for ourselves a goal, to lay down a marker, and to say, "Here we stand. This is what we intend to do. Judge us by whether we succeed." That sort of firm stand would keep everyone's nose to the grindstone. It will bring about results.

That's what this second amendment will do. When the Office of National Drug Control Policy [ONDCP] was created by the 1988 crime bill, Congress mandated that it produces each year a set of objective and measurable goals that could be used as benchmarks. The three strategies that have been issued since then have included specific goals in specific areas: Current overall drug use; current adolescent drug use; occasional cocaine use; frequent cocaine use; current adolescent cocaine use; drug-related medical emergencies; drug availability; domestic marijuana production; and student attitudes toward drug use.

Now is the time to add treatment availability to that package. Let's make this vital step one of the basic tests for the success or failure of our efforts. I feel confident that once we've made that commitment, that meaningful action will follow quickly.

This amendment also expresses the sense of Congress that the ultimate goal of the war

on drugs should be to have treatment available to every person who needs it. That's a big challenge. But if we don't set bold goals, we will never solve this massive problem. Our future is jeopardized by drugs. If boldness is what it takes to guarantee our children's safety, then let us by all means be bold.

We are debating this legislation today because we know that the problem of crime is out of control. We know that we must move forcefully, with tough and effective measures, to make our streets and our schools safer, to free our homes and our neighborhoods from the bonds of fear. There's been a lot of talk in this chamber, Mr. Chairman, about the need to put aside rhetoric and to concentrate on meaningful action. This amendment is meaningful action. Treatment works. Goal setting works. This will help stop crime.

Once again, I thank the committee for including these two amendments in the en bloc amendment, and for all of their work in bringing forward legislation that makes America a safer place.

Ms. SLAUGHTER of New York. Mr. Chairman, this amendment would create a National Commission to Support Law Enforcement. Not since President Lyndon Johnson appointed a Commission on Law Enforcement and the Administration of Justice in 1965 have we comprehensively examined the issues affecting law enforcement and the Federal Government's role in working with law enforcement. Such a study is long overdue.

There is no doubt that the crime problem has changed since 1965. Now police may be facing drug abusers and others who are armed with high-power weapons and have little regard for anyone's life. We send our law enforcement officers into this battle at a disadvantage. These officers deserve our wholehearted support and whatever aid we can provide to allow them to do their jobs more efficiently and effectively.

The National Commission to Support Law Enforcement would be comprised of 23 members, appointed by Congress and the President, from all aspects of law enforcement: management, labor, academia, the Department of Justice, the Treasury Department, Members of Congress, and the Comptroller General of the United States. The Commissioners would hold hearings around the country to hear from local law enforcement about the problems they face and how the Federal Government can help.

The Commission will focus on: the sufficiency of Federal funding; the conditions of employment; information sharing and infrastructure among law enforcement at all levels; the adequacy of equipment and physical and human resources; the status of law enforcement training, education, and research; and the impact on law enforcement of the criminal justice system. After 18 months, the Commission will report its analysis and recommendations.

Last year the Congress passed virtually identical legislation but the Commission has never been appointed due to technical disagreements about the appointing process. This amendment clarifies those disagreements to everyone's satisfaction and will allow the Commission to begin its important work.

Mr. Chairman, the law enforcement community in my district in Rochester and the representatives of the national law enforcement organizations in Washington strongly endorse the creation of the National Commission to Support Law Enforcement. The Senate, too, has voiced its support by including the Commission as part of its crime bill this year.

I urge support for this amendment which will allow us to support the women and men who risk their lives daily to keep ours safe.

Mr. KILDEE. Mr. Chairman, I rise today to offer a series of minor and technical amendments en bloc to H.R. 3371 on behalf of the Education and Labor Committee as provided for under the rule, amendment 37.

The amendment en bloc consists of five minor and technical amendments.

The first amendment simply requires that the Attorney General consult with the Secretary of Education when making grants for the Safe Schools Assistance Act created under this legislation.

The second amendment deletes a provision within the crime bill that could harm States' child abuse prevention efforts by requiring that Child Abuse Prevention and Treatment Act funds be cut off from a State if that State does not implement a new centralized information system to track child abuse offenders.

The third amendment amends the national baseline study on campus sexual assault included in this legislation by requiring the Attorney General to consult with the Secretary of Education. The amendment also clarifies that the Secretary of Education will coordinate this report with the reporting requirements under section 485(f)(4) of the Higher Education Act.

The fourth amendment clarifies that local governments may administer drug abuse resistance education program funds with the concurrence of local educational agencies.

The fifth amendment ensures that the Secretary of Labor is consulted on key provisions and included on the advisory board of the midnight basketball league created under this legislation.

Mr. Chairman, these amendments have been cleared with the minority members of the committee. I know of no opposition and I urge their adoption.

Mr. Chairman, a few days after George Bush became President of the United States, he said that the only way our society will rid itself of drugs is to have a successful educational system. I agree that the way to rid our society of drugs and crime is through education.

Mr. Chairman, with regard to our Nation's crime and drug policy, this Congress can have no greater goal than the protection of those in the dawn of life—our children.

If we are to be successful in educating our children we must provide them with drug-free, violence-free schools which are conducive to learning.

It is estimated that up to 375,000 drug-exposed babies will be entering our Nation's schools this year. There could be over 3 million drug-exposed children in the school system by the year 2000. It is critical that the Congress begin to address this crisis immediately.

As chairman of the subcommittee which has jurisdiction over all elementary and secondary education policy, I believe that it is critical that the Federal Government provide the leadership to address the special educational needs of crack babies and other drug-exposed children in our schools.

For this reason, I will be developing education legislation in this Congress which will provide Federal leadership to States and schools in addressing the growing crisis of drug-exposed children in our Nation's schools.

The Congress must also continue its efforts to address the needs of all schoolchildren to have a drug-free and violence-free environment which is conducive to learning.

One program which addresses the needs of all children to have a drug-free and violence-free school is the Drug-Free Schools and Communities Act. This program, which is under the jurisdiction of the subcommittee I chair, provides substantial support to State and local educational agencies to create innovative programs to help fight drugs and crime in their schools.

In my home State of Michigan, local educational agencies are using drug-free schools funds in innovative ways. Michigan is using funds to target at-risk children early on in their school experience to prevent them from becoming violent or susceptible to drugs. Another program addresses the needs of children in school to confront their anger. Dealing with anger, an innovative program in my home town of Flint, incorporates violence prevention programs into the health education curriculum. This model assists students in confronting their anger in the classroom and helps them defuse that anger before it explodes on the streets.

Another innovative use of drug-free schools moneys in Michigan is to assist children who have left school because of drugs or crime who now desire an opportunity to return to school, by providing comprehensive counseling and transition support for bringing these children back into the school system. This program is designed to bring problem children back into the school system and give them the kind of support they need to keep them off the streets.

The last program I mention is one of the most important. Michigan is using Federal drug-free schools moneys for a voluntary program to teach parents about how to discipline and talk to their children about preventing the use of drugs and violence. The program also offers parents education regarding how to get involved with their child's education.

These are just a few examples of the programs being funded with Federal drug-free schools dollars. It is critical that the Congress continue its commitment to these programs while expanding its commitment to all our country's neighborhood schools to develop innovative programs to address the need to have safer drug-free schools.

Mr. KOPETSKI. Mr. Chairman, I rise in support of Chairman BROOKS' en bloc amendments. Among these en bloc amendments are three clarifying amendments that I am offering.

Before I discuss my amendments, I want to commend Chairman BROOKS for his outstanding leadership throughout the process of bringing this bill to the floor. It takes a herculean effort to bring a bill that is so encompassing and yet so controversial to the House floor. I am sure that all my colleagues on the Judiciary Committee will agree that the gentleman from

Texas made every effort to accommodate each member regardless of different interests or philosophies. I also want to commend Chairmen SCHUMER and EDWARDS for their hard work in crafting the individual pieces that make up this bill.

Mr. Chairman, an hour after the Judiciary Committee voted to report H.R. 3371, I met with Capt. Charles Moose, a precinct captain of the Portland Police Department. Captain Moose is in the streets every day waging the war against crime. He confirmed to me that the most important parts of the crime bill for local law-enforcement agencies are the grant programs. These agencies desperately need the resources that H.R. 3371 authorizes, especially for the Cop on the Beat and Certainty of Punishment for Young Offenders programs.

Captain Moose illuminated on one point that is a deficiency in this bill, the problem of alcohol among young offenders. Mr. Chairman, this is the same point that the county sheriffs—Sheriffs Bob Prinslow, Jack Brooks, Art Martinek, Dave Cook and Ray Steele—in my district make to me on a regular basis when we meet to discuss crime.

In the streets of Portland's north precinct, police are seeing an increase in alcohol abuse by minors. Captain Moose and my sheriffs see the drug education programs working in the sense that the young people are saying no to using drugs, but yes to selling drugs. These youth know that crack is for fools, but will sell it to these fools. As these young people move away from crack and cocaine, they are turning back to alcohol.

The number of crimes involving people, both young and old, high on alcohol is on the rise. In Oregon, in 1988, there were over 36,000 arrests for alcohol-related offenses, including driving under the influence, liquor law violations, drunkenness, disorderly conduct, and vagrancy. This statistic does not take account the role of alcohol in violent crimes, such as murder, negligent manslaughter, sex offenses, assault, and arson. Nationwide, 54 percent of all prison inmates said they were predominately under the influence of alcohol when committing these offenses.

The National Institute of Justice also recently reported that alcohol outweighed all other substances used by offenders under the influence at the time of their offense. The FBI's 1990 Uniform Crime Report shows more than 200,000 alcohol-related arrests for people under the age of 18. This does not take into account the more than 68,000 violent crimes such as murder, negligent manslaughter, sex offenses, and assault, nor 471,000 property crimes such as burglary, larceny theft, motor vehicle theft, and arson that are frequently alcohol related or induced.

A recent Center for Disease Control [CDC] survey confirmed the increased trend of alcohol use among young people. This survey showed that 47 percent of a surveyed group of Oregonian high school students, grades 9–12, used alcohol during the 30 days preceding the survey and 30 percent had five or more drinks on at least one occasion. The survey also reported that 14 percent of these students smoked marijuana and 3 percent used cocaine. Nationwide, the CDC high school student survey showed that 59 percent used alcohol; 37 percent had five or more drinks; 14 percent smoked marijuana; and 2 percent used cocaine over the same 1 month period.

Although these statistics document this disturbing trend, there is a problem with our substance abuse counseling and treatment in that these programs are geared almost exclusively to cocaine and crack. Teenagers convicted of crimes involving drugs are often required to undergo substance abuse counseling and treatment, but alcohol is just not covered, often because of the limitations on resources.

The certainty of punishment for young offenders title provides grants to the States to develop alternative sanctions and innovative methods of rehabilitation, treatment, and counseling. My amendment simply will include alcohol abuse in the establishment of innovative methods to counsel and treat young offenders convicted of serious substance abuse and associated crimes. It is a minor amendment, but it may become a major tool to counsel and treat young people for alcohol abuse and prevent them from heading down a road to a life of crime.

Mr. Chairman, before I discuss my additional amendments, I want to commend my colleague from Ohio, Congresswoman OAKAR, for her timely and relevant amendment on alcohol's possible role as a contributing factor to crime.

Quite frankly, I was surprised to learn that the National Institute of Justice has never done a study on alcohol's role in crime. Clearly, the time has come for such a study.

Mr. Chairman, the Oakar amendment will direct the National Institute of Justice to conduct two studies relating to alcohol and crime. The first study will include a nationwide assessment of alcohol as a factor in violent, domestic, or other criminal activity. The second study will examine the effectiveness of residential treatment in reducing the recidivism rates of offenders who were under the influence of alcohol, or alcohol in combination with other drugs, at the time of their offense.

Mr. Chairman, these studies will be an important first step for a greater understanding of alcohol's role in crime. I commend Congresswoman OAKAR for her leadership on this issue.

Mr. Chairman, my remaining amendments deal with the Motor Vehicle Theft Prevention Program established in subtitle B of title XVII.

Auto theft is a major problem in communities all over the country, including my own district. Last year, more than 13,000 cars were stolen in the State of Oregon.

The Motor Vehicle Theft Prevention Program attempts to prevent and deter auto theft by requiring the U.S. Attorney General to develop a voluntary decal program. The Attorney General will develop a number of conditions, such as the owner does not operate the vehicle between 1 a.m. and 5 a.m., for the issuance of a decal to be placed on a motor vehicle. If a law-enforcement officer observes the vehicle operating in violation of one of these conditions, this alone will constitute the reasonable suspicion for the officer to stop the vehicle.

Proponents of the Motor Vehicle Theft Prevention Program argue that the U.S. Attorney General will never establish conditions that will discriminate. Yet, right now in Trenton, NJ, the local police department is operating a decal program that is based solely on the criterion of age. The owner of a participating vehicle voluntarily gives the local police consent to stop his or her vehicle if anyone who appears to be under the age of 25 is operating the vehicle. If this program is already in place, is it so unreasonable to anticipate that other States' programs, or the conditions established by the U.S. Attorney General, may be based on the color of the owner's skin or his or her national origin or even gender?

If enacted, this amendment will prohibit the U.S. Attorney General from basing the conditions of the Motor Vehicle Theft Prevention Program on race, creed, color, national origin, gender, or age.

Mr. Chairman, I also am concerned about State's rights and this program. The Attorney General of the United States is essentially granting the authorization to the instrumentalities of State and local law-enforcement agencies for a new form of reasonable suspicion for a motor vehicle stop. The presence of a decal and a violation of that decal's condition will allow a law-enforcement officer to stop a vehicle without meeting any additional standards for reasonable suspicion.

My amendment will simply require any State that wants to participate in the National Motor Vehicle Theft Prevention Program to do so only after the State legislature votes to approve such participation in accordance with the conditions of the program. It also specifically authorizes law-enforcement officers, whether at the State or local level, to make this stop without meeting additional reasonable suspicion standards. There are real questions here about civil liberties. Mr. Chairman, all I am proposing is that the peoples' elected representatives authorizes the State's law-enforcement agencies to stop cars with a decal, not the U.S. Attorney General.

Mr. Chairman, these three amendments are important and I would hope relatively noncontroversial. I urge my colleagues to support Chairman BROOKS' en bloc amendments.

Mr. RANGEL. Mr. Chairman, I rise in support of the amendment offered by Mr. CONYERS for himself, Mr. HORTON, and me to establish a national commission to study the causes of the demand for drugs in the United States. The provision is very similar to the amendment I added to the House crime bill last year. Unfortunately, my amendment was deleted in conference.

Many of us who have witnessed this country's so-called war on drugs in the last 10 years, know very well that we have been running on a treadmill. Despite an increased emphasis on illegal drugs on the part of law enforcement, judges and prosecutors, we have accomplished very little, if anything, in reducing the impact of these poisons on society.

In a recent conversation, Budget Director Dick Darman told me that in his estimation, substance abuse costs society more than one-quarter of a trillion dollars annually. Furthermore, we spend $1,500 a day for AIDS-affected boarder babies. We spend $600 a day for homeless people who wind up in hospitals.

Mr. Chairman, we have chased our own tails, as we have stepped up our efforts to combat drugs at the border and in our streets, their popularity with Americans has soared. Our commitment and our dedication of resources to fight the war on drugs leaves a lot

to be desired. But even if we could fix these two concerns, our progress would be very limited without knowing, as part of our approach, the root causes of drug demand.

I want to strongly urge my colleagues to support the Conyers-Horton-Rangel amendment that would create a national commission to study the causes of the demand for drugs. This commission is long overdue. The discussion of why people use drugs is long overdue. If there is one element regarding the drug crisis that has been missing from our efforts, it is an examination of this question.

When I first introduced the root causes bill a couple years ago, my intention was to put together a working group of experts and professionals who could change the direction of our approach on drugs and crime in this country.

On September 25, 1991, I testified before the Government Operation's Subcommittee on Legislation and National Security on my bill H.R. 464, the National Commission to study the causes of the demands for drugs. The subcommittee heard extensive testimony on the dearth of research on the root causes of illicit drug use and abuse and reported favorable on the bill. I welcomed the Government Operations Committee interest in this area and am pleased to have the support of such distinguished Members of Congress as Mr. CONYERS and Mr. HORTON.

For so many years, America's response to the drug crisis has been rather pedestrian. Our ineffective strategy has been centered on the expenditure of billions of dollars to build and maintain jails. We ignore basic needs that many people have no access to—like housing, health care, education, and enough income to beat out the poverty line. In the end, we create conditions conducive to drugs and other crime and end up spending even more money to pay for the damage and the continuous vicious cycle of incarceration.

We have failed to see what I think is an obvious and glaring connection between poverty, other social inequities, and the proliferation of illicit drugs in our society.

We need to look not only at why poor people drift to drugs, but why someone who is middle-class and otherwise making it would want to drift to drugs as well. What is it that attracts professional athletes making millions of dollars a year to something as dangerous and as potentially devastating as drugs? Why do young kids who come from good homes and who have a good future want to risk the temptation? Is there a common denominator in all drug abuse that we can pull out and say, "This is where we start with the answer?" If there is, then a commission like this would be perfect.

Addressing the root cause issue means providing people with something to say yes to if they are going to say no to drugs. And giving them something to say yes to means that we must provide a minimum standard of existence for those in our society who are disadvantaged and locked out. Not only is it the humanitarian thing to do, but it is the most cost-effective way of running our country and utilizing our vast resources.

We can build all the jails and prisons we want. We can hire all the police we want. We can double and triple the checkpoints along the United States-Mexico border and the United States-Canadian border. We can seize more drugs from boats, cars, and airplanes. We can give people stiffer sentences and we can do more undercover operations and street sweeps. But the fact of the matter is that none of this is going to make a whole lot of difference in the overall scheme of things unless we address the environmental factors that lead some people to drug abuse.

The National Commission to Study the Root Causes of the Demand for Drugs in the United States is proposed as a true working commission that would have regular reports to, and contacts with, Government and the American people. The National Commission to Study the Root Causes of the Demand for Drugs would be responsible for presenting a final report that would detail all of its activity and provide concrete, feasible recommendations for addressing the root causes of the drug problem.

The Commission would be comprised of 13 members, with 3 to be appointed by the President, and 5 each by the Senate and the House of Representatives. The individuals appointed to the Commission would not be officers or employees of the Government.

The amendment calls for such a Commission to study the following aspects of drug abuse and drug demand: characteristics, environment, family and friends, attraction, and efforts of Government.

The National Commission to Study the Demand for Drugs in the United States is a very simple concept that could provide a big payoff for our society. If we can get a panel of well-known experts who cross social, ethnic, political, and philosophical lines to put their talent, their ideas, and their expertise together to explore this subject, we stand to make great progress.

Mr. BUSTAMANTE. The purpose of this amendment is to make programs funded under the Safe Schools Act more accessible to Spanish-speaking students.

To carry out this purpose, my amendment would require the Bureau of Justice Assistance to produce written materials for the program in both English and Spanish. My amendment would also require local educational authorities who desire to avail themselves of Federal funding under the program to include in their grant applications a description of the educational materials that will be developed in Spanish.

This does not mean, however, that every school will have to use Spanish language materials, even though they have no Spanish-speaking students enrolled at their school.

My amendment would require the use of Spanish language materials only when it's appropriate, and those materials are appropriate only when a significant portion of a school's population is Spanish-speaking.

I hasten to note that the Bureau of Justice Assistance supports my amendment because it is in accord with the Agency's overall goal of reaching as many young people through their Criminal Education and Drug Prevention Programs.

In fact, the U.S. Attorney General has noted on numerous occasions that the Bureau should utilize Spanish language materials in implementing its programs given the fact that Hispanics are overrepresented among our inmate populations.

Indeed, Hispanics constituted over 20 percent of the inmate population in 1990 in State and local jails and over 20 percent of the inmate population in Federal prisons, according to the Congressional Research Service.

The need for my amendment is further underscored by the fact that according to the 1990 census the Hispanic population in the United States increased from 14.6 million in 1980 to 22.3 million a mere 10 years later.

Unfortunately, Mr. Chairman, our drug prevention messages are not reaching everyone, in part because we are failing to tailor those messages to the audience we are intending to serve.

To correct this problem, vote for the Bustamante amendment—it will put education programs to effective use in preventing more of our young people from falling prey to drugs.

Mr. HUGHES. Mr. Chairman, I rise in support of the en bloc amendment and specifically the Hughes, Waxman, Conyers forfeiture amendment to section 1803 of the bill.

Section 1803 of the bill, which I offered as an amendment at the subcommittee level, allows 25 percent of the excess funds accumulated at the end of each fiscal year in the Department of Justice forfeiture fund to go to drug treatment programs under the Public Health Service Act. At the present rate of forfeitures, that would be about $37 million a year.

This money, I would like to emphasize, is only residual money left over after the payment of administrative expenses, authorized law enforcement needs, State and local sharing and other specified ongoing expenditures of the DOJ forfeiture fund.

The en bloc amendment will not alter this aspect of the bill at all—that is, only residual funds will be used.

My distinguished colleagues Mr. WAXMAN and Mr. CONYERS have noticed amendments 51 and 48, respectively, which were made in order by the rule and would expand the use of this money for other salutary purposes. After considerable discussion we have agreed to a compromise provision which is before the House today.

Essentially this amendment will split up the 25 percent in excess funds in the following fashion: One-half to drug treatment and prevention programs; and one-half to hospital trauma centers.

The treatment and prevention programs are specified in the amendment and are programs which are in the most dire need around the country. They are:

First, resident substance abuse treatment services for pregnant addicts and their children; and

Second, preventive substance abuse demonstration programs for high risk youth.

The amendment also requires a report to the Congress on administrative and contracting expenses for the DOJ forfeiture fund and allows—not demands—the Attorney General authority to offer nominal value real property to tax exempt organizations to provide direct services furthering community-based crime control, housing, or educational efforts in the area.

The amendment also authorizes grants to hospital trauma centers severely impacted by drug-related violence. This proposal is similar

to a proposal by Congressman WAXMAN which was approved by a vote of 262–160 in the House during the consideration of the 1990 crime bill.

I believe the compromise forfeiture amendment included within this en bloc amendment will provide an appropriate portion of forfeited drug money to go to the victims of drug trafficking and hopefully move toward prevention of future drug-related crimes.

Mr. SMITH of Texas. Mr. Chairman, today I am offering an amendment that would make it a crime to knowingly provide material support or resources to terrorists who commit crimes such as hijacking, bombings, or assassinating Members of Congress.

Under the amendment, material support or resources is defined as currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, or other physical assets. Material support specifically does not include humanitarian assistance.

The amendment is necessary because of increased concern about the nature of assistance being given to terrorists. Fortunately, fewer governments are providing assistance to terrorist groups, but unfortunately, front organizations and individuals are stepping in to provide support to terrorists.

The problem became evident when investigators uncovered front companies helping the Abu Nidal Organization. Those companies have been shut down, and I hope that by establishing a criminal offense for such activities in the United States we can deter terrorists and their sympathizers before they set up new operations, either here or abroad.

Combating terrorism should be a top priority of our Government. This amendment will give us another tool to use against terrorists. By our example, we can also encourage other countries to toughen their antiterrorist laws.

I first offered a version of this amendment during Judiciary Committee markup of the crime bill. Mr. EDWARDS, the chairman of the Civil Rights Subcommittee, expressed concern over some of the language, and I agreed to withdraw the amendment and work with him to reach a compromise.

We have reached a compromise, one that I feel should be added to the crime bill.

Mr. BUSTAMANTE. Mr. Chairman, my second amendment also touches on drug prevention in the sense that it authorizes the President to provide drug emergency funding to U.S. border communities that are under an imminent threat of having a drug emergency in a neighboring country cross over into their State. Under my amendment, the President would be authorized to declare such threatened regions, drug emergency areas. The President could then authorize the funding of an increase in drug enforcement moneys to border communities in order to avert a large scale flow of illegal drugs into that potentially affected United States region.

The purpose of my amendment is thus to authorize the President to prevent a drug-related emergency from occurring in U.S. territory where he has reason to know that a border community is under imminent and substantial risk of harm.

To illustrate my point, Mr. Chairman, assume, for example, that the President has been notified by the Secretary of State and the head of the Drug Enforcement Administration that intelligence reports indicate that an arm of the Medellin Drug Cartel has shifted its operations directly to a location in Northern Mexico that borders southern California. As a result of this development, a large quantity of illegal drugs are being concentrated along this northern Mexico frontier. This concentration of drugs would constitute an imminent threat of greater drug smuggling than neighboring U.S. border communities are both accustom and capable of interdicting. Under my amendment, the President could declare such threatened border communities as, drug emergency areas, which would qualify them for an increase drug law enforcement funding under title VIII of the bill.

My amendment does not, however, call for an increase in title VIII authorization than the level already authorized by the Judiciary Committee. My amendment solely alters the policy requirements under title VIII to allow the President to declare a border community a drug emergency area when a sufficient risk of increased drug activity so warrants. I believe this policy change gives the President a practical and effective tool for preventing a drug crisis before it ever has a chance of getting started. For all these reasons, Mr. Chairman, I respectfully request the adoption of my amendment.

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

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 207, not voting 10, as follows:

[Roll No. 317]

AYES—216

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bonior
Borski
Boucher
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
Darden
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
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murtha
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—207

Allard
Andrews (ME)
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Brewster
Broomfield
Browder
Bunning
Burton
Byron
Camp
Campbell (CA)
Chandler
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hobson
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Jones (GA)
Kanjorski
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Murphy
Myers
Nagle
Neal (NC)
Nichols
Nussle
Orton
Oxley
Packard
Parker
Patterson
Paxon
Penny
Petri
Porter
Pursell
Quillen

Ramstad	Sensenbrenner	Tauzin
Ravenel	Shaw	Taylor (MS)
Regula	Shays	Taylor (NC)
Rhodes	Shuster	Thomas (CA)
Ridge	Sisisky	Thomas (WY)
Riggs	Skeen	Torricelli
Rinaldo	Skelton	Upton
Ritter	Smith (NJ)	Valentine
Roberts	Smith (OR)	Vander Jagt
Rogers	Smith (TX)	Vucanovich
Rohrabacher	Snowe	Walker
Ros-Lehtinen	Solomon	Walsh
Roth	Spence	Weber
Roukema	Stearns	Weldon
Santorum	Stenholm	Wolf
Sarpalius	Stump	Wylie
Saxton	Sundquist	Young (AK)
Schaefer	Swett	Young (FL)
Schiff	Tallon	Zeliff
Schulze	Tanner	Zimmer

NOT VOTING—10

Berman	Hopkins	Slaughter (VA)
Callahan	Huckaby	Waxman
Hammerschmidt	Levine (CA)	
Holloway	Martinez	

□ 1410

Messrs. GILMAN, McCANDLESS, SARPALIUS, MILLER of Washington, RHODES and SISISKY changed their vote from "aye" to "no".

Mr. MATSUI changed his vote from "no" to "aye".

So the amendments en bloc, as modified, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, it is now in order to consider amendment No. 8 printed in part 2 of House Report 102-253.

AMENDMENT OFFERED BY MR. VOLKMER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VOLKMER: Page 230, strike line 9 and all that follows through line 24 on page 235.

Page 217, strike lines 14 and 15.

Amend the table of contents at the beginning of the bill accordingly.

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

Mr. SCHUMER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. SCHUMER] will control the time in opposition.

Mr. VOLKMER. Mr. Chairman, this amendment was jointly offered by myself and the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Chairman, I ask unanimous consent to yield 14 minutes of my 30 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER] and that the gentleman be able to yield time to others.

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

There was no objection.

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

Mr. VOLKMER. Mr. Chairman, let me make it very clear, everyone in this House wants to stop what occurred in Killeen, TX, yesterday. That is not the question, but rather how do we stop it? In this specific case, I simply have no answer. When someone loses their mind, as the man who caused this tragedy yesterday obviously did, I do not believe it can be stopped. It was not the pistol that caused those deaths. If it was not a pistol, it could easily have been a rifle, if not a rifle a shotgun. If not a gun, a can of gasoline thrown into the restaurant would have caused as much or more tragedy. If the truck had been loaded with dynamite and the man is willing to die, as in this case he was, how do you stop it?

Our debate today is on legislation dealing with the banning of firearms and magazines and clips. My colleagues, you should know this is the most far-reaching restriction on second amendment rights ever considered in Congress. As the pictures I have here demonstrate, we are not talking about simply banning 13 weapons. The language calls for banning 113 rifles and all other rifles that have the same basic configuration. That means that as we look at the chart here, only the second and last gun in these pictures are on the list. All of these guns could be banned along with millions of other semiautomatic firearms that have the same basic configuration.

That means, Mr. Speaker, that this rifle is banned, but not this rifle, and they are the same rifle. This rifle is not banned. This rifle is not banned, but this one is, because it has a tripod and because in the picture it has a large magazine. The same magazine could fit into this rifle. So under the list you are only banning supposedly this one and this one, and these are just as deadly but Mr. Chairman, under the language that is in the bill following the list, all of these are banned.

Mr. Chairman, I have a lot of hunters in my district, all over my district, that have this one right here. That is a Ruger mini-14, used extensively by hunters, and under this bill that Ruger 14 will very probably—by the BATF—fall within the language of that basic configuration and it is banned, like lot of other rifles, like my 30.06 that I plan to use next month, and want to go deer hunting. So we have to remember that.

I want to also point out that this bill if left intact, without amendment, will also affect even .22 caliber's, as any .22 with a clip or magazine—other than a tubular magazine—with more than seven rounds is affected by the magazine language. We are afraid of those .22's. That means Remington, Ruger, Weatherby, and any other .22 currently on the market with a clip or box feeding device is in jeopardy.

Make no mistake about it, failure to support my amendments will result in millions of semiautomatic firearms, owned by millions of law-abiding citizens, will be left to the whim of BATF for possible inclusion in the list to be banned.

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

Mr. Chairman, the Nation is watching to see how this Congress will react to the carnage in Killeen, TX. In the last 24 hours, we have been grimly reminded that weapons of massive fire power have no place in our society, but on a scrap heap. No matter how the opponents of this bill try to nip around its edges, they cannot escape the truth that the weapons in this bill are weapons of war. They were made by the military, for military use, to kill people, not to hunt deer or squirrels, not to defend one's self, but in a rapid fire way to kill other people.

□ 1420

They were made expressly for the efficient killing of human beings. People like Patrick Purdy in Stockton, CA, Joseph Harris in Ridgewood, NJ, have proven how awfully efficient these weapons are.

The opponents of this bill, echoing the comments of the NRA, say these guns only look bad and they shoot the same as standard hunting rifles, which are left untouched by this bill. They say there is no documentation of their use in crime.

Do not believe them. Assault weapons come equipped with hardware for the purpose of killing people. Flash suppressors, so that you cannot see where you are shooting from. No hunter uses that.

Folding stocks to conceal the weapons, no hunter does that. Silencers to conceal them in close combat, no hunter needs that. And barrel mounts for bayonets and grenade launchers, no hunter I know uses those.

These weapons account for less than 1 percent of all guns, but they are used in 10 percent of crimes, they are 35 times more likely to be used in murder, and they are becoming prevalent. A study by the ATF showed that between 1987 and 1988 the use of assault weapons increased by 78 percent. This legislation simply prohibits the possession of certain of these enumerated types of weapons. That is all it does. It does not add other weapons. There are no similar or comparable weapons as ATF has testified. Rifles with fixed magazines are not included. It is as narrow a bill as possible.

Any weapon that had any legitimate purpose was not put on this list. Only those that kill, and kill quickly, but also have no legitimate hunting purpose.

This legislation is not going to affect the law-abiding hunters of this country, but it will have an effect on people like George Hennard, who used a gun able to hold a 17-round detachable clip to kill 22 people and wound 20 others in

Luby's Cafeteria in a very short span of time, without reloading.

My colleagues, 22 people died. Maybe they did not have to. This House will decide today whether they died in vain.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Alaska, [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I stand before you to speak in strong support of this amendment to strike the language banning firearms. I do so because the very idea that a law restricting gun ownership will stop criminals has no foundation, after all criminals do not obey gun laws.

The problem is not guns. The problem is criminals and a justice system that is not working. Criminals do not buy their guns at gun shops in a legal manner, they obtain them through black-market dealers. A gun ban will not get the guns out of the hands of criminals, it will only prevent honest people who are intent on obeying the law from possessing these firearms. Banning firearms is not the solution to our Nation's crime problems, the real solution lies in criminal control: Capital punishment for taking the life of another; less plea bargaining; stiff and mandatory penalties; and no early release for violent repeat felons are the most effective means of preventing crime. Gun crimes can be stopped by punishing lawbreakers, not the law abiding. If a criminal wants a so-called assault weapon does anyone here really believe he will be deterred by a law banning guns?

Automatic firearms are not new. The first semiautomatics were introduced over 100 years ago, and their basic mechanical function has remained unchanged. H.R. 3371 specifically names 13 categories of weapons consisting of 22 assault weapons, as well as, "a weapon, by whatever name known, which embodies the same basic configuration as the weapon so specified." Essentially, this list bans every firearm that has the same relative arrangement of parts or elements of the 13 categories named in the bill. Since the list contains rifles, shotguns, and handguns, given language this broad, any firearm may be banned. The label "assault weapon" itself is inaccurate. Assault weapons have the built-in capacity to select fully automatic fire. Such weapons have already been federally regulated.

All the statistical evidence and research shows that tough antigun laws do nothing to stop crime. New York City, Boston, Chicago, and Detroit all have strict gun laws and their crime rates are very high. We work in a city that has some of the most stringent gun-control laws in the Nation, but the crime rate continues to skyrocket.

In Alaska, many of my constituents rely on firearms to maintain their existence. By taking away their constitutional right to keep and bear arms, many Alaskans would have to give up a lifestyle that has been traditional for hundreds of years. My constituents elected me to exercise my good judgment in representing their interests and those of future Alaskans.

Banning guns will not fix the justice system, nor will it put a dent in crime. Limiting the second amendment right to keep and bear arms would only inconvenience law-abiding citizens and limit our constitutional freedoms. Provisions in this bill are aimed at turning lawful citizens into criminals instead of turning criminals into law-abiding citizens. Furthermore, banning guns does not tackle the difficult problem of reforming our criminal justice system, nor does it address the root causes of crime. The only result of harsher gun laws will be to increase the market of illicit guns in the United States while disarming honest citizens. Please join me in support of this amendment to strike the gun ban.

Mr. VOLKMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. I thank the gentleman for yielding to me.

Mr. Chairman, I compliment the gentleman from Missouri [Mr. VOLKMER] on his amendment. Should this amendment not pass, what actually will be happening is harming and prejudicing all of those lawful hunters out there who, by the way, are probably the safest people handling any type of firearms in this country. Why penalize them?

I certainly think the amendment is proper, and I endorse it.

Mr. VOLKMER. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, last Christmas, five blocks from the Capitol, around the corner from where I then lived, a passenger van was riddled with machinegun bullets. The driver and occupant were killed. This movie-like horror was reported to have been a fight between gangs over drugs. It was a fight between warring drug lords over illegal drugs.

It was also reported that the victims were criminals that were released for lack of jail space. When guns are used by criminals they become instruments of death. Guns do not kill, criminals do.

All law-abiding citizens, including the hunters that I represent, want something done about the rampant crime in America. But under this bill, under these provisions, my deer rifle, my Winchester .308, when modified with a larger clip, is eligible for classification as an assault weapon which is outlawed by this bill. The problem is that criminals are roaming the streets. The Nation needs more prisons to lock up the criminals and keep them off the streets.

Mr. Chairman, I rise in support of the gentleman's amendment.

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

Mr. ALEXANDER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, the rifle mentioned by the gentleman from Arkansas [Mr. ALEXANDER] is not banned by this legislation.

Mr. ALEXANDER. It is if it is modified with a larger clip. With a 10-round clip, it is illegal under this legislation.

Mr. SCHUMER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Chairman, we are not going to solve crime today. We cannot stop all mass murders. But, I believe, with your vote we can take assault weapons out of the hands of drug kingpins and crazed criminals. We cannot bring back the lives lost in my district yesterday. But I hope with your vote today perhaps, just perhaps, you can save a life in your neighborhood tomorrow.

Mr. Chairman, for generations, in my rural Texas district, guns have been a way of life. This issue is not about gun control, it is about saving lives.

Yesterday we saw the stark, brutal death of 22 innocent men and women in my district. Today this House must make a choice about guns, not about hunting rifles, but about assault weapons, about Uzi's. That is the choice we will make today.

In the past I have been opposed to gun control; I still am. I have talked about statistics in States with gun control laws, but today is different. And no clock can ever turn that back.

Today I am not talking about statistics and charts and graphs and constitutional esoteric issues; I am talking about 22 people, preachers, soldiers, mothers, fathers, teachers, who were killed brutally by this murderer.

I think this House must make a choice. For me, suddenly the old arguments ring hollow. We hear, "Guns do not kill, people do." Tell that to the victims of those 22 citizens who are dead today.

We hear statistics are inconclusive. Those people yesterday were not statistics; they were caring human beings. We hear about the right to bear arms, an important right. Does that mean, though, that absolutely no limits can be placed on the possession of firearms? Surely not; not bazookas in every garage or grenade launchers in every living room; surely not.

No more than the right to free speech gives the citizen of this country the authority to yell "Fire" in a crowded theater.

We hear this is a first step to complete gun control. Hogwash. This is one step, one reasonable, commonsense effort to put in regulations in the real-

world of crazed individuals and criminals. That is what this issue is all about. We cannot bring those lives back, but I hope we can make that tragedy of yesterday meaningful.

□ 1430

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I am sorry that this amendment, the firearms provision of the bill and the clip limitation of the bill are tied together. I think they are separate issues, should be considered separately. Nevertheless, because of my opposition to the firearms portion of the bill, I am going to support the Volkmer-Sensenbrenner amendment.

Mr. Chairman, we should oppose the firearms provision called assault weapons in this bill for four important reasons.

First, it is mislabeled. None of the weapons of the list to be banned are assault weapons. That label has been applied erroneously and deceptively because none of these weapons are built with a selector for full automatic fire as our military weapons.

Second, we should oppose the provisions in the bill because it is vague. A list of weapons is banned, and any weapon with the same configuration; the Department of Alcohol, Tobacco and Firearms has said this is what this provision means to us; but what is it going to mean to every U.S. attorney around the country? We could be making thousands of American citizens criminals if we pass this bill because they own a firearm that is the same configuration, whatever that means, as any of the weapons on the list.

Third, we should oppose the provisions of the bill because it is invasive. The point is continuously made that these weapons are not desired by honest citizens. Their only purpose is to commit crime. But if this bill passes and becomes law, nobody has to give up a weapon. The bill itself says that anyone who owns one of the weapons on this list gets to keep the weapon. Now, if only criminals own these weapons, I ask, "Why aren't the weapons forfeited immediately?" It is really because the supporters know very well that hundreds of thousands, perhaps millions, of American citizens who are not criminals own these weapons, and they would not dare try to forfeit them.

Finally, we should vote against this provision because it is meaningless. These are not assault weapons. They are semiautomatic weapons. They are the same all over. That was proven in Texas. The Glock is not on the list to be banned.

Mr. VOLKMER. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I come to the floor today to offer my heartfelt sympathy to the families of those individuals who were killed in the tragedy in Killeen, TX. As we debate the right for individuals to own firearms my thoughts, as well as the thoughts of many of my colleagues, turn to the awful events which happened just a few short hours ago. I am sure that many of the interest groups who are trying to limit our second amendment rights will hold this tragic event up as an example of why we need to restrict firearm ownership. The grief and senseless loss of life will be used by these groups as a tool to advance their agenda.

Like the families in Killeen, my wife and I also have suffered a tragedy. During my campaign to become a Member of this great body, we lost two of our children and two good friends in an airplane accident. This is something which we think about every day. Like those families in Killeen, we will never forget our loved ones. Not a day goes by when I do not remember the tragic event which took the lives of two of our children. In our grief we wanted something or someone to blame. But never, not once, did the thought of outlawing airplanes cross our minds. Like the events in Killeen, there were many circumstances which led to our loss. However, the right to own an aircraft was not a factor.

Mr. Chairman, I strongly urge Members to examine their position on this issue. I know your first instinct might be to restrict firearm ownership. But neither this bill, nor any other gun control bill, would have prevented this sick individual from acting out his Machiavellian nightmare against the innocent people of Killeen.

Again, support for this amendment is critical if we are to maintain the integrity of the Constitution. We must not take away the right of the good people of this Nation to protect themselves from the actions of sick individuals such as the one in Killeen, TX.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Chairman, I thank the gentleman from New York [Mr. SCHUMER] for yielding this time to me.

Let me simply say that this is a very carefully, narrowly drafted piece of legislation. The weapons that are banned are specified. The other language which has been cited is simply there so that a manufacturer cannot take a different nameplate, put it on the same weapon and sell it under a new name to get around this legislation. That is all that provision is in there for.

Mr. Chairman, I went down to the shooting range that the Capitol Police have at the invitation of my colleague, the gentleman from New York [Mr. SCHUMER], and tried one of these weapons, and let me say to my colleagues, "These aren't hunting weapons. If you shoot a deer with these weapons, you're not going to get venison. You'll be lucky to get hamburger."

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, the assault weapons provisions have very little effect on the right of the average American to bear arms. The provisions include weapons used almost exclusively by organized crime, by gangs, and drug cartels. They do not include any weapons, semiautomatic or otherwise, used for hunting.

Mr. Chairman, this is a preventive measure. We know that this alone will not cause a reduction in crime, but it will make it very hard for people, like the gunman in yesterday's massacre in Texas, to get their hands on high-powered assault weapons and large capacity ammunition feeding devices. Perhaps with provisions like these in effect tragedies similar to yesterday's Texas massacre and the 1989 blood bath in Stockton, CA, in which 5 children were killed and 30 others wounded, can be prevented.

Mr. Chairman, these provisions are a small price to pay for curbing this kind of senseless violence, and I want to associate myself with my courageous friend from Texas in urging my colleagues to adopt the amendment of the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Chairman and my colleagues, who are we kidding?

My dad gave me a semiautomatic shotgun when I was 12 years old and took me out bird hunting. If there is anyone that does not know the difference between an assault weapon and hunting weapon in this body, they surely do not have business with one, I say to my colleagues. We are led to believe that we need an assault weapon to go out and kill Bambi. An assault weapon has nothing to do with semiautomatic shotguns and semiautomatic rifles that I own and have owned all my life, that, when I grew up as a kid in South Carolina, were in the back hall of my grandparent's home, my parent's home, and later my home, as we went hunting during the season and still do. We felt no need for a semiautomatic weapon to go out hunting.

Mr. Chairman, these weapons are not for hunting, they are not for sportsmen, and I will tell my colleagues outside of this body there is some organization that has some self-interest in it. I have not found anyone who thinks that anyone in this country outside of the military or the police needs an assault weapon. It is absurd.

I am just as amazed that we are even here debating this. Who in the world

ever heard of going out and buying an assault weapon to take hunting?

So, Mr. Chairman, I would say to my colleagues, You're very much on the wrong side of the American people and this business about, you know, it's going to be the camel's nose under the tent. That is, as my friend, Mr. EDWARDS, says, "Just hogwash." We know what we're talking about here, and you know the thing in Stockton, CA. I'm not going to use that; it's a tragic thing. A similar thing happened in Greenwood, SC, a couple of years ago where a guy went in and just mowed down a lot of school children. He didn't have an assault weapon, you know, those of you who so want to protect the rights of those who own guns in this country, as I do. You are doing those who you represent a great disservice because one of these days, if you don't restrict and keep these guns out of the hands of the people who shouldn't have them, there is going to be an uprising in this country, and everyone is going to suffer.

Mr. Chairman, no one is going to be able to use those weapons for sporting purposes or self-defense.

Mr. SCHUMER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I represent many of the employees of Colt Industries of Hartford. Colt has just emerged from a difficult point in its history, it has only recently recovered from the longest strike in the history of Connecticut. The men and women of Colt are skilled, professional workers whose expertise in gun manufacturing is unchallenged.

I want to be certain that their products are not inadvertently harmed by the language of this legislation. To that end, I have discussed the language and intent of title XX, subtitle B of the Omnibus Crime Control Act of 1991 with Representative CHARLES SCHUMER, chairman of the Subcommittee on Crime and Criminal Justice. I have done this specifically to determine the intent of the committee's language regarding assault weapons. I have been assured that the intent of this language is not to restrict semiautomatic rifles which have been modified for sporting purposes. The ban pertains only to 13 specific types of assault weapons, and the language of the bill is intended to be read very narrowly.

Although the bill also restricts copies of those restricted weapons, the term copy means those weapons which have the same basic configuration as those weapons listed and which have only minor cosmetic differences. If a weapon has been changed so that its basic configuration is altered by reducing its capacity, removing features characteristic of assault weapons, or modifying its functional parts, it is a different weapon and not a copy. It would not, then, be prohibited by this bill. It is also my understanding that the Colt Sporter, a semiautomatic rifle for hunting and other routine shooting activities or collection is not prohibited by title XX legislation.

Mr. Chairman, the men and women of Colt Industries, deserve to continue manufacturing the Sporter. I appreciate the opportunity for this clarification.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in support of the Volkmer amendment and associate myself with the remarks of Mr. VOLKMER on this subject.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, here we go again. Every time there is an effort to clamp down on criminals and criminal activity we hear the same chorus: Ban the guns, and that will fix it.

Mr. Chairman, that is a fantasy, an emotional easy out. The use of weapons for illegal purposes is now a criminal act. Does that stop their use or stop crime? Of course not.

□ 1440

People who are going to use weapons illegally will get them in their hands illegally. We need to find a way to keep criminals off the street. The concept of limiting personal freedom to law-abiding citizens to achieve some of the kinds of emotional and political satisfaction is wrong.

Mr. Chairman, I support the Sensenbrenner-Volkmer amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in strong support of the Volkmer amendment.

Mr. Chairman, this legislation designed to ban assault weapons is poorly drafted and ill-conceived.

I share the concerns of all Americans, in particular those in Texas, about the magnitude of crime and the role these weapons may play; but this provision would cause us to lose sight of the real problems with crime in our society and what we could do to stop this crime.

The incident which occurred in my State yesterday is definitely a tragedy.

In light of the tragedy, I am sure that many of you are considering revoking your support of the Volkmer amendment. I am asking that you stand back and look at the whole picture. Yes, this is a horrible tragedy which could have been avoided but not by laws against the use of some semiautomatic weapons and magazines and clips which hold over seven rounds.

Criminal misuse of firearms yearly is less than 0.2 percent of firearms. Over 99.8 percent of legally purchased U.S. firearms will not be involved in criminal activity in any given year.

The FBI and police department in Houston, as well those in many other large cities, have stated that assault weapons are involved in a statistically insignificant number of crimes.

Not one of the firearms listed by Mr. SCHUMER is a significant factor in crime. Not one. Cosmetic differences aside, there is no functional difference between these and any other firearm used for hunting or self-protection of the same caliber.

Only 1 percent of firearms used in violent crimes are traced, and the most common reason for tracing an assault weapon is miscellaneous—not violent and narcotics crimes.

From 75 to 80 percent of violent crimes are committed by career criminals, many on some conditional or early release; 30 to 35 percent career criminals are rearrested with previous charges still pending. Most are drug related.

This murderer in Killeen, TX, had a criminal record.

This murderer was not even a resident of Texas. He came from Nevada. In 1981, he was arrested in El Paso for drug charges. He also received approval for a permit to carry a concealed weapon in Nevada. One month ago he was arrested in Las Vegas for drunkenness, with the gun he used yesterday on him. When he was released, the police returned his gun to him.

Let me also mention that this gun is the same type our D.C. police officers carry.

I must also disagree with Congressman SCHUMER on his point that if his magazine and clip limit were in place this never would have happened. First of all, this man took plenty of time to shoot. In a 10-minute time period, he shot 22 people, so there was no spray firing. Had he needed to load and reload he could have.

Our crime bill has gotten the nickname criminal rights act and it is precisely at points like this that we are taking rights away from law abiding citizens and giving them to the criminals walking our streets.

Study by National Institute of Justice found that the release of felons due to lax sentencing or prison overcrowding will commit, on average, 187 crimes each year. These crimes cost society about $430,000 per criminal, while the cost of keeping them in prison is about $25,000.

The grandfather clause in the bill discloses that only one transfer from the current owner is possible and that one can transfer the weapon, but not the magazine.

Primary reasons for owning/using firearms: Percent of owners—65 million American owners of 200,000,000 guns—hunting 51 percent, protection 32 percent, target shooting 13 percent, collecting 4 percent.

Let us look at the real problems in our criminal justice system and quit trying to take rights away from the law-abiding citizen.

Mr. VOLKMER. Mr. Chairman, before yielding time to the gentleman from Michigan [Mr. DINGELL], let me yield myself such time as I may consume.

Mr. Chairman, I would just like to say to the gentleman from South Carolina who spoke earlier that in his district they may shoot deer with a single-shot .22. In my district, I am sorry, but we are not as good shots. We use 30.06's and 30/30's and semiautomatics. They are not assault weapons. They are hunting rifles.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, like every Member of this body, yesterday I

was quite horrified by the events that occurred in a small town in Texas. A terrible thing happened. A large number of innocent and inoffensive people were killed, and they were killed by a man who had been earlier picked up on weapons charges and who had been released.

One of the terrible things about this was that the weapons used was not one which would be on the list of those which would be banned in the legislation. The individual concerned used two semiautomatic pistols to do what he did, none of which and neither of which would be included in the banned weapons which we discuss here.

Mr. Chairman, I urge my colleagues to support the Volkmer motion to strike. I urge them to vote against the provisions in the legislation which are, I believe, unfair, unwise, unworkable, and unnecessary. The bill would ban the manufacture and sale of a large number of firearms. That may seem to be relatively inoffensive because these are tagged with the name of assault rifles. Somebody gave them that name. I do not know why. They do not meet the test of a military assault rifle, which is a full automatic weapon usable for specific military purposes.

But included in the language of the committee bill is broad authority to the Treasury Department to ban weapons which embody the same basic configuration as those which are prohibited. Now, these are revolvers, they are semiautomatic weapons, they are shotguns, they are rifles, and they are pistols. Some of them have aluminum frames and aluminum parts, some of them have wood.

Mr. Chairman, the authority is enormous. If we want to preserve the right of Americans, let us not vote for this kind of authority to sweep from the hands of all free men any firearm that the BATF might choose.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise in strong opposition to the Volkmer amendment and in strong support of the assault weapons ban.

My city, the city of Philadelphia, used to be a peaceful place. I am sorry to say that today it is a war zone.

Mr. Chairman, today, drug wars are fought in our city streets. The weapons of choice in these drug wars are the assault weapons that this amendment would ban.

The weapons we are talking about today are not used for hunting; they are not used for protection. They are used for killing people.

These killing machines are slaughtering police officers in my city. They are slicing down children caught in the crossfire of the drug wars.

My colleagues talk about law and order in this debate. They talk about supporting our police officers. I tell you that the best way to support our police officers is to ban these weapons.

Let us get the Uzis and the Kalishnikovs off the street.

Let us stop the madness.

On behalf of the people of the city of Philadelphia, and as chairman of the Congressional Urban Caucus, I urge my colleagues to oppose the Volkmer amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

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

Mr. Chairman, I rise in strong support of the amendment offered by my colleagues, the gentleman from Missouri [Mr. VOLKMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER]. I do so because the gun control provisions of the Committee on the Judiciary are the wrong way to fix a very serious problem.

Mr. Chairman, I appreciate what the champions of gun control are trying to do. People across America are scared—scared to walk down streets at night; scared of the seemingly endless random violence sweeping the Nation; and scared that this body is incapable of formulating a potent crime bill to end the rampant spread of violence.

Yet, here we are, ready to pass a bill that fails to take the necessary steps that would be truly effective.

The problem is crime, not guns. We need to focus on that fact. Gun ownership alone does not cause crime, nor do gun bans stop crime.

One of the major problems is that our current system does not work. It does not provide deterrence to crime and it does not provide effective punishment of the criminal. It does not provide fairness to the victim. In short, it is the failure of the system—of this body—that is to blame for a great part of our crime epidemic.

There was a very revealing article in the New York Times this past summer indicating that the vast majority of violent criminal cases end in a plea bargain and a reduced sentence.

Reduced sentences often do not involve prison time, or, at most, a very short prison stay. Our system is replete with second, third, and fourth offenders.

Criminals are taken through a revolving door. It is a travesty to us, a nightmare to the average citizen and a joke to the criminal.

Criminals have little fear of getting caught. Most of them simply look at it as the cost-of-doing business. The point is, the cost of arrest is not high enough. The threat of prosecution and imprisonment should act as a significant deterrent, but it does not.

Criminals know that our system will protect them, and give them every opportunity to avoid serious punishment. Meanwhile the victims of crime grow ever more frightened to go out at night.

No, my friends, the system is not working. It must be changed soon or we will find ourselves in a society that is completely overrun by crime.

We must eliminate the early release of violent criminals, and must place more emphasis on the rights of victims than on those of criminals. We must increase the number of prosecutors, judges, and prisons.

Most importantly, we absolutely must restore the respect of the people in the criminal justice system. That means making it accountable to the people and making it effective at catching, prosecuting, and punishing violent criminals.

We must put more police back on the street, and we must give them the tools they need to take the drug dealer, muggers, rapists, and other violent criminals off the street.

If we do this, then we can say we are really fighting crime.

Respect for the Federal Government is at an alltime low. We can start to change this tarnished image of both Congress and the justice system by rejecting this ill-conceived gun ban, and in its place, start to look at real reforms.

Join me in this effort. Support the Volkmer-Sensenbrenner amendment.

The SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. MARLENEE]

Mr. MARLENEE. Mr. Chairman, what is an assault weapon? Have you ever heard of a retreat weapon? A baseball bat can be an assault weapon.

What's a semiautomatic firearm? Our colleagues for control of handguns and semiautomatics can't even define the difference between a 9-mm semiauto pistol and a semiauto 9-mm so-called assault weapon. They can't define the difference except the assault weapon looks evil.

This is a play on sensationalism. They use sensationalism to start us down the slippery slope of allowing a federal agency to decide for you and me what firearms we can own.

If these provisions in this bill are accepted, we insure that every antigun bureaucrat will be dancing in the street at the prospect of expanding and expanding those firearms that we use to target shoot, to hunt, and to protect ourselves, our property, and our families.

Vote for the Volkmer-Sensenbrenner amendment to strike these antigun provisions from the crime bill.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I rise today in opposition to the Volkmer amendment which strikes the bill's provisions making it illegal to own or sell 13 specified categories of assault weapons.

The rhetoric surrounding this issue is once again, unfortunately, getting out of hand. Notwithstanding the claims of the opponents of this ban, the provisions regarding assault weapons are tightly drawn. The Department of Treasury's Bureau of Alcohol, Tobacco, and Firearms' [ATF] has reviewed this proposal and has come to three key conclusions. First, the ban in the bill only applies to 13 specific categories of firearms and 22 individual models. No additional weapons will be placed on

the prohibited list without the affirmative ratification by Congress. Second, current owners of assault weapons will not be affected by this ban. Finally, the definition of assault weapon in the bill is drawn far narrower and less inclusive than the sporting purposes test used by ATF in implementing the administration's ban on imported weapons of this type.

Legitimate sportsmen and women will not be affected by this ban; they never have hunted with assault weapons. Furthermore, it will help correct one of the most mystifying policy decisions made by President Bush, banning the importation of foreign-made assault weapons, but not the purchase of domestic weapons. If these weapons are dangerous, it does not matter what country they are manufactured in.

I am truly stunned by the opposition to this modest proposal especially in light of the tragedy in Texas yesterday. My thoughts and prayers are with those poor families today. But the Texas massacre raises questions we must all face as legislators: How many schoolyards, cafeterias, or McDonald's have to become assault weapon battlegrounds before we stop the political posturing and realize that we must take these weapons off our streets? How many more of our children have to fall before we realize that these weapons serve no legitimate purpose?

I also want to remind my colleagues about an event that took place in Washington this past weekend. The National Law Enforcement Officers Memorial was dedicated, commemorating those police who had died protecting our neighborhoods and communities. It took 24 hours to read the names of all the dead officers. Law enforcement officers understand all too well the violence and weapons they face on the streets. That is why the International Association of Police, the National Association of Police Organizations, and the National Sheriffs' Association, among others support the restrictions on assault weapons. At the very minimum, we owe these officers this type of protection. I urge my colleagues to stand against the Volkmer amendment to honor the memory of those who have fallen protecting our children and families.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding this time to me, and I thank him for his leadership on this issue.

I believe Americans have a right to own and keep firearms to protect their homes or their places of business or for target shooting or sporting purposes, but I believe that there can be and should be reasonable restrictions on this right in the pubic interest.

This is a nation not only of rights but a nation of responsibilities, and no responsible person needs to own an assault weapon. They do not need it for protection or for targeting or sporting purposes. It is the weapon of terrorists and drug dealers and criminals, and people who demand so many rights forget that sometimes as Americans they also have responsibilities. Certainly we protect the right to keep arms, to own arms, but not everything goes under that right. This a reasonable limitation supported by law enforcement officials across the country. It is supported by close to 90 percent of the American people and this Chamber ought to have the courage of their convictions and defeat the Volkmer amendment.

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Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, every day in America thousands of men and women put on their uniforms and pin badges and shields, just like this one, over their hearts. They leave their homes and their families to serve as uniformed policemen, deputies, and State troopers. Theirs is not an easy job. A traffic arrest can cost them their life. A wrong turn into a drug deal can result in a shootout of innocent people. Policemen risk their lives for us every day. Now all of the major police organizations in America have asked this Congress to prohibit 13 assault weapons which threaten the lives of policemen and innocent people, 13 assault weapons which are turning drug dealers into military forces.

The gun lobby has defied Congress to grant the request of America's policemen. The gun lobby in Washington will not give an inch, even to save the life of a policeman or an innocent child.

The choice before this House is between the police and the gun lobby. The choice is between the regulation of assault weapons and the carnage of mass murder. The choice is between the safety of the men and women who wear these badges and the political support of the gun lobby.

Mr. Chairman, vote "no" on the Volkmer motion.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I rise in strong support of the Volkmer-Sensenbrenner amendment.

Emotions are running high today on the floor of the House. But we must inject some rational thinking into the debate. If we are truly concerned about deaths in America, we should contemplate banning tobacco, automobiles, and alcohol.

Every year 390,000 Americans die from tobacco and tobacco products. Every year more than 50,000 Americans die on our Nation's highways. Every year alcohol-related deaths exceed 100,000 and alcohol, by the way, is involved in 50 percent of all homicides.

While guns of all kinds are responsible for fewer than 3 percent of that amount annually, let us not fall into the politically expedient device of blaming an inanimate object for the actions of human beings.

Let us not blame the automobile and autoworker for the car that kills on our Nation's highways and let us not blame the gun and gun manufacturer for the inappropriate and illegal use of an inanimate object.

There are more than 70 million law-abiding gun owners in America. FBI data indicate that annual criminal misuse of all firearms involves two-tenths of 1 percent of the total number of firearms owned.

Mr. Chairman, banning these weapons will do nothing to reduce violent crime. The mentally deranged and career criminal will find some inanimate object to carry out their criminal activity. Let me remind my colleagues, that 2 years ago in New York City, a distraught boyfriend bought a gallon of gasoline and torched a nightclub, killing 87 innocent people.

Gun control does not equate to crime control. I urge my colleagues to reject the emotional appeal of the gun control advocates, and support the rational Volkmer-Sensenbrenner amendment.

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

Mr. Chairman, I would first like to respond to the gentleman from Illinois [Mr. DURBIN]. We have a communication from a John Chapman of the Killeen Police Department. He is in the second unit responding to the shooting.

He says,

> I do not speak for the department, but I take a personal stand on the right to keep and bear arms. Although I am not a member of the National Rifle Association of America, I support NRA in its opposition to the gun control provisions of the House crime bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, I believe many Americans and some of my colleagues, share my concern over the claims made by advocates of banning firearms and magazines—firearms which, in H.R. 3371, are called assault weapons.

First, advocates of the gun-ban claim that firearms in H.R. 3371's ban list possess a common trait that makes them assault weapons and justifies their being outlawed.

After reviewing the bills list of assault weapons, I have found that there is little they all share in common.

The ban list is made up of many different types of firearms. The list includes shotguns, rifles, and pistols. The firearms in question use a wide range of ammunition; some use removable ammunition magazines, others use nonremovable magazines; some of the fire-

arms are made in America while others are imported.

My frustration is understandable considering the attempts by gun-ban advocates to lump this great variety of firearms into one, single category.

However, I have found one commonly shared attribute between this great variety of firearms on the ban list. That common attribute is their lack of use in crime. In fact, all the evidence shows that these are among the very least criminally used firearms in America. If the lack of use in crime is what makes firearms assault weapons, I do not understand why we are considering banning them.

Opponents of the ban contend that efforts to ban assault weapons is just another step in the step by step strategy in gun control.

Furthermore, members of this body have publicly declared that they view certain firearms legislation of this session of Congress as a first step toward more restrictive firearms legislation in the future.

Nevertheless, gun-ban advocates say that gun-ban opponents exaggerate the motive of this firearms legislation. They contend they fully understand that the second amendment guarantees the right of the people to have firearms. However, they believe that assault weapons are military firearms, that are not protected under the second amendment.

Gun-ban proponents believe that military firearms are protected by the second amendment, but that only the National Guard is allowed to possess these firearms.

Mr. Chairman, there are two flaws with this argument. First, the second amendment makes no distinction about one group being guaranteed one kind of firearms while another group is guaranteed another type of firearms.

Second, the National Guard, which proponents of the gun-ban claim is allowed to have assault weapons, did not exist in 1791, when the second amendment became law.

Supporters of the gun-ban agree that citizens have the right to keep and bear certain firearms, but they only would guarantee that right to the National Guard.

Because assault weapons are not often used in crimes, and because the second amendment protects all firearms for law-abiding Americans, and because the rationale offered by the gun-ban side as reason for banning certain firearms is not supported by historical or contemporary evidence, I will vote to reject these bans, and I urge my colleagues to do the same.

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

Mr. Chairman, the other point I would like to make before yielding is that many of these opponents to my amendment have been characterizing the listing of guns as assault weapons. They are not. The assault weapon is a machine gun. It is the automatic Uzi. It is not the semi. The assault weapon is the automatic. We banned that 5 years ago. That is gone. But the criminals still use it.

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

Mr. SARPALIUS. Mr. Chairman, there are those who think we must have strong gun control laws in this country, like the city of New York and the city of Washington, DC, who have the strongest gun control laws of any city in the country. But, yet, they rank one and two in the number of murders in their cities in this country.

Mr. Chairman, passing gun control laws will not stop people from killing people. My heart goes out to the people from Killeen. I am a Texan. But we are talking about emotions.

Yesterday, did you hear about the murder in New Jersey, where a woman stabbed a baby 175 times with a pair of scissors? Why do we not outlaw scissors?

This year there were 3,503 people stabbed by knives and scissors and other weapons. This year there were 1,075 people that died by blunt objects. Why do we not outlaw hammers and baseball bats?

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

Mr. SARPALIUS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Because last year only 743 people were killed with a rifle, a lot less than were killed even with blunt instruments or knives.

Mr. SARPALIUS. Mr. Chairman, reclaiming my time, I strongly urge Members to support the Volkmer amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT], a member of the committee.

Mr. BRYANT. Mr. Chairman, I took offense at it when I heard the gentleman from Missouri [Mr. VOLKMER] say a moment ago that one policeman in Killeen happened to be recruited to call in here and say that he was in favor of the Volkmer amendment.

Let me just say this to the gentleman from Missouri [Mr. VOLKMER]: I doubt if the Member called the families of any of those 23 people who were murdered yesterday by this nut who walked in there with an automatic weapon. It is preposterous.

Mr. Chairman, I am going to just say this: I am going to dust off my 30.06 and go hunting here in about 2 weeks, just like I have every year and I hope to do every year in the future. I do not need an assault weapon to go out there and kill a deer.

The fact of the matter is, nobody needs an assault weapon, except cowards, criminals, and weirdos, who have to own an assault weapon in order to feel like a man. Those are the people who ought not to have assault weapons.

Mr. Chairman, I hope the amendment of the gentleman from Missouri [Mr. VOLKMER] is defeated. I am going to vote against it. I am going to keep on speaking against it until we get some common sense in our laws in this country and begin to recognize that we have got to apply common sense to everything, no matter what one particular powerful special interest group happens to say.

Mr. SCHUMER. Mr. Chairman, would the Chair tell us how much time each of the parties have remaining?

The CHAIRMAN. The gentleman from New York [Mr. SCHUMER] has 14½ minutes remaining, the gentleman from Missouri [Mr. VOLKMER] has 6 minutes remaining, and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 6 minutes remaining.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I appreciate the gentleman from New York yielding and his leadership on this issue.

Mr. Chairman, I rise in support of this bill's ban against military design assault weapons. There are obvious and undeniable features that clearly distinguish these military design assault weapons from the vast majority of legitimate semiautomatic weapons.

Legitimate semiautomatics do not have lugs for bayonets. They do not have threaded barrels for flash suppressors. Legitimate semiautomatics do not have pistol grips to aid in shooting from the hip. They do not have folding stocks to help conceal the weapon. They do not have grenade launchers or night sights.

Mr. Chairman, we cannot continue to allow military design assault weapons to proliferate at the expense and abuse of either innocent victims or legitimate gun owners' constitutionally guaranteed freedoms. We are not on a slippery slope, Mr. Chairman; we are simply putting common sense into the law.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise to urge support for the ban on assault weapons. Yesterday, 22 innocent people were killed by a madman with an assault weapon. We must get those weapons off our streets.

Some would have us believe that the crime bill would take guns away from those who use them for sporting purposes. The guns included in this bill are not sporting weapons. These are killing weapons. These are not the weapons for self-defense.

We must stop the violence and the bloodshed. Too many people are dying. There have been too many killings. We must act now.

We, as lawmakers have a responsibility to stop the killing. Tougher jail sentences are not enough. We must take the weapons off the streets.

Mr. Chairman, I urge my colleagues to defeat the Volkmer amendment. This amendment would send a message that assault weapons have a legitimate purpose in the hands of the public. We must defeat the amendment. We must stop the killing now.

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Mr. VOLKMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I rise in support of the Volkmer amendment.

Mr. Chairman, I rise today in strong support of the Volkmer/Sensenbrenner amendment, of which I am a cosponsor, striking this bills antifirearms provisions.

I have voted against every gun control bill proposed since I have been in Congress. I voted no on the Brady bill earlier this year.

The U.S. House made a mistake in passing the Brady. Former President Reagan's public endorsement of Brady and President Bush's not so quiet behind the scenes lobbying for Brady pushed the gun control bill to passage. And now we have the President sending word up to the Hill that he will sign gun control measures if they are part of the crime bill.

Too many folks, especially in our large cities, see firearms regulations as the instant cure to crime. The fact is it is really no cure at all. There are already more than 20,000 gun control regulations and laws on the books, is crime decreasing? No. With the concerning statistics that have been surfacing regarding the increase in crime, it becomes more evident than ever that we need real solutions. More gun control laws will not solve the blood being spilled in our cities and towns.

Yes, we do have a serious crime problem in America. But it will not be solved until the Government commits itself to better schools, good jobs, and tougher sentences for hardcore criminals. I believe that we can move on the crime problem by helping law enforcement officers do the job, requiring mandatory sentences and by stopping the release of habitual criminals who have committed violent crimes.

Mr. Chairman, I urge my colleagues to support this amendment and strike these antigun provisions. If we are going to pass a cirme bill lets pass one that gets tough on criminals not law-abiding citizens.

Mr. VOLKMER. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I rise today in strong support of the amendment offered by my colleague from Missouri and in strong opposition to the highly restrictive provisions contained in title XX of this bill. There is no doubt in my mind, Mr. Chairman, that these provisions are well intended. We all want very much to find solutions to crime problems in this Nation. In the zest for seeking solutions, it is possible to go too far and in the wrong direction.

There is absolutely no proof whatsoever that banning any type of weapon in these provisions will prevent their unlawful use by criminals.

For example, there are strict gun controls in New York City, and it has been mentioned that there are strict gun controls right here in the Nation's Capital. But do the criminals care? They do not. Is there any correlation between restrictive gun control and a decrease in crime? There is not.

In fact, the evidence would point to the contrary. The bans contained in this bill will only penalize law-abiding people. Can we imagine the turmoil across this country which will be created when the BATF agents go throughout the land trying to enforce the provisions of this legislation and in the process making criminals out of perfectly law-abiding citizens?

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I heard the term machinegun. These are not machineguns. They are semiautomatic.

I say to my friend, the gentleman from Texas [Mr. BRYANT], I have shot 11 deers with a Mini-14. It is not because I am crazed. It is because it is light. It is easy to carry. It has a scope.

I killed one 2 weeks ago in Shaniko, OR. It does not make hamburgers either. Yes, it was legal.

Maybe we did not ask people in Desert Storm or the press to tell us how to run Desert Storm. We do not need someone that has never fought in combat or even served in the military to tell us what weapons to carry or how to hunt. Maybe we need some credibility.

I have spent a lifetime with weapons. I flew over this Capitol with an F-14. I could have disintegrated it in a half a second.

The gentleman is telling me that I cannot shoot a .22 with a 9 clip; if I put a stock on it, that is going to qualify as an assault weapon. Malarkey.

The liberals want to attack our weapons. Do not let them do it.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I would have thought that yesterday at 12:41 in the afternoon in Killeen, TX, this body had run out of time for posturing on this crime bill or pandering to one of the most powerful special interests in this country. The deadliest massacre in American history tells us now once again the land that we all love very dearly is also the world's most violent.

We are not talking in this bill about hunting rifles. We are not talking about guns now owned by law-abiding citizens. The bill does not touch either one of those categories. What we are talking about are AK-47's, which Members will recall Patrick Purdy used in Stockton, CA, to murder schoolchildren. We are talking about Tec-9's, now the weapon of choice for drug dealers which can fire up to 32 rounds in just a few seconds. And we are talking about 17-round ammunition clips on guns like the Glock-9 millimeter that was used yesterday afternoon to kill 22 innocent Americans.

Three out of every four Americans as well as every major police organization supports the ban on these weapons. I hope Members of Congress will have the common sense this afternoon to do the same.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAMPBELL.]

Mr. CAMPBELL of California. Mr. Chairman, the most important part of this bill is not the specific semiautomatic assault weapons but what we do to ban the huge capacity ammunition clip. Here is why.

It is that huge capacity ammunition clip that allows an insane person to shoot and shoot and keep shooting. It is when the person has to stop to change the clip that a police officer or someone sane has the chance to stop them.

There is no legitimate hunting purpose for a clip that takes more than seven cartridges. I have not heard an argument in favor of a legitimate use of a clip of that size, but I do know that a clip of that size can kill and kill quickly, before the insane person can be interrupted.

Why do I mention insane person? Because I am practical, and I realize that law-abiding people deserve the right to keep and bear arms, and criminals will always get guns. But the insane person is what we saw in Stockton, Louisville, Jacksonville, and Killeen.

When I first came to Congress, Stockton happened. I have complained in the well of this floor after every event of mass killings.

Please, I do not wish to come here again.

Mr. VOLKMER. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I rise in support of the Volkmer amendment.

As we debate these gun control measures, we should not lose sight of what is happening at the State level.

While it may seem hard to believe here in the East, these sorts of firearms we are discussing really are used for sporting and competitive shooting events in States like Idaho. The restrictions we are considering today come into sharp and direct conflict with traditions and lifestyle choices that have genuine value for those of us in the American West.

Over the last 2 or 3 years, this so-called assault rifle issue has gotten as much attention at the State level as it has here. The various arguments being offered today have all been brought to the attention of our State legislatures.

In 1989, 23 States introduced gun-ban proposals. Twenty-two of these proposals failed. Twenty-seven States did not even address the issue. This means that in 1989, 49 States rejected the kind of action being considered here today.

In 1990, 24 States introduced assault weapon or other restrictive bans. Twenty-three failed. In other words, 48

States elected not to impose restriction.

In 1991, a similar pattern is developing.

Ladies and gentlemen, we are here to serve the will of the people, and to represent their will. It seems to me that the will of the people is evident in these State-level actions, and I urge my colleagues to follow the example of their legislatures and reject this bill.

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

I would just like to take time to point out to the gentleman from Texas who spoke that this MINI-14 is also banned under the bill under the general language. That is a hunting rifle used by millions. It is just a semiautomatic. It is not an assault weapon.

Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the Volkmer-Sensenbrenner amendment because I do not trust a nameless, faceless bureaucrat at the Bureau of Alcohol, Tobacco, and Firearms to determine which firearms our law-abiding citizens may bear.

Last year, my amendment to the crime bill banned the assembly from imported parts of any semiautomatic rifle or shotgun which is not allowed to be imported as a sporting firearm. The majority of this House who supported my amendment did so to simplify and clarify for ATF that we did not want currently banned weapons imported in pieces and then reassembled here. It was so clear. Yet, once again nameless, faceless bureaucrats have struck.

ATF recently proposed regulations that prohibit the assembly of a rifle from domestic parts if as few as only two imported parts are used. Two imported parts. Is this what the word "assemble from imported parts" means to you? This is a complete perversion of the language of the bill we passed last year.

Yet, in a letter from ATF to Mr. SCHUMER, the Bureau claimed that it will narrowly construe the language contained in the bill we have before us allowing it to ban "a weapon * * * which embodies the same basic configuration" as the 13 firearms listed in the bill. ATF suggests that this would be applied only in isolated circumstances. Trust us, the Bureau says.

Mr. Chairman, my amendment last year was clear and easy to apply. Yet, ATF chose to ignore the plain meaning of it and turn it against law-abiding gun manufacturers and owners. The Bureau will do it again if the Volkmer amendment is not adopted. Don't let you or your constituents' constitutional rights be eroded by the unknown bureaucrat at ATF. Support this amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, another shocking episode in the anti-gun-for-everyone sideshow took place yesterday in Texas. As happens every few months a maniac acquires a weapon that can only be described as a killing machine and indiscriminately goes for blood.

Today in the ultimate irony the House is debating the gun lobby's crazy notion of what constitutes a sportsman and a sportsman's weapon.

One weapon in the banned list is the Intratec Tec-9, a 36-shot rapid fire murder machine similar to the Glock model 17 used yesterday in Texas.

The NRA claims that this weapon is used for sporting purposes, in self-defense, good for hunting. We all know the only kind of hunting this monster is good for. There is no need to be accurate with the Tech-9 because it is designed to spray bullets, not aim them.

Self-defense, not a chance. This weapon is designed for carnage, not protection. Make no mistake about it. This is not a debate about the effectiveness of a ban on assault weapons. It is a debate about the will to stop crime.

□ 1510

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, for years the gun lobby's line has been that assault weapons should not be banned because law-abiding collectors and sportsmen deserved access to these weapons.

For years that argument carried the day—especially in the west.

But today, this is no longer a sport or collector's issue. It is now instead a national nightmare. Today, heavily armed drug gangs travel Interstate 5 from Los Angeles to Oregon, my State, spreading violence in their wake. These packs of savages use assault guns with rapid-fire clips as their weapons of choice.

In Portland, OR—not Watts, not the South Bronx—5-year-old Charlie Johnson was killed in his living room this spring. In suburban Washington County, the heart of my district, law enforcement officials face criminals with assault weapons every day.

Even chiefs of police in small Oregon towns—many of them NRA members—are strong supporters of the provisions in this bill. As one of them told me, assault weapons have one purpose: killing people, and killing people alone.

Please, defeat the Volkmer amendment for those law enforcement officials and for your own constituents.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, in incident after incident, our Nation is witnessing an unrelenting assault on innocent individuals by weapons that were made for war. Semiautomatic assault weapons, because of their killing power and ability to fire many rounds quickly, have unquestionably become the firearm of choice for criminals and drug dealers. And with each killing spree and each drive-by murder, our country is coming to the frightening realization that we are losing control in the war on drugs and crime and that our police officers who are serving on the front lines of this battle are being outgunned by criminals that society is empowering by standing on the sidelines.

Semiautomatic assault weapons are not used for sport hunting of animals or self protection. They are used for killing people. They are high-powered weapons of war and mass destruction. The AK-47 is a weapon of war used by Soviet and Chinese armies. The UZI submachine gun is a weapon of war used by Israeli paratroopers and the United States Secret Service. The Mac-10, Tec-9, and AR-15 are weapons of war used by the armies of drug lords and violent gangs in our cities. All of these weapons are restricted from private ownership in almost every nation on the globe. Yet these weapons can be purchased in almost every gun shop across the United States with little more than a perfunctory background check.

Assault weapons account for one-half of one percent of the firearms privately owned by Americans but they are used in 1 out of every 10 crimes in which a firearm was seized last year. Of the thousands of firearm models sold in the United States, only 10 assault weapons account for over 12 percent of the Nation's drug related crime. Furthermore, these weapons comprise nearly 30 per cent of the firearms traced to organized crime, gun trafficking, and crimes committed by terrorists in the United States.

In 1989, Congress and the administration took a crucial first step in limiting the availability of assault weapons by banning their importation. While this ban had the dramatic effect of halting the flow of an estimated 750,000 assault weapons into the United States, it did nothing to control the rising use of assault weapons. Today, "Made in America" models are still being manufactured and are still readily available for purchase over the counter.

Today, we have an opportunity to take the next step and ban the manufacture and sale of 13 specific assault weapons. Any effort short of passage of this amendment will be an unconscionable capitulation to the NRA and U.S. weapons manufacturers. It is time that the rights of the American people to safer streets be considered greater than the rights of individuals to buy these weapons of war.

I urge my colleagues to join me in supporting a rational and reasonable

gun control measure and in opposing the Volkmer amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. MAZZOLI], a member of the committee.

Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the Volkmer amendment.

I want to commend the courage of my friend from New York and my friend from New Jersey [Mr. HUGHES] who began this struggle many years ago.

A little over 2 years ago my hometown of Louisville, Kentucky and my congressional district experienced very nearly the same kind of horror and carnage as was experienced at Killeen, TX yesterday. We, therefore, extend our great sympathies to the people of Killeen and to its Representative, CHET EDWARDS.

Let me just simply say were we to continue to have the language in the bill that will ban these assault weapons—and that is good language—we will not stop all of the crime in this country, but we will make a good contribution to solving the crime and ending some of the unnecessary deaths.

So let me just urge the committee to defeat the gentleman's amendment and keep the committee language intact.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to my predecessor, the distinguished gentleman from New Jersey [Mr. HUGHES], former chairman of the Subcommittee on Crime and Criminal Justice.

Mr. HUGHES. Mr. Chairman, like many of my colleagues, I, too, many years ago hunted in the woods of southern New Jersey. I own weapons, long guns and handguns, and I value that privilege.

But we have to draw a reasonable line. We have to balance the rights of the sportsmen to own, possess and use weapons and the right of society to protect themselves from nuts and people who would abuse the privilege. And the reason why the 13 categories should be banned is because they are weapons of mass destruction. And in just a few seconds, by the continuous pulling of the trigger, you can see 22 people killed in a matter of just minutes.

My colleague from California said that he could fly his F-14 over the Capitol, and he could drop a bomb and wipe out the Capitol. The reason why civilians cannot own F-14's and have that capacity is because we know that some would do that. We do not permit people to carry a bazooka or a hand-held stinger missile. They are weapons also. Is there any Member who is going to come to the well and argue that people should have the right to own those weapons?

The argument is also made that this particular bill was so loosely drawn that we are going to see ATF abuse the privilege. Nobody has come to this well to argue yet that the import ban put in place by the President in 1989, has been abused. And that is far more liberal than the very carefully constructed features of this particular legislation.

There are 13 categories of weapons that are assault weapons.

I visited one of my sporting clubs last year when they had some concern in southern New Jersey, because they wanted to talk to me about assault weapons. I took to that meeting about seven different assault weapons. After they viewed the weapons I said, "Anybody in the room own anything like this?" There was not one person that owned a weapon like that.

Let us be sane and rational and do what is right. Oppose the Volkmer amendment and preserve the provisions of the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I would just like to answer the gentleman from New Jersey who knows so much about guns, and I want the media to catch this. I think his words will show. The gentleman said with one continuous pull of the trigger that you can kill all that is around.

Mr. HUGHES. No, I did not. I did not, and the gentleman knows I hope that I did not say that.

Mr. SENSENBRENNER. Mr. Chairman, reclaiming my time, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, in order to address a problem with the language of title XX of this bill, I rise in opposition to the amendment.

Mr. Chairman, I wish to add my concerns to those already expressed concerning the ban on certain assault-type weapons contained in this bill. While I agree that we must do more to keep weapons out of the hands of criminals, the language of this section could unnecessarily restrict the rights of legitimate gun owners who own or wish to purchase certain semiautomatic rifles for hunting, target shooting, or other routine collection or shooting activities.

The definition of "copy" in subparagraph (b)(30)(B) is of particular concern to me and many of my constituents and I urge the House to insist that any bill sent to the President be absolutely clear in its intent that weapons appropriately modified for sporting use are not banned under this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 4½ minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the Volkmer-Sensenbrenner amendment, and in doing so I want to state that I am not a water carrier for the National Rifle Association. In May I stood up to them and supported the Brady bill. I support the Brady bill today as good legislation. And I would support legislation on semiautomatic weapons if I thought it would be effective in dealing with the problem of the criminal misuse of those weapons.

This legislation does not effectively deal with the criminal misuse of semiautomatic weapons. We heard from the gentleman from Virginia [Mr. MORAN] that the weapons proposed to be banned in this bill are military weapons, are weapons of war, and they are not. The weapons of war are fully automatic weapons that can spray a battlefield with one pull of the trigger. Those machineguns were banned by the Congress 5 years ago and are not an issue today.

What is an issue today is the list of 13 semiautomatic weapons contained in the Schumer legislation incorporated into the committee bill.

There are those today who have attempted to use the tragedy in Killen, TX, to get support for this amendment. Let me say shame on them, shame on them, because the weapons that were used by the demented killer in the cafeteria in Killen, TX, are not on the list proposed to be banned. If this legislation was law yesterday, the gun that was used by the killer would have been just as legal as if it were not law. And to attempt to use that tragedy to try to get votes for your proposal demeans the legislative process.

I believe that this legislation is ineffective for two reasons. First, it tries to ban 13 weapons by name, but contains a grandfather clause so those weapons that are presently owned can continued to be owned.

All that a manufacturer needs to do to get around this proposal is to simply make some modifications to their present weapons, stick a different label on the box, and go on selling the weapon. That would require another act of Congress, and it would really make this Congress look silly in response to the ingenuity of weapons manufacturers.

The legislation also gives the BATF very wide authority to determine what a copy is, and the gentlewoman from Washington [Mrs. UNSOELD] hit that nail on the head. In some respects this is a bureaucratic overkill.

I do not feel quite as strongly about the ineffectiveness of the clip limit of seven that is proposed in the committee bill.

□ 1520

However, we did get testimony from a representative of the BATF, no less, in the subcommittee that indicated that even an inexperienced handler of a semiautomatic weapon would be able to change the clips in a matter of seconds. So that person would be able to go from one clip to the other, get seven additional rounds relatively easy.

Bringing that to yesterday's tragedy in Texas, the killer was in the cafeteria for over 10 minutes. He had plenty of opportunity to change his clips, and apparently he did do so.

It seems to me that this Congress should not be fooling people that the passage of the semiautomatic ban and the weapons clip limitation is going to solve the problem of criminal firearms misuse. This is nothing but a feel-good amendment. It is not going to affect criminals in any way, shape, or form, and it seems to me that for once the Congress ought to be honest with the American people, and when they deal with this issue, do something effective.

The Volkmer-Sensenbrenner amendment deletes two very ineffective provisions of the bill, and it ought to be passed.

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

Mr. VOLKMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I rise in support of the Volkmer amendment.

Mr. VOLKMER. Mr. Chairman, I yield the balance of my time, which I understand to be 3 minutes, to the gentleman from Texas [Mr. BROOKS], the chairman of the committee, for his support of the amendment.

Mr. BROOKS. Mr. Chairman, I, too, was a recipient on my father's death, when I was 13, of a nice .97 Winchester pump 12-gauge. It is a beautiful weapon, and I enjoy it.

I want to say that I opposed this provision in the committee, and I oppose it now. I support the amendment offered by the gentleman from Missouri [Mr. VOLKMER] to strike subtitles B and C from title XX.

I want to focus on title B, which ought to be stricken. These provisions would create criminal penalties for the unlawful possession and transfer of certain so-called assault weapons.

Not one single weapon will be taken from a criminal, a known felon by this amendment. They are not going to take anything away from him. Do not think that they are. Through the amendment's grandfather clause, all they are going to do is legalize all the assault weapons he currently owns. That is what this committee bill does, and now that is why I was opposed to it.

My concern over subtitle B rests with the effect that the overly broad and vague language of that subtitle might have on the right of all of our citizens to bear arms, guaranteed by the Constitution.

I do not believe that a statutory provision of law which will inevitably impinge on second amendment constitutional rights should be drafted in such an imprecise manner.

In the bill's provisions, there is no accurate, satisfactory definition of an assault weapon.

Subtitle B attempts to define an assault weapon by setting out certain examples of currently manufactured weapons. It goes on to say that it also includes "a copy thereof," but what is now known, and I do not know what that is, and it then defines a copy as "a weapon, by whatever name known, which embodies the same basic configuration. . ." That might mean as little as the fact that it has a trigger and fires.

Mr. Chairman, such loose, even convoluted language will only lead to overreaching by opponents of the right to bear arms so as to include guns that clearly fall outside any reasonable definition of assault weapons.

What we have is something we have seen in other contexts in the debate over crime. We are attempting to legislate by slogan rather than by attacking with precision the problem to be solved. The sweep and the imprecision of the language of subtitle B makes it objectionable and impossible to debate in an informed manner, and I believe we should support the Volkmer amendment to strike this language.

Mr. SCHUMER. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I have stalked people with weapons such as described in this bill, and I have killed people with weapons such as described in this bill; and I have been shot at with weapons such as described in this bill.

The secret of this whole thing is to get rid of large magazines. This legislation does it.

I think we ought to adopt it on that basis, if no other basis alone.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. SCHUMER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in opposition to the Volkmer amendment.

Mr. Chairman, 2 days ago, President Bush dedicated a monument to the brave men and women who have lost their lives in the line of duty as officers in our Nation's police forces. Today, we are debating an amendment on this floor that, if adopted, would desecrate their memory by allowing the continued manufacture and sale of the weapons that took many of their lives.

I ask unanimous consent to enter into the RECORD at this point a list of police officers—among the bravest to ever walk the streets of America—who were killed by the assault weapons that the crime bill would ban. Their names should not only be etched in marble, but also on our hearts.

Read this list, Mr. Chairman, and contemplate for a moment how we can go home to our districts and face these officers' families if we do not act to stop the spread of the very weapons that took their lives. I urge my colleagues to honor the memory of these fallen heroes by rejecting the Volkmer-Sensenbrenner amendment.

Just yesterday, this Nation was hit by another senseless tragedy. Twenty-two innocent people were stricken down in an act that could at least have been diminished in magnitude if the 17-round clip which George Hennard attached to his semiautomatic pistol had been banned as this bill would do. For those who died, for their families, I plead with my colleagues to act so that we will know in our hearts that they did not die in vain.

The weapons that are banned by this bill are, pure and simple, killing machines. They were, for the most part, designed for military use, to kill human beings on the battlefield. There is no legitimate use for them on the streets of this Nation. Yesterday's tragedy made that harsh reality clear again.

The National Rifle Association is fighting tooth and nail for this amendment, Mr. Chairman. That's the reason why we're here. There is no great uproar in this country in support of these weapons of mass destruction. Americans know that there is no need for anyone to own a streetsweeper. Every poll shows that the vast majority of Americans support banning assault weapons. Now is the time for this Congress to follow the lead of those we represent.

I wish, Mr. Chairman, that before we voted on this amendment, we could all walk down to that moving new memorial. I wish that we could read those thousands of names, and talk with the children who had their fathers taken away from them by criminals armed with assault weapons. The Volkmer-Sensenbrenner amendment will mean more dead police officers, more innocent people who become innocent victims. I urge my colleagues to defeat this amendment.

COPS KILLED AND WOUNDED WITH ASSAULT WEAPONS

NAME, LOCATION, DATE

ATF Special Agent Michael Dawkins, Los Angeles, CA, June 19, 1991.

William "Steve" Whalen, Dayton, OH, March 21, 1991.

Rob Cosner and Julie McAlpine, Los Angeles, CA, February 5, 1991.

Philip "Mike" Pennington, Prince William County; VA, Nov 22, 1990.

Mike DiLorenzo, Union City, CA, June 18, 1990.

Deputies Jack Greeney and Robert Sallustio, Broward County, FL, February 18, 1991.

Anthony DiSalvatore, Gloucester County, NJ, August 23, 1989.

Deputy Sheriff Arthur L. "Corky" Hilton, Louviers, CO, March 23, 1989.

Deputy Varner, Winslow, AZ, December 31, 1988.

Seventeen-year veteran senior corporal, Dallas Police Dep't, Dallas, TX, December 13, 1988.

Six-year LAPD veteran Daniel Pratt, Los Angeles, CA, Sept 3, 1988.

Sgt. John D. Connors III, Manassas, VA, July 24, 1988.

Juan Sevillano, Oakland, CA, January 30, 1988.

Deputies Lonny Gene Brewer and Scott Rossall, Escondido, CA, December 5, 1987.

Deputy Sheriff James Bennetts, Vista, CA, July 31, 1987.

Daniel Dubiel, Clay Hoover, and Sgt. Ira Parker, Inkster, MI, July 9, 1987.

State Highway Patrol Trooper Russell W. Harper, Springfield, MO, February 8, 1987.

FBI Special Agents Ben Brogan, Jerry Dove killed, Edmundo Mireles, John F. Hanlon, Jr., and Gordon McNeil wounded. Miami, FL, April 11, 1986.

Det. Thomas C. Williams, October 31, 1985.

San Jose Police Officer Joe Tamarit, San Jose CA, October 1984.

Juvenile Det. Robert Davie, East Bay, CA, March 3, 1983.

Mr. SCHUMER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in opposition to the amendment.

Mr. SCHUMER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Volkmer amendment.

Mr. SCHUMER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong opposition to the Volkmer amendment.

As the Congresswoman from Ridgewood, NJ where a postal worker who was deranged killed with these kinds of assault weapons, I strongly oppose this amendment.

Mr. Chairman, I rise in strong opposition to the Volkmer amendment, and in support of the commonsense assault weapon restrictions contained in the bill.

Mr. Chairman, I say to my colleagues it would be almost laughable, were it not so tragic—that we even come to the floor to debate the necessity of restricting access to 13 of the deadliest firearms known to man. These are guns designed to be easily concealed, to spray from the hip, to fire massive bursts of lethal ammunition in a few seconds, in short, to kill people. One need only look at the headlines of the last 7 days to see the gruesome destruction caused by these guns, and the need to act to control them.

Last week, in my home town of Ridgewood, NJ, a disgruntled postal clerk walked into the Ridgewood post office at 2 in the morning, herded postal employees into the basement, and opened fire. Almost instantly, two innocent people were dead. The weapons of choice for the gunman: A semiautomatic 9-millimeter Uzi assault rifle, and a MAC 10 assault pistol. Under this bill, both of these assault weapons would be banned.

Just yesterday, as we took to the floor to take up debate on this legislation, a man drove his truck through the window of a cafeteria in Killeen, TX, and, armed with a semiautomatic Glock pistol, opened fire on a roomful of innocent people. What enabled the gunman to kill 23 people in a 10-minute death spray—clips of bullets holding more than 15 rounds each. These, my colleagues, are the large-capacity ammunition devices that would be outlawed under the Schumer proposal.

What more do we need than these tragic events to show us that the weapons and devices discussed in the bill are not legitimate sporting or hunting weapons—they are weapons of war. What more do we need to see—how many more people must die at the hands of criminals and the mentally incompetent—before we see this issue for what it is? Before we realize how appallingly clear it is that the availability of firepower in this country has gotten completely out of control? To me, one more death is one too many.

My colleagues, I urge you to make no mistake about it: The assault rifles restricted in the bill are not designed for sport by hunters or target-shooters. They are designed to kill people, to be used by those who show absolutely no regard for human life. And tragically, as these events show us, they work.

I urge each of you to look past the empty rhetoric of the gun lobby, and see this issue for what it is: simple common sense. We are not banning an entire class of weapons, nor are we taking legitimate sporting guns out of the hands of law-abiding gun owners. We are acting with common sense and restricting 13 specific weapons of war.

I urge my colleagues to vote "No" on the Volkmer amendment, keep the bill's assault rifle restrictions intact, and act decisively to take these deadly weapons off our streets and towns.

Mr. SCHUMER. Mr. Chairman, I yield the remainder of my time.

Mr. Chairman, as is typical in these arguments, we hear a lot of bogus arguments, because the opponents of this legislation do not want to debate what it is, a very narrow and very specific ban on 13 types of weapons that we have talked about here.

It is hard to do that, and so we have heard bogus arguments. We have heard this legislation will not affect the awful killing in Killeen. Untrue. The killer used 17-round ammunition magazines, shoved one in after the other which would be banned under this legislation. The number of bullets he could have shot would be decreased, and the number of people killed would probably, we hope and pray, be less if the legislation passed.

We have heard arguments that the perfect should be the enemy of the good; baseball bats kill; automobiles kill. We do not ban them, so why should we ban these weapons? One reason: Baseball bats and automobiles have a real purpose, a beneficial purpose. These do not.

We have heard the copy argument, that because of the weapons listed, there is no language about copying and, therefore, any other weapon could be banned.

Well, let me assure my colleagues the legislation drafted is so narrow that even the gentleman from Missouri has got it wrong. We do not ban the weapon he kept pointing to, nor could it be banned under the language. We only ban the mini-Ruger 14, an assault weapon if there ever was one.

Let me read from ATF's letter to this chairman. They say, and they are hardly friends of gun control, "The proposed definition of copy would apply only in isolated circumstances in which a manufacturer or any other person might attempt to evade the ban by renaming a weapon or making a minor cosmetic change." Minor cosmetic change only, not all the weapons talked about.

Mr. Chairman, in conclusion, this body, this Congress has been kicked around by the public for the last several months. We have had problem after problem, and the public seems to be saying, "You are not getting it. You do not understand."

Let us today rise to the occasion. Let us show them we know about the carnage in our streets. Let us show them that we know about the killings that go on.

□ 1530

Let us show them that we have the courage to rise above a lobby that is unscrupulous and uses bogus arguments to scare us from doing the right thing. Let us rise to the occasion, my colleagues, and do what we know is right and ban these weapons of killing, ban these weapons of crime and make our streets and our country a little bit safer once and for all.

Mr. MCMILLEN of Maryland. I rise in favor of the Volkmer amendment striking provisions banning the ownership of certain firearms. I have heard from a number of my constituents on this issue, and agree with them that in our efforts to control crime, we need not infringe upon the legitimate rights of individuals.

I am concerned about the proliferation of urban crime, and the attendant violence. We need to control the illegal use of these guns, and keep them out of the hands of criminals. Unfortunately, the ban proposed in the legislation is imprecise, it denies legitimate uses of certain guns, and would negatively impact domestic manufacturers.

More important, the presupposition of the legislation is that everyone who purchases certain rifles is either deranged or a potential criminal. This clearly is not the case.

If we really want to address the issue of criminal use of semiautomatic weapons and to limit violence, we should not try to simply ban certain categories of rifles, but, rather, look into other alternatives such as registration or waiting periods. Previously, I have supported a waiting period for handguns, and see potential in extending this to other areas. The effectiveness of this approach has been demonstrated by various States, including my home State of Maryland.

In summary, though the aims of the legislation are admirable, there are better ways of accomplishing the same goals.

Mr. LEVINE of California. I rise in strong opposition to this amendment. The provisions on assault weapons in this crime bill are reasonable and necessary. After yesterday's massacre in Texas—the worst in American history—it would be shameful for Congress to strike the few simple safeguards against assault weapons contained in this bill. Our actions today must be worthy of the memory of those killed in Killeen.

Nobody can reasonably claim that these weapons are used for hunting purposes. An Uzi. A MAC 10. A Colt AR-15. And how about the large capacity ammunition feeding clips, like the one used yesterday? If we do not have the wisdom and courage to get these things off our streets, at least we must limit a criminals' ability to gun down dozens of innocent people.

The language in this bill will do precisely that. While it would not ban the 9mm pistols and semiautomatic used yesterday, it would limit the size of the magazine for such guns. Has such a limitation been in effect it is likely that some of those murdered yesterday afternoon would be alive today.

No sportsman or hunter needs access to the kinds of weapons covered by this bill. Their only usefulness is to carry out an insane rampage like Killeen or Stockton. Not even the staunchest NRA members could make a case arguing for legitimate purposes of those weapons of death. Poll after poll has shown that the overwhelming majority of the American public supports a ban on these weapons.

Claims that these provisions are merely a first step in taking away Americans' right to own a gun are ludicrous. This isn't a first step in gun control; it's first step in sanity. The American people deserve to be safe in their homes and communities. I urge my colleagues to defeat this misguided, dangerous amendment.

Mr. SANTORUM. Mr. Chairman, I would like to express my strong opposition to the antigun provisions in this year's crime bill, H.R. 3371. In particular, I am opposed to the language in this bill that calls for a ban on assault weapons. This does not simply make 13 categories of firearms illegal, it also expands this ban to include any copy which embodies the "same basic configuration as the weapon so specified." This provision not only violates the second amendment, but when the word "configuration" is defined, it is clear that specific language is a back door attempt to pull the wool over the eyes of gunowners in this country. Webster's dictionary defines "configuration" as, "the relative arrangement of parts or elements." Since rifles, shotguns, and handguns contain the same "relative arrangement of parts or elements," this broad language could effectively ban any firearm.

However, it is what happens after the ban takes effect which makes this provision much worse. The proponents of this antigun legislation would have us believe that the citizens who currently own these guns would not be effected by this ban. This is untrue! While it is correct that these guns would not be immediately confiscated, the lawful owners of these weapons would be severely limited in the transfer of their ownership. This proposed legislation would limit transfer of ownership to only one transfer! The lawful owner of 1 of the 13 banned guns could legally transfer ownership to 1 person of the owner's choice. However, the person receiving the gun could not transfer it to someone of their choice. For example, a father who owns a prized gun could pass it on to his son, but the son could not hand it down to his son. Instead he would have to give it to "Uncle Sam." The text of the bill states that legally, ownership must revert to the Government.

In essence, this legislation is much more far reaching than the American citizens have been led to believe. If this provision is not struck down, it would open the door for more bans until the second amendment as we know it would be dissolved.

Mr. DORGAN of North Dakota. Mr. Chairman, the provisions in this bill to prohibit the manufacture and sale of certain assault rifles would, in my judgment reach to a definition of at least some weapons that are commonly used for sport shooting and hunting.

This provision goes far beyond the Senate provision and it is drafted in a manner that will not allow any of us to understand how it will be interpreted and which guns will be affected.

I am prepared to vote for a careful, precise, limitation of certain assault weapons such as streetsweepers and others. But the provision to do that must be crafted in a manner that is certain as to its affect.

The provision in this bill simply fails in that respect.

Mr. HUGHES. Mr. Chairman, in debating legislative measures such as the assault weapons provisions, a lot of time is spent arguing over how far reaching the bill is.

We also frequently spend a lot of time carefully explaining what it will not do, answering the standard set of lies and hysteria whipped by the gun lobby.

However, I don't have much time, and I'm not going to use a lot of it that way.

You know what the bill would do. Very little. It would ban a few assault weapons by applying the same standards that President Bush has applied to ban the importation of foreign made ones.

The bill was kept very modest and limited. It doesn't even reach some of the most efficient and deadly of these horrible human killing machines—such as the Glock 17 that was used in yesterday's massacre.

It was done this way to keep it clear and simple: The right to keep and bear arms, including semiautomatic weapons, is not taken away. What we are trying to limit is the further proliferation, into the hands of criminals and deranged persons, of military killing machines that have no sporting purpose, and which are designed, manufactured, and marketed to appeal to criminals and nuts.

This is a fact. It is confirmed by the fact that these guns are 10 times more likely to be used in crimes than are guns in general.

The gun lobby has bombarded you with mailings and phone calls saying this bill will give gun grabbing bureaucrats unrestricted authority to take away every semiautomatic weapon in the country

It will take away no guns—zero. But you already know that.

It will limit new ownership of firearms not yet in private ownership. Existing models which would be affected are already well known.

That list contains just 13 categories of guns.

Furthermore, even if this legislation is enacted, the list is likely to be effectively reduced to an even smaller list.

This is because the bill, like the President's import ban, is based in large part on military characteristics of the firearms.

In many instances, it is fairly easy to remove these characteristics. Several banned foreign made weapons have been cleared for importation after such modification.

The same thing can happen under this bill. The military features can be removed and the new weapon marketed here.

I point this out to highlight the very modest dimensions of this extremely limited and focused legislation. We are only limiting the most outrageous creations which attract the most dangerous and deranged in our society, and encourage and facilitate their violent, criminal tendencies.

This bill won't stop them, but it can slow them down.

Your constituents are, in overwhelming numbers, in support of such a measure. In this regard, do you know what the political pollsters tell us on this issue?

They say, "We are no longer taking polls, because we don't continue to poll when there is virtual unanimity on an issue."

This includes 90 percent of gunowners. Wake up, my colleagues, and let's catch up with those we are supposed to be leading.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong opposition to the amendment offered by my colleague from Missouri [Mr. VOLKMER], which would delete this bill's provisions banning 13 types of assault weapons and large capacity ammunition clips.

The 13 types of weapons specified by this bill, Mr. Chairman, have no other legitimate purpose, except to kill and maim human beings. They are not meant for sport, and I have yet to see an American family keep an Uzi in their closet for self-defense. They are pure and simple machines of death used by drug traffickers and criminals to outgun our police forces. The names given to some of these guns say it all. "Striker." "Street Sweeper." They don't give these names to cap guns, Mr. Chairman. They give them to guns designed, quite simply, to kill a lot of people as quickly as possible.

This bill will not ban those assault weapons already legally owned. No government stormtroopers are going to come knocking on the doors of law-abiding Americans looking for guns. Such notions are pure and simple NRA generated hysteria.

What Mr. VOLKMER's amendment will do, however, is derail the wishes of the majority of Americans who believe the Congress should adopt sensible and fair gun control laws. Furthermore, nearly every police and law enforcement organization across the country has come out in favor of this ban. We owe it to these brave men and women to at least give them a fighting chance on the streets.

Certainly nobody is so naive to believe that this ban will stop every criminal from obtaining a weapon. However, we know that with the Volkmer amendment, anyone who wants an assault weapon will have the opportunity to get it. If we can save just one life, Mr. Chairman, or prevent just one criminal from obtaining these deadly weapons by enacting the ban as included in this bill, then we have done this country a great service.

I urge my colleagues to reject this amendment.

Mr. STARK. Mr. Chairman, this amendment is a killer amendment, in more ways than one. It should be defeated by this body.

Assault weapons like the Uzi, AK–47, and Street Sweeper have no place in a civilized society.

My State of California passed the first ban on assault weapons in 1989, and I can verify the law has helped to stem the use of military-style weapons in drug-trafficking crimes and crimes of violence.

Let's look at the record of my congressional district, in Oakland.

In the 4 years prior to enactment of the State law, Oakland saw a 2,000 percent increase in crimes using specific types of assault weapons. Since 1988, Oakland has seen a 37 percent decrease due to the statewide ban on assault weapons.

In 1985, 12 assault weapons were used in drug-related crimes and crimes of violence.

In 1986, it was 56. In 1987, it doubled to 113. In 1988, it doubled again to 214.

In 1989, California State passed the assault weapon bill, and the number in Oakland dropped to 162.

In 1990, it dropped again to 134.

A ban on future manufacture of assault weapons, however limited, won't stop all crimes. No one has ever said it would. But it will help stop some.

Defeat the Volkmer amendment.

Mr. CONYERS. Mr. Chairman, it is our duty in the next few days to pass the strongest, fairest crime control bill we possibly can. Balancing constitutionally guaranteed rights with our deep desire to control crime is a difficult task—it is the price of democracy. Many of us disagree as to how this balance should be struck—but there is one thing that almost everyone agrees on. And that is a ban on assault weapons. The National Association of Police Organizations agrees on it. The U.S. Conference of Mayors, National League of Cities, the National Association of Counties agree on it. Organizations as diverse as the Children's Defense Fund, the American Association of Retired Persons, the NAACP, and the League of Women Voters all agree on it. And most importantly, poll after poll shows that most Americans agree on it. Everyone agrees that assault weapons are the weapon of choice for drug dealers and gang members. Everyone agrees that we should ban these cop-killing weapons. Everyone agrees that this is a reasonable and fair measure of gun control. Everyone, that is, but the National Rifle Association.

The National Rifle Association—the NRA—has blindly opposed any and all attempts at protecting our law enforcement officers through assault weapon prohibitions. Incredibly, the NRA would have us believe that if the assault weapons provisions in H.R. 3371 become law, sportsmen and hunters will suffer a tremendous blow to their constitutional rights. A spokesman of the NRA stood on television this morning and called the assault weapons provision procriminals. The NRA is dead wrong. The 13 types of weapons this crime bill seeks to prohibit were designed for military purposes—not for sport game hunting, not for self-defense purposes—their sole purpose is mass human destruction. And in this they are extremely successful. Just ask the families of those brave men and women whose names are engraved on the National Law Enforcement Officers Memorial. Just ask them how efficiently a drug dealer's assault weapons did the job on the day their husband, or daughter, or son died in the line of duty. Or instead, you can go to my city of Detroit and ask my constituents what kind of sport the drug dealers engage in—what kind of hunting do they use their assault weapons for? Every one of us standing in this Chamber knows the answer to that question. Just yesterday, just yesterday, 21 innocent people lost their lives to a gunman whose import Glock-17 was a death machine which fed bullet after murderous bullet into the firing chamber. The gun advocates here and in the NRA have told the public that this tragedy could not have been prevented by the legislation before us. But what they haven't told the public is that this bill could have prevented George Hennard from using the large capacity ammunition feeder which killed 22 people. He would have had to stop his massacre three times to put more ammunition in his pistol. Police officers on the scene would have had opportunities to stop the killing. We will never know how many lives could have been saved in Killeen, TX, just as we will never know how many lives could have been saved every day in Detroit, Atlanta, Los Angeles, New York, and every other city in this country.

A few years ago, President Bush supported assault weapons legislation banning the importation of 43 types of assault weapons. Just as I supported those efforts then, I call upon him now to give real meaning to such assault weapon legislation by supporting this expanded prohibition. The reality is that over two thirds of the assault weapons used in crimes are not imported—the are being manufactured in George Bush's backyard, my backyard, and yours—right here in the USA. The Bureau of Tobacco, Alcohol and Firearms has already warned us that 1 out of every 5 assault guns traced to crime was a domestically produced Intratec Tec-9. BATF has warned us that domestically produced Mac-10's are also on this criminal top 10 list. And the list goes on and on. If this House and this administration intend to adopt real crime control measures, we must begin with the most elementary protections to human life—the lives of our citizens and law enforcement officers. Instead of listening to the bully tactics of the National Rifle Association, let's listen to our police organizations, our city and county leaders, our elderly, and our children and support the assault weapons ban already in place in the crime bill.

The NRA has warned the Members of this House that their votes on this issue will be watched very closely. I welcome their scrutiny. And every Member of this House should welcome it—it's time to standup and be counted on the side of police officers and their families, and on the side of innocent crime victims everywhere.

Mr. MOODY. Mr. Chairman, this amendment, which I strongly oppose, is not being offered because its supporters think U.S. citizens want to hunt with semiautomatic assault weapons. They do not offer it because they think all of us ought to carry around assault weapons for protection.

They are smarter than that.

This amendment is being offered because they claim to fear that this ban is the "nose under the tent" for people who are conspiring secretly in smoke-filled rooms behind closed doors to achieve another goal—total ban of guns.

This is absurd. I have no interest in taking legitimate hunting weapons out of the hands of legitimate hunters, and I, for one, deeply support the Schumer language.

But the only things that can be hunted with the weapons banned by this bill are you and me, our children, our friends. Is this the game targeted by supporters of this amendment? Because that is who will be hurt. And the hunters are urban criminals that roam our cities' streets.

The Congress, the President, and the Supreme Court have, for the past 200 years, interpreted the Bill of Rights in a common sense manner that avoids extremism.

For example, we do not have an absolute right to free speech in every and all circumstances. We do not have the right to cry "fire" in a crowded theater. This has not led to censorship on speech or the press.

Likewise, this assault weapons ban will not lead to a total ban on hunting weapons. This is a false argument made by zealots.

My friends, choose the reasonable, middle course. Oppose this amendment. Support the right to live in peace and quiet without fear of lunatics gunning us down.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 177, not voting 9, as follows:

[Roll No. 318]

AYES—247

Alexander	Condit	Gilman
Allard	Cooper	Gingrich
Andrews (TX)	Costello	Goodling
Applegate	Cox (CA)	Gordon
Archer	Cramer	Goss
Armey	Crane	Grandy
Baker	Cunningham	Gunderson
Ballenger	Dannemeyer	Hall (TX)
Barnard	Darden	Hamilton
Barrett	Davis	Hammerschmidt
Barton	de la Garza	Hancock
Bentley	DeFazio	Hansen
Bevill	DeLay	Harris
Bilbray	Dickinson	Hastert
Bilirakis	Dingell	Hatcher
Bliley	Doolittle	Hayes (LA)
Boehlert	Dorgan (ND)	Hefley
Boehner	Dornan (CA)	Hefner
Boucher	Dreier	Herger
Brewster	Duncan	Hobson
Brooks	Edwards (OK)	Horton
Browder	Emerson	Houghton
Bruce	English	Hubbard
Bunning	Erdreich	Hunter
Burton	Espy	Hutto
Bustamante	Ewing	Hyde
Byron	Fields	Inhofe
Camp	Fish	Ireland
Campbell (CO)	Ford (MI)	Jacobs
Carr	Franks (CT)	James
Chandler	Gallegly	Jenkins
Chapman	Gallo	Johnson (SD)
Clement	Gaydos	Johnson (TX)
Clinger	Gekas	Jones (GA)
Coble	Gephardt	Jones (NC)
Coleman (MO)	Geren	Jontz
Coleman (TX)	Gilchrest	Kanjorski
Combest	Gillmor	Kasich

Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
McMillen (MD)
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nussle
Oberstar
Obey
Olin
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Poshard
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Williams
Wilson
Wise
Yatron
Young (AK)
Zeliff
Zimmer

NOES—177

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Bateman
Beilenson
Bennett
Bereuter
Berman
Bonior
Borski
Boxer
Broomfield
Brown
Bryant
Campbell (CA)
Cardin
Carper
Collins (IL)
Collins (MI)
Conyers
Coughlin
Cox (IL)
Coyne
DeLauro
Dellums
Derrick
Dicks
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gibbons
Glickman
Gonzalez
Gradison
Green
Guarini
Hall (OH)
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jefferson
Johnson (CT)
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Moody
Moran
Morella
Morrison
Mrazek
Neal (MA)
Nowak
Oakar
Olver
Owens (NY)
Panetta
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Pickle
Porter
Price
Pursell
Rangel
Reed
Rinaldo
Roe
Ros-Lehtinen
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Shays
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (NJ)
Solarz
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Vento
Visclosky
Washington
Waters
Weiss
Wheat
Wolf
Wolpe
Wyden
Wylie
Yates
Young (FL)

NOT VOTING—9

Callahan
Clay
Holloway
Hopkins
Huckaby
Levine (CA)
Martinez
Slaughter (VA)
Waxman

□ 1550

The Clerk announced the following pairs:

On this vote:

Mr. Huckaby for, with Mr. Levine against.

Mr. Holloway for, with Mr. Waxman against.

Mr. Hopkins for, with Mr. Clay against.

Mr. Allard and Mr. Yatron changed their vote from "no" to "aye".

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1730

PERSONAL EXPLANATION

Mr. CLAY. Mr. Speaker, I was inadvertently delayed today and missed the vote on rollcall vote No. 318, the Volkmer amendment. Had I been here I would have voted no.

AMENDMENT OFFERED BY MR. HYDE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE: After line 24 on page 74 insert the following:

Subtitle C—Funding for Capital Habeas Corpus Litigation

SEC. 1121. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resources centers, pursuant to Federal appropriations, in the same fiscal year.".

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. HYDE] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. HYDE].

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will control the 5 minutes in opposition.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

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

Mr. Chairman, now that the House has voted in favor of extended delay and unnecessary litigation for Federal habeas appeals by approving the Judiciary Committee habeas antireform provisions, we must address the issue of one-sided funding of Federal habeas appeals. The purpose of my amendment is to guarantee equal funding of capital litigation at the Federal habeas corpus stage.

As a result of the millions of dollars we are giving the antideath penalty capital resource centers, the States are badly outnumbered in resources devoted to capital litigation at the Federal habeas stage. One of the principal reasons for the inordinate delay in determining the validity of capital convictions and death sentences is that there is such a tremendous imbalance of resources against the States at the Federal habeas corpus stage.

This year's appropriations bill provides $11.4 million in appropriations to capital resource centers in more than a dozen States for use in litigating in Federal habeas corpus against capital convictions and death sentences imposed in State courts.

This money is over and above the amount which is provided under Federal law to attorneys who are appointed to represent State death-row inmates in Federal habeas corpus litigation. This money also provides representation over and beyond that which is already provided by scores of law firms around the country which provide Federal habeas corpus representation of State death-row inmates on a pro bono basis.

In the State of Texas, for example, on a grant of $2.14 million, the Texas Appellate Practice and Educational Resource Center maintains offices in three Texas cities, employing a staff of 10 full-time attorneys and numerous interns, clerks, and investigators. In contrast, the entire budget for the enforcement division of the attorney general of Texas is $2.5 million, only 6 of the 37 attorneys in that division handle death penalty cases.

In North Carolina, the vast resources of the State consist of two attorneys, two computers, part-time access to a paralegal and part-time access to a secretary. In contrast, the North Carolina Death Penalty Resource Center has seven positions budgeted for fiscal year 1992. It is currently receiving $350,000 in funding, $210,000 of which represents Federal taxpayer's money. The budget of the State to fight these cases is closer to $150,000.

As we pump Federal funds into the antideath penalty capital defense resource centers, some State assistant attorneys general are being forced to take furloughs due to tight budgets.

The North Carolina Death Penalty Resource Center, which had so much

money that it returned part of its appropriation to the Federal Treasury last year, gave one of its lawyers an all-expenses-paid trip to Washington to watch an argument in the Supreme Court involving a death penalty case from Arizona. In contrast, the Mississippi attorney general's office has requested that the fifth circuit not set any of its cases for argument since the State cannot afford to send its chief attorney to New Orleans to argue its cases.

At a time in which three-fourths of the American people favor capital punishment for aggravated murder, Congress ought to at least be evenhanded in its approach to the issue. The Hyde amendment provision on equal funding would earmark the same amount of funds for use by the States that is appropriated each year for use by the capital resource centers. No new appropriation would be required because the funds would come out of Bureau of Justice Assistance grant money that is already appropriated. The money would be distributed on the same basis and to the same States where capital resource centers receive Federal money.

The equal funding provision is supported by the National Association of Attorneys General and the National District Attorneys Association.

A vote for the Hyde amendment provision on equal funding is a vote for a level playing field, for fairness, and against the one-sided funding that has led to obstruction and delay in the litigation in this area.

This year's appropriations bill does authorize the Governor in each State to use formula grant funds that are provided for other purposes to assist the States in capital litigation purposes, but only as a discretionary matter. Since those formula grant funds are already planned for other uses, little or no funding would result from that appropriation act provision. Moreover, that authorization would expire at the end of this fiscal year. The Hyde amendment provision on equal funding would ensure that the funding is actually provided and that it is equal not only this year but in future years.

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

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT], a distinguished member of the Committee on the Judiciary and of the Committee on Energy and Commerce as well.

Mr. BRYANT. Mr. Chairman, I would like to advise the Committee that I do not intend to offer my amendment—which is a king-of-the-hill amendment and which was listed as one to follow the currently pending Hyde amendments—and I intend to vote no on the Hyde amendments, and I urge my colleagues to do so inasmuch as I think it would exacerbate a problem which we had to try to cure 3 or 4 years ago when we began funding the defense resource centers because of a constitutional mandate that we do so. I intend to vote no on the Hyde amendment, and I urge other Members to do so, and they should not count on the possibility of voting for the king-of-the-hill amendment which I had previously intended to offer.

PARLIAMENTARY INQUIRY

Mr. HYDE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. HYDE. Mr. Chairman, I say to the gentleman from Texas [Mr. BRYANT], if you're not going to offer your amendment, that takes 5 minutes away from our debate time.

Mr. Chairman, may we have the 5 minutes? I have people who want to speak on this.

The CHAIRMAN. The rules does not permit the fungibility of time between amendments.

Mr. BROOKS. Mr. Chairman, I will give the gentleman from Illinois [Mr. HYDE] 20 percent of my time.

Mr. HYDE. Mr. Chairman, I say to the gentleman from Texas [Mr. BROOKS], "I thank you, sir. I appreciate it. You are a true Texan."

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment. In 1988, congress recognized that a resource disparity existed in favor of prosecutors in capital litigation. To help mitigate the disparity, Congress provided a small amount of money to State resource centers to be used to defray the cost of bringing habeas corpus claims. The American Bar Association released a study later last month which reexamined the question of the resources that each side has available to it in death penalty litigation. the ABA president said that:

> The report concludes that to the extent an imbalance of resources exists with respect to capital cases, it favors the prosecution. Indeed, there appears to be a disparity of funding in favor of the prosecution at all levels of capital cases.

The ABA did note the problems they had in gathering data on this issue. It may require further study. In the meantime, Congress in the State, Commerce, and Justice appropriations bill, has already spoken on the need for resource centers to have some base of funding.

In addition, Mr. HYDE's amendment directs money to a few States for a particular purpose—prosecuting habeas corpus petitions—at the expense of other crime-fighting efforts. This money will be taken away from stopping street drug sales, investigating public corruption, and funding victims assistance programs. Mr. HYDE is adding no new money for his program—he is simply redirecting several million dollars from a small discretionary fund to a few States for this sole purpose. Prosecuting death penalty appeals is a worthy goal, but not at the expense of fighting drugs and helping victims of crime.

□ 1600

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

Mr. HYDE. Mr. Chairman, do I understand that I have 3 minutes remaining?

The CHAIRMAN. The gentleman is correct.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, 1 minute is not enough, but let me say that I did play a role in getting a similar amendment in the Commerce-State-Justice conference report. The fact is that our attorneys general and our district attorneys, Republican and Democrat alike, want the Hyde amendment to pass. The Hyde amendment levels the playing field. We currently provide $11.5 million to death penalty resource centers whose sole purpose is to provide expertise and representation to convicted murders, after they have been investigated, tried, convicted, and sentenced to death. These resource centers are funded with Federal money to defeat the death penalty through habeas corpus petitions. A level playing field simply does not exist. The defense attorneys have all the marbles, and, Mr. Chairman, I do not have to tell you that the American people are outraged at the level of heinous crime in this country.

The best thing we Members of Congress can do is to answer to our attorneys general and our district attorneys, as well as our constituents who are terrified with violent crimes, by adopting the Hyde amendment.

Mr. Chairman, I rise in support of providing equal funding to State prosecutors in death penalty litigation cases.

Congress currently appropriates funds for Federal block grant to States for capital defense resource centers. Often these resource centers receive more Federal money than the entire budget of the criminal section of the State attorney general section of the State attorney general's office that handles death penalty litigation.

This money is not for attorney's fees, and does not pay lawyers at trial or on appeal in death penalty cases but helps groups coordinate Federal habeas corpus challenges to State death penalty sentences. Members of these groups often testify and lobby before Congress and State legislatures against the death penalty or to hamper its effectiveness.

Some of this money goes to groups whose only purpose is to fight enforcement of State death penalty laws. States are often completely swamped in death penalty litigation by the superior resources of these antideath penalty groups.

In addition, Congress pays for attorney's fees for State death row inmates who file Federal habeas corpus petitions. The 1988 Anti-Drug Abuse Act established special fee provi-

sions for lawyers who represent death row inmates on Federal habeas corpus at a greater amount of compensation than defense attorneys at a Federal criminal trial.

Thus, while 80 percent of the American people support the death penalty and 36 States have death penalty laws on the books, the Federal taxpayers' money is going to organizations devoted to blocking enforcement of the death penalty and for greater compensation to lawyers representing habeas corpus cases.

Both the National Association of Attorneys General and the Department of Justice have condemned this one-sided funding of antideath penalty groups. The administration and numerous State attorneys general support an amendment to allow the Bureau of Justice Assistance to match the funds to the resource centers with equal grants to the States.

If Federal money must go to antideath penalty groups, at a minimum, we should ensure that we provide equal funding to the States. The public interest in swift and fair justice in death penalty litigation should not be subordinated to the interests of antideath penalty groups.

Right now, the death penalty is being effectively thwarted in most States. The average delay from time of sentence to imposition of sentence is over 8 years. While there are over 2,400 convicted killers on death row, only 4 persons have been executed this year. Part of the reason for the delay and repetitive appeals is one-sided Federal funding of the habeas corpus battle.

This amendment does not take any money away from the resource centers, it merely matches their money with grants to the States. In addition, Congress does not have to appropriate new money for this amendment. The Judiciary budget calls for $11.4 million for resource centers in fiscal year 1992. This amendment earmarks an equal amount for hiring and training State prosecutors and appellate lawyers in 1992.

A vote for this amendment is a vote to begin to even the scales of justice by providing Federal funds to ensure the States are as well represented in Federal court as death row inmates.

The CHAIRMAN. The Chair will state that the gentleman from Texas [Mr. BROOKS] has 2 minutes remaining, including the 1 minute that the gentleman from Texas has already yielded.

Mr. BROOKS. Mr. Chairman, I would ask the gentleman if he would be willing if I did not give him that 20 percent of my time and give it to the gentleman from New Jersey [Mr. HUGHES]. Would that suit the gentleman? He would then have 2 minutes left in which to close.

Mr. HYDE. I will give you anything I have over 2 minutes.

Mr. BROOKS. That is fair enough.

Mr. Chairman, I yield all the time I have remaining to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I basically support the effort to provide additional resources to attorneys general around the country.

The problem with this amendment, in addition to what has been articulated by the chairman of the committee, is that it would take money from the discretionary pot. That is only 20 percent of the money; 80 percent of the justice assistance funds goes to the States by way of block grant programs. The various States already have the authority, under 1 of the categories, and there are 22 categories, to fund such programs.

The difficulty is that there is going to be a misallocation of resources at the expense of some of the States, and why should we take the moneys basically from the discretionary funds? These are funds the Department of Justice uses for the various States for innovative programs to try to take care of needs that crop up from State to State.

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

Mr. HUGHES. I do not have much time. I yield briefly.

Mr. ROGERS. Mr. Chairman, was it not the gentleman's initiative that took 13.5 from the discretionary at the outset?

Mr. HUGHES. The problem is that we are taking too much away from the discretionary fund.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

The Chair will state that the gentleman from Illinois [Mr. HYDE] has 2 minutes remaining.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise in support of the Hyde amendment which would provide more equal funding of Federal habeas corpus litigation in capital cases. At a time when three-fourths of all Americans believe in capital punishment for aggravated murder, it is indefensible for Congress to be pouring millions of dollars into special groups whose purpose is to oppose capital punishment, without providing a single penny to the States for assistance in their efforts to have capital convictions and death sentences upheld.

Under Federal statute, attorneys appointed to represent State death row inmates in Federal habeas corpus proceedings are entitled to be paid from the Federal Treasury at a reasonable hourly rate and to be reimbursed for all their necessary expenses. That should be done, and that is fine. In addition, many law firms, including some of the largest law firms in this country, devote thousands of hours and expend millions of dollars representing State death row inmates in Federal habeas corpus proceedings. That, too, is fine.

However, in addition to all those resources which are available to support representation of capital murderers in Federal habeas corpus proceedings, we in Congress have also been appropriating millions upon millions of dollars each year to fund special capital resource centers. The only authorized purpose for those funds is for use by the centers in Federal habeas corpus proceedings fighting against capital convictions and death sentences which have been imposed in State trial courts and upheld on direct appeal. This year's appropriations bill contains $11.4 million in funding for those capital resource centers to us in Federal habeas corpus proceedings litigating in opposition to the various State attorneys general offices.

The result of the congressional effort in this area has been a terrible imbalance of resources at the Federal habeas corpus stage. A State attorney general's office seeking to have capital convictions and sentences upheld in Federal habeas corpus review must battle the resource of attorneys appointed and compensated under the regular Federal statutes, must battle the tremendous resources of some of the largest law firms in the country, and then must battle the millions of dollars that we have appropriated to the capital resource centers. To put it bluntly, the actions of Congress in appropriating money to the capital resource centers without appropriating the same amount to the States has stacked the deck against the fair and expeditious adjudication of capital cases in the Federal habeas corpus. We have been funding unfairness, one-sidedness, and delay.

It is true that this year's appropriation bill contains language that would permit Governors, in their descretion, to take formula grant money away from other needs and use it for State capital litigation efforts. However, that formula grant money is already planned for other purposes, and the political reality is that little or no funds will go for capital litigation under that provision. Moreover, even that meager authorizing language would expire with the fiscal year. The Hyde amendment provision on equal funding would ensure that equal capital litigation funding is actually provided to the States, and that that occurs not only this year but in future years as well.

This even funding amendment is supported by the National Association of Attorneys General in a resolution passed in December of last year. It is also requested in a recent letter signed by the attorneys general of 30 States, including some noncapital punishment States. Finally, it was adopted by the Senate and is part of the anticrime bill passed by that body.

This even funding amendment would not reduce by 1 cent the amount of money that is appropriated to represent convicted murderers in Federal habeas corpus. Instead, it would simply provide that the same amount of funds appropriated to the capital resource centers would be allocated out of jus-

tice assistance grant money for use by the States to litigate against those resource centers in Federal habeas proceedings. Even with this, the battle will not be an even one because of the intervention of the law firms and because of the regular Federal statutory appropriations for death row inmates. However, this amendment will make the playing field a more level one than it is now.

A vote against this amendment is a vote for one-sided funding, and a vote against this amendment is a vote to subsidize unfairness, obstruction, and delay in capital punishment litigation.

A vote for this amendment is a vote for the position of the State attorneys general. It is a vote for evenhandedness; it is a vote for fairness; and it is a vote consistent with the position of the American people of this subject.

Mr. HYDE. Mr. Chairman, I yield whatever time I have remaining to the distinguished gentleman from Kentucky [Mr. ROGERS].

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] is recognized for 1 minute and 50 seconds.

Mr. ROGERS. Mr. Chairman, 1 minute is not enough. It is outrageous to allow 5 minutes debate on a matter of this import.

Mr. Chairman, let me quote from the attorney general of Kentucky, who is a friend of mine, a Democrat but a good guy. He says:

How come you folks are financing all of the brief-writing for the capital offense cases in my State for the defendant, and you give me nothing with which to work? We have not the staff that Kentucky provides. Why doesn't the Federal Government play evenhanded in this matter?

Let us give the prosecutors in our States the same kind of funding. Let us be fair and provide our attorneys general the same kind of funding that we provide for the defense resources centers. That is only fair. I am not asking that we cut the defense resource centers. Just give equal treatment to the other side. That is all we are asking.

The attorney general of Kentucky tells me that some of these criminal defendants have filed up to 30 petitions, and yet he is having to find staff from his own funds, not yours, with which to combat the appellate process. Please, let us be fair. Let us provide the same funding for our attorneys general that they are asking that we provide for the defense centers.

The CHAIRMAN. All time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 281, noes 137, not voting 15, as follows:

[Roll No. 319]

AYES—281

Alexander
Allard
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Borski
Brewster
Broomfield
Browder
Bunning
Burton
Byron
Camp
Campbell (CA)
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Horn
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Kanjorski
Kasich
Kennedy
Kleczka
Klug
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
LaRocco
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Markey
Marlenee
Martin
Mavroules
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Traxler
Upton
Valentine
Vento
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wilson
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—137

Abercrombie
Ackerman
Anderson
Andrews (ME)
Annunzio
Beilenson
Bennett
Berman
Bonior
Boucher
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Clay
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
DeFazio
Dellums
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Gephardt
Gibbons
Gonzalez
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Hoyer
Hughes
Jacobs
Johnson (CT)
Jones (NC)
Jontz
Kaptur
Kennelly
Kildee
Kopetski
LaFalce
Lantos
Laughlin
Lehman (FL)
Levin (MI)
Lewis (GA)
Lowey (NY)
Manton
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moody
Mrazek
Nagle
Natcher
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Payne (NJ)
Pease
Pelosi
Perkins
Poshard
Rangel
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Staggers
Stokes
Swift
Synar
Torres
Torricelli
Towns
Unsoeld
Visclosky
Washington
Waters
Weiss
Wheat
Williams
Wise
Wolpe
Yates

NOT VOTING—15

Callahan
Carr
Dannemeyer
Ford (MI)
Gaydos
Holloway
Hopkins
Huckaby
Levine (CA)
Martinez
Matsui
Slaughter (VA)
Stark
Vander Jagt
Waxman

□ 1628

Messrs. OWENS of New York, SAWYER, and LAFALCE changed their vote from "aye" to "no."

Messrs. ATKINS, JOHNSON of South Dakota, STUDDS, GEJDENSON, OLVER, and KENNEDY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1630

The CHAIRMAN. It is now in order to consider amendment No. 11 printed in House Report 102-253.

The Chair will advise Members that the author of amendment No. 10 previously advised the committee that he did not intend to proceed.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer amendment No. 11.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM: Page 150, strike line 18 and all that follows through line 12 on page 151, and insert the following:

SEC. 1720. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 28, United States Code, is amended by adding at the end the following:

"3509. Admissibility of evidence obtained by search or seizure.".

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. EDWARDS] will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

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

Mr. McCOLLUM. Mr. Chairman, the amendment that I am offering today is the exclusionary rule. The amendment is the good faith exception that this Congress, this body, this House at least has passed in the last three Congresses, the 99th Congress, the 100th Congress and the 101st Congress. It is no different from any of the other amendments.

We are offering it today because those of us who have been working with this for some time are fully aware that there are serious problems in this Nation with the rules of evidence and the fact that we are not getting enough evidence in. We know in this Nation we are simply not getting enough evidence in in many instances to get the convictions we need in drug cases and many other cases. That is why all of the major police associations, the National Sheriffs Association and so on support this amendment so strongly and have over the years, including some 30-odd of the attorneys general of many of the States.

A 1979 study showed in California that almost 3,000 felony drug arrests in California were not prosecuted because of exclusionary rule problems in a 3-year period out there, as an example.

The Supreme Court of the United States made a rule, and I want to make this very clear to my colleagues. We are dealing now not with tampering with the constitutional requirements against unreasonable searches and seizures, but with a rule of court, a rule made by the U.S. Supreme Court many years ago which said that you will not be allowed to put into evidence anything which a police officer seizes that is seized in a manner in violation of fourth amendment rights against illegal searches and seizures. And then they carved out an exception to that, which has been around for quite a while from the Supreme Court decision which is what we call the good faith exception. But it says that when there has been a reasonably objective effort made by the police officer to go out and comply with the Constitution, and he gets this evidence, and then we find a technicality along the way, then if it was a search and seizure done with a warrant, a search warrant, which is one of two ways we can do a legal search and seizure, then in that particular case the Supreme Court said fine, that is an exception to the exclusionary rule of excluding this evidence. If it is a mere technicality, if you have a reasonable, objective basis and there is a technical problem, we are going to let the evidence in.

Now what has happened is that in other cases where there is not a search warrant, but perfectly legitimate cases for normally allowing evidence to come in, if it is done properly, such as consent searches where a police office knocks on the door and asks permission to come in and look, and somebody grants it, or where we have not pursuit, in those cases the Supreme Court has not had a chance to rule in this. But two Federal circuits, the fifth circuit and the eleventh circuit have, and they have said this same test ought to apply to that situation where there is no search warrant. All this amendment does is take the Supreme Court exception to the exclusionary rule that it has already applied to search warrant cases and applies it to otherwise legitimate searches without warrants, such as consent searches. It is nothing more than and nothing less than that. But it can make a big difference in the total number of cases we can get convictions on, because we are losing those cases to technicalities we should not have.

It replaces a provision that is in the bill that the gentleman from Illinois [Mr. SANGMEISTER] put in the bill, which purports to codify the Supreme Court decision on search warrant cases. Unfortunately, even if we do not want to do more than that, what he does is retreat from the Supreme Court decision and narrows the exclusionary rule exception from what the Supreme Court said, and makes it even more difficult to get convictions.

So what is in the bill is bad. It is worse than present law.

What we are offering is simply an expansion that two Federal circuits have already suggested is a good idea, what every one of the law enforcement associations in the country wants to see us do, and what this House of Representatives has passed overwhelmingly in the last three Congress.

So I urge my colleagues to vote for the McCollum amendment, put the exclusionary rule exception into law known as good faith.

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

Mr. EDWARDS of California. Mr. Chairman, I yield as much time as he may consume to my chairman, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, the exclusionary rule remains an essential element in our criminal justice system. It is the only effective means we have of deterring unreasonable searches and seizures, a concern that was primary in the minds of our Founding Fathers. Properly applied, the exclusionary rule does not impose unreasonable or harsh burdens on law enforcement—it simply requires that police officers operate within constitutional boundaries and thus speeds up the administration of the criminal justice system.

In 1984, the Supreme Court recognized a good faith exception to the exclusionary rule. The Judiciary Committee bill codifies it. It reflects the conclusion that certain situations provide absolutely no deterrence to police action or that that deterrence is far outweighed by the value of the excluded evidence. The exception applies when police conduct is both in good faith and is taken pursuant to the issuance of a warrant. It is appropriate; it is drawn from real-life experience and it eliminates vexing technicalities which were previously used to bar the admission of certain evidence.

The McCollum amendment does something entirely different, however. It allows police to obtain—and use in courts—evidence even if no warrant has been issued. There are both practical and due process reasons why our system of law has long provided that a warrant be issued by an objective offi-

cial of a branch different than the executive branch. It is called the principle of checks and balances in ensuring constitutional protections. Somehow, the McCollum amendment overlooks this principle, and by so doing, overlooks the reasons behind the fourth amendment. In the words of the able Senator from New Hampshire, Mr. RUDMAN, on the floor of the other body, this amendment "will open the door to the very kind of abuse that the Founding Fathers were concerned about" when the fourth amendment was written.

Mr. MCCOLLUM has failed to offer a sound explanation as to why his amendment is necessary, 10 of the 12 Federal circuits have failed to adopt it, and the U.S. Supreme Court also has not agreed with his view. The committee bill, on the other hand, has provided a workable approach to applying the exclusionary rule—one that the Supreme Court has embraced. I urge the Members to defeat the McCollum amendment.

□1640

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, there are those who believe that the adoption of the McCollum amendment will trash the constitutional protection against unreasonable searches and seizures. Nothing could be further from the truth.

In 1980, the U.S. Court of Appeals for the Fifth Circuit handed down the decision in *United States* v. *Williams*, 622 Fed. 2d 830 which embodied the principles that are stated in the McCollum amendment. The McCollum amendment merely codifies what has been the law in the fifth circuit for 11 years.

The fifth circuit was divided following 1980, and the eleventh circuit adopted the fifth circuit rules, so we have two circuits that have adopted the rule in the United States versus Williams. Sooner or later, there will be a circuit that has an opposite ruling, and that is the kind of case that the U.S. Supreme Court takes very quickly.

My feeling is that if we vote down the McCollum amendment, the Congress will be abdicating to the U.S. Supreme Court the right to set the limits on the exclusionary rule when there is a warrantless search and a good-faith exception claimed.

If I were my friend from the other side of the aisle who has incessantly criticized the conservative drift of the U.S. Supreme Court, I would embrace the statutory codification of a rule that has been the law in the southern part of our country for the last 11 years. I would hope that the Congress would adopt that rule, because if we do so, we will be able to put our imprimatur on this very sensitive issue rather than leaving it up to the courts to decide.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I hope we do not go home tonight with our fingerprints on admitting illegal evidence in criminal trials. Already the Leon case has opened the door to some extent, but this will put not just the nose of the camel under the tent, it will put half the camel.

The Senate turned this down. I am going to in a few minutes give the Members some words from Senator RUDMAN, who is not known as one of the great leftwingers of this country, but the Senate had a great debate on this, and they decided they were going to protect the fourth amendment, which is so terribly important. The fourth amendment says roughly that the Government, Government police, are supposed to, they must leave you alone in your house and in your papers unless they have a warrant, and the warrant must be appropriately prepared and describe what they are after to seize.

Now, the gentleman from Florida [Mr. MCCOLLUM], my good friend, is asking us to kick that out the window and let a cop go anywhere, and as long as he is in good faith, he does not have to get a warrant in advance.

Do the Members really want their fingerprints on that? Do you really?

Now, I mentioned the Senate. The Senate rejected the same kind of amendment that the gentleman from Florida [Mr. MCCOLLUM] offered, and Senator RUDMAN, and he is an expert on the exclusionary rule, and he believes, and he said, and I quote him, "A good faith exception for warrantless searches is unconstitutional on its face," on its face, a violation of the fourth amendment. How good is the fourth amendment? How does it protect us when what you get with a violation of the fourth amendment that you can take into court? That makes the fourth amendment a paper amendment.

Then Senator RUDMAN said, "In creating the exclusionary rule, the Court took the incentive out of abuse by law enforcement authorities." Senator RUDMAN said about the Rodney King case, and does everybody remember the Rodney King case in Los Angeles? It was on videotape, and this is what he said about the Rodney King case, "Even within police departments there are those who we could possibly call bad apples," bad apples. That is what the Rodney King case was about. He said, "We have had all sorts of television exposure of police brutality."

You know something, one might say the police in the Rodney King case were in good faith. They did not have warrants, but they were getting evidence of speeding or something.

Senator RUDMAN wound up his speech to the Senate, and he said that this amendment would let "the police, after the fact, justify the reasons for the search and seizure and bootstrap into a good faith exception."

He urged his colleagues in the Senate to turn down this amendment. It was turned down, and, Mr. Chairman, I ask a resounding "no" vote on the McCollum amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise in support of the McCollum amendment, because I feel the committee language does violence to the fourth amendment to the constitution. The committee draft (section 1720(2)) says that illegally seized evidence shall not be excluded unless the underlying circumstances indicate the belief that probable cause existed was entirely unreasonable.

That entirely unreasonable standard makes me very nervous. What does it mean?

It seems to say that searches that are merely unreasonable are OK. This is not what the constitution says. The fourth amendment says the right of the people to be secure against unreasonable searches which I take to mean any unreasonable searches, shall not be violated.

In attempting to codify the U.S. Supreme Court's *Leon* decision (104 S. Ct. 3405 (1984)), the committee missed the nuances and went beyond where the Court ventured and beyond where the Constitution may allow.

I support the McCollum amendment because it is consistent with the constitutional language. The McCollum amendment sets a standard of objective reasonableness.

While some say that language is vague, I feel that among the choices before us, it is constitutionally more sound.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN], a valuable member of the committee.

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

Mr. Chairman, I would like to ask a question of the sponsor of the amendment if he would be willing to respond on my time.

In the gentleman's amendment, he has the phrase, "if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment"; is this to impose an objective standard as opposed to simply the police officer saying, "I thought it was reasonable?"

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

Mr. BERMAN. I am happy to yield to the gentleman from Florida.

Mr. MCCOLLUM. That is precisely correct, which is what the court did in Leon. That is correct.

Mr. BERMAN. My next question is: Does ignorance of the law comply with the objective standard?

Mr. McCOLLUM. If the gentleman will yield further, I think that is a question for the Court to decide. Normally ignorance of the law is no excuse, but you do have a situation in which if you have the right circumstances like a technical infirmity in warrant searches and warrantless searches where the police officer reasonably believes it, you know, he knows what the Constitution says, but interpretations of that he may not know about, so that ignorance is not in question.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, pardon me for not gratuitously tipping my hat to the exclusionary rule.

This monstrous joke on the American people was foisted upon us by liberal, eggheaded judges who unleashed a crime wave on the American people that is costing tens of thousands of lives. No citizen ever voted for it. No other major country of this world, no democracy has this kind of nonsense of not permitting evidence to be submitted in criminal cases that can determine innocence or guilt.

This rule has turned our criminal justice system into a sick game where the police and our law enforcers must play this game in order to do their job and to protect our families and innocent citizens.

The burden of proof of the law is to protect the innocent; the exclusionary rule protects the guilty.

The McCollum amendment is proper.

□ 1650

Mr. EDWARDS of California. Mr. Chairman, the exclusionary rule was put into effect by a Supreme Court in 1914, and it has been protecting Americans ever since from an overintrusive Government. It hardly was a knee-jerk liberal court in 1914.

Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. SANGMEISTER], the author of the solid provision in this bill.

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

Mr. Chairman, there are times when we stand in this well when we feel like Don Quixote flailing away at windmills. I am afraid that is probably the situation on this particular amendment.

But I would ask you to think about what you are doing here, if you have any respect for the fourth amendment whatsoever. We are about to derogate it today by adopting this amendment.

I think sometimes the easiest way to get across to Members what we are talking about is an illustration, and I am going to try to get that in during the limited time I have.

Take for example you are coming home from work and the wife says, "On the way home please stop and pick up some milk, some bread, and some butter at a store on your way home."

So let us say you are doing that and you go through an unsavory neighborhood somewhere and you stop at a store and you pick up these goods and you come out. Unbeknownst to you, that particular store is under surveillance because there have been some drug sales out of that particular store before. There are two policemen sitting out there, and they are saying, "You know, why did that particular person, why did GEORGE SANGMEISTER stop at that particular store? You know, they have been selling drugs out of that store. There is a possibility that is exactly what he is doing, that he stopped there for."

So they say, "Should we go get a warrant and present this to a magistrate and go in and search GEORGE SANGMEISTER'S home?" No, they do not say that. They say, "Hey, under this new law we have the good-faith amendment under warrantless searches." So rather than going to a magistrate and explaining this and getting a warrant, what they simply do is they say, "Let's take our chances. Let's bust into GEORGE SANGMEISTER'S home. Let's search it. If we find drugs, great; but if we don't find drugs, so what? Sorry, Mr. SANGMEISTER. We're sorry that we broke into your home and made the search."

Is this what we want in this country? I doubt it very much. Let us protect the fourth amendment.

Mr. McCOLLUM. Mr. Chairman, I yield my remaining 1½ minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Chairman, the best examples are those taken from actual cases. Here is one that the fifth circuit dealt with in DeLeon Reyna. The police officer calls in the wrong license plate number. It says "M" instead of "N". It turns out the wrong license plate number is of an automobile owned by a felon. They search it. They find 1,200 pounds of cocaine. That is a good-faith mistake. Nobody intended to break into the car of an innocent person. It is not like the example of my good friend and respected colleague, the gentleman from Illinois, who would never ever come under any reasonable suspicion; but it is a mistake by a police officer in good faith. A couple points that have been debated earlier should really be corrected. It is not as though 10 circuits have held against the gentleman from Florida [Mr. McCOLLUM] and only two in favor. Only four circuits have even considered it, and they are evenly split, two in favor, two the other way. In fact, the State of Maryland actually tips the balance so that there are more jurisdictions that hold the good-faith exception than hold the contrary.

Lastly, please distinguish between what the Constitution requires and what is good police work. The Constitution requires that there be no unreasonable searches and seizures, but when they occur the question is, did the officer intend it? If the officer did not intend it, you serve no function by keeping out evidence that could otherwise lead to the conviction of somebody who was guilty.

Where, however, you do have a misact, an intentional misact, evidence should stay out.

In conclusion, Mr. Chairman, this is not violative of the fourth amendment. The Constitution has only been read in this way since the 1960's applicable to State courts; hence it is not offensive to the Constitution. It is good law enforcement.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, you know, sometimes you really cannot believe your ears, and sometimes people try to have it both ways.

Now, the other side has argued in favor of this amendment that years ago activist judges passed this rule. But then I hear another Member from the other side say that we really should pass this amendment because one appellate court ruled that this was proper, that this amendment should be adopted.

Mr. Chairman, you cannot have it both ways. You cannot say you are against activists courts, that we should do what the appellate court did.

We went on to say that we should do it before the Supreme Court agrees with the appellate court, and not let the Supreme Court make the laws, but we should take the responsibility for making the laws, not try to have it both ways and have one speaker say he does not like an activist court, the other says to follow the appellate courts.

I mean, it is a very circular argument to be made. We have the responsibility not only to make the laws, but to protect the Constitution. We took an oath. This is America. People should have to have warrants.

Mr. Chairman, let us vote down the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 165, answered "present" 1, not voting 20, as follows:

[Roll No. 320]

AYES—247

Alexander
Allard
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Borski
Brewster
Broomfield
Browder
Bunning
Burton
Byron
Camp
Campbell (CA)
Campbell (CO)
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Darden
Davis
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (NC)
Kanjorski
Kaptur
Kasich
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Marlenee
Martin
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Moran
Morrison
Murtha
Myers
Nichols
Nussle
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—165

Abercrombie
Ackerman
Anderson
Andrews (ME)
Annunzio
Atkins
AuCoin
Bellenson
Berman
Bonior
Boucher
Brooks
Brown
Bruce
Bryant
Cardin
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frost
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Hall (OH)
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Jefferson
Johnston
Jones (GA)
Jontz
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lowey (NY)
Manton
Markey
Mavroules
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Pickett
Poshard
Rangel
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (IA)
Solarz
Spratt
Staggers
Stokes
Studds
Swift
Synar
Tanner
Taylor (NC)
Torres
Torricelli
Towns
Unsoeld
Vento
Visclosky
Washington
Waters
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—20

Boxer
Bustamante
Callahan
Carr
Dannemeyer
Ford (MI)
Gaydos
Holloway
Hopkins
Huckaby
Levine (CA)
Martinez
Matsui
Mrazek
Slaughter (VA)
Stark
Traxler
Vander Jagt
Waxman
Whitten

□ 1715

The Clerk announced the following pair:

On this vote:

Mr. HUCKABY for, with Mr. LEVINE of California against.

Mr. DICKS and Mr. MOAKLEY changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DINGELL. Mr. Chairman, H.R. 3371, the Omnibus Crime Control Act of 1991, contains many important provisions to prevent and punish crime in this country. One important part of this bill is a proposal that I, along with my colleague, the chairman of the Judiciary Committee, introduced earlier this year to make it a Federal crime to defraud an insurance company. I believe that this new statute will help prevent many of the serious crimes perpetrated by some unscrupulous individuals in the interstate insurance arena.

This provision, which is now section 1301 of the crime bill, is the result of 3 years of hearings conducted by the Energy and Commerce Subcommittee on Oversight and Investigations. These hearings demonstrated that the enforcement of insurance laws and regulations is one of the weakest links in the present insurance regulatory system. States apparently are not collecting adequate information, investigating wrongdoing, or taking legal action against the perpetrators of insurance fraud even when an insolvency results from that fraud. Statutory penalties and remedies also seem out-of-step with the realities of today's insurance market and the interstate and international nature of the business of insurance in today's marketplace. With little fear of meaningful administrative sanctions or criminal prosecution, there is no Federal deterrent for most complex insurance fraud schemes.

The purpose of this insurance fraud provision is to establish strong Federal criminal and civil penalties for fraud against insurance companies doing business in interstate commerce. For 3½ years, the Energy and Commerce Subcommittee on Oversight and Investigations conducted investigations and hearings on the insurance industry. In February 1990, the subcommittee focused public attention on the need for Federal criminal legislation with its report, "Failed Promises." In this report, the subcommittee examined four major insurance company failures and concluded that existing State remedies were ineffective against the fraudulent behaviors that drove these companies into insolvency:

[M]ost people involved with obvious wrongdoing at insolvent insurance companies simply walk away with no real investigation of their activities. Many of them continue to be active in the insurance business.

The subcommittee also found that:

Federal enforcement efforts are greatly restricted because looting an insurance company is not itself a Federal crime, and the 5-year statute of limitations on mail and wire fraud has often run before a case can be successfully developed.

Based on this record, Chairman BROOKS and I introduced the insurance fraud bill, H.R. 3171, the provisions of which are now contained in section 1301 of this crime bill.

The Dingell-Brooks proposal amends title 18 of the United States Code by adding two new sections to the title and amends to existing statutes to provide adequate enforcement against insurance fraud.

New section 1033 establishes specific Federal crimes and strong penalties for willful and material insurance fraud. This section contains five subsections. Subsection (a) would make it a Federal crime to file fraudulent statements with insurance regulators for the purpose of influencing the regulators' decisions. Subsection (b) would make it a Federal crime to embezzle or misappropriate insurance company money, funds, premiums, or credits. Subsection (c) would make it a Federal crime to falsify company records or to deceive its policyholders and creditors about the financial states of an insurance company. Subsection (d) would make it a Federal crime to obstruct the proceedings of insurance regulatory authorities. Subsection (e) would prevent those who have committed felony involving dishonesty from engaging in the business of insurance for 5 years.

New section 1034 would authorize the Attorney General to bring a civil action for a money

penalty against any person who has violated the provisions of new section 1033. This provision also authorizes injunctive relief to prevent continuing conduct that violates section 1033. Under section 1034, any civil fines for violations of section 1033 would, if the violation contributed to the insolvency of the insurance company, affected by the violations, be remitted to the appropriate State regulator for the benefit of the policyholders, claimants, and creditors of that insurance company. This provision will ensure that those harmed by these fraudulent acts will be made whole to the maximum extent possible.

Finally, the provision also makes several miscellaneous amendments to other enforcement provisions of title 18. Among these is the adoption of a 10-year statute of limitations for offenses committed under section 1033. This provision reflects the conclusion of "Failed Promises" that more effective deterrence, detection, and punishment of those who perpetrate insurance fraud is critical to safeguarding the solvency of the insurance companies on which American policyholders rely.

There are a few parts of the insurance fraud provision that may benefit from further explanation as to the intent of Congress in enacting them.

Section 1033(a)(1) would make it a Federal crime to file material statements and reports with insurance regulators or to make overvaluations of land, property, or securities that are filed with regulators in an attempt to influence their decisions. This subsection incorporates that the false statements must be material to constitute an offense. This is intended to clarify that this subsection applies only to those statements or reports that are materially false in the sense that the statement could reasonably be expected to make a difference in the actions that the regulator takes in reliance on the statement. For example, in the securities context, a material fact is one that could reasonably be expected to cause or to induce person to invest or not to invest, *TSC Industries* v. *Northway, Inc.,* 426 U.S. 438, 449 (1976). See also *United States* v. *Palolicelli,* 505 F.2d 971, 973 (4th Cir. 1974). Similarly, under this subsection, a material fact is one that could reasonably be expected to lead an insurance regulator to take an official action.

In addition, the concept of materiality is embodied in the subsection (a) prohibition of overvaluations of land, property, and securities. This prohibition focuses on acts—that is, overvaluations—that, by their very nature, involve elements of individual, subjective judgment. By employing the higher standard that the overvaluation be willful is order to constitute an offense under this subsection, it is intended, as is the case under this subsection with false statements, to incorporate the concepts of materiality described above. In fact, under the proposed statute, both the overvaluation offense and the false statement offense specifically require that they be done for the purpose of influencing the actions of regulatory officials in order to constitute an offense.

Section 1033(b)(1) makes the willful embezzlement or misappropriation of money or funds an offense punishable by up to 15 years in prison. A statute that requires an act to be willful in order to constitute a crime always requires that the necessary intent to commit the act and to violate the laws exist for the act to constitute a violation. Therefore, although it need not be stated in this provision because of the nature of the prohibited acts, "intent to defraud" is an essential element of any offense under this subsection.

Finally, section 1033(e)(1)(A) would exclude from the business of insurance those who have been convicted of any criminal felony involving dishonesty or breach of trust. The term "convicted" is intended to mean a conviction which is final and for which all direct appeals have been exhausted or waived or for which the time in which to file such appeals has lapsed. See, for example, *Martinez-Montoya* v. *INS,* 904 F.2d 1018 (5th Cir. 1990); in re Ming, 469 F.2d 1352 (7th Cir. 1972) and *State* v. *Bridwell,* 592 F.2d 520 (Okla. 1979).

Prosecution, conviction, and incarceration have proven to be very effective in deterring white collar crime, yet most people involved in recent cases of obvious wrongdoing at insolvent insurance companies simply walk away with no real investigation of their activities. Many of them continue to be active in the insurance business. It is clear that the current criminal statutes and penalties are inadequate to deal with this fraudulent activity, and that there are insufficient resources being devoted to criminal enforcement of insurance fraud at the State level.

I would like to note that the National Association of Insurance Commissioners, the National Conference of State Legislators, the National Association of Casualty & Surety Agents, the National Association of Professional Insurance Agents, and the National Association of Mutual Insurance Companies have all called for a Federal criminal statute to help insurance regulators deal with the interstate and sometimes international nature of many insurance fraud schemes that drive insurance companies into insolvency.

Insurance is truly an interstate and international business and abuse of insurance companies has also become interstate and, in some cases, international. This new Federal insurance fraud prevention bill will be a strong enforcement tool to bring a stop to criminal fraud in the business of insurance.

I want to thank my colleague, Chairman BROOKS, and the Judiciary Committee for including this insurance fraud provision in H.R. 3371, and I urge its enactment by the House.

Mr. ANDREWS of Texas. Mr. Chairman, during every trip I have made to my district recently, I have been besieged with questions about what Congress can do to help control the plague of violent crime that has descended upon Houston and other cities across the Nation. Twenty-one people were murdered in my hometown over the weekend last month. Another eight were murdered just last night, bringing the total number of homicides this year to 527. And yesterday, there was a drive-by shooting at Sparks Elementary School in Pasadena where my district director's wife is a teacher. A gunman in a speeding car opened fire on the crowded playground during recess, wounding a 7-year-old boy.

You may also recall that the Houston Police recently took a 3-year-old girl into custody for selling crack. Two 10-year-olds have also been arrested for the same offense.

This situation is intolerable. I don't know how this blatant disregard for human life has come about, but I do know that the people of Houston have had enough of it. They are tired of fearing for their lives while they are putting gas in their cars at 9:30 at night. They are tired of watching convicted criminals go through the revolving doors of our State and local prisons. And they certainly are not going to allow elementary school playgrounds to become shooting galleries where their children provide moving targets for psychopaths.

Since I have been in Congress, we have passed at least four crime control bills and still the problem continues to escalate. When residents of Houston ask me what Congress is doing to help them, I wish I had a better record to point to. This year, we need to enact a truly effective crime bill that will make some real changes in our system.

We must act to prevent convicted defendants from getting their convictions overturned on simple technicalities. We need to create a good faith exception to the rule that excludes evidence from a trial because of inadvertent mistakes. As a former prosecutor, I saw this problem occur again and again. Law enforcement officers make a minor technical error and the whole case is thrown out of court, despite overwhelming evidence of guilt and unanimous jury convictions. We continue to allow guilty criminals to go free, not because they are innocent, but because of minor technical errors. The punishment is inflicted not on guilty criminals, but on the law abiding American public. I find this outrageous and I think the people of Houston would agree.

It is also time to streamline the Federal habeas corpus process to prevent death row inmates from filing repeated appeals that cause unnecessary delays and hopelessly clog our judicial system. The present system of multilayered State and Federal death penalty appeal leads to repetitious litigation and years of delay before cases are finally resolved. It is absolutely essential that we resolve cases quickly and make punishment swift. The current system is no deterrent to crime.

Many elements of this bill are steps in the right direction. Ensuring punishment for young offenders, assisting local police forces with community beat programs, providing scholarships for young people who want to pursue careers in law enforcement, even organizing midnight basketball programs to keep young people off the streets at night, can help us prevent crime.

But only when we pass a strict anti-crime bill that unclogs our courts and ensures that guilty criminals are punished—with certainty and swiftness—can we hope to slow the senseless, violent killings that plague our cities. Only then can we help innocent residents in our cities in our districts regain control of their neighborhoods. Only then will people stop fearing for their lives and safety—for themselves and their children. Only then can we hope to stop the criminal insanity that now haunts our lives.

Mr. FASCELL. Mr. Chairman, I rise in support of Chairman WAXMAN's amendment to H.R. 3371, the Omnibus Crime Act of 1991, which would make $50,000,000 from the Department of Justice Assets Forfeiture Fund available for the purpose of supporting trauma

care services provided by local nonprofit hospitals. This amendment would help defray the uncompensated costs incurred by trauma centers in those areas severely impacted by drug-related violence.

Law enforcement is only one of several necessary responses to the drug crisis. Since the actual drug war is not being fought in the halls of the Justice Department, but in the streets and alleys of our local neighborhoods, it is imperative that steps be taken to improve this face of our national dilemma. The people out in the streets are the victims of this war. They are the ones being wounded and killed, and they need help. In addition, in these field hospitals of the drug war, drug-related trauma cases often crowd out other trauma patients and cases frequently involving indigents. Community coffers are depleted while community health deteriorates.

All of us in this Chamber are aware of the toll this violence is taking on Americans in all walks of life. From bustling urban areas to small towns, illicit drug use and its related violence has worked its way into the core of our communities, causing suffering for many, and placing new demands on the law-enforcement community and health care providers.

In my hometown of Miami, Jackson Memorial Hospital, a nonprofit facility, is charged with providing medical care for all who need it, regardless of an individual's financial status. For years, Jackson Memorial has filled this void admirably. Now, however, this facility is faced with the very real possibility of not being able to meet the needs of our community's trauma patients.

Our Nation's local, State and Federal law-enforcement professionals are getting more financial support than ever to win the war they wage against the dealers of death. The Waxman amendment simply provides modest financial support for those who pickup the pieces after the battle is done.

Mr. Chairman, Chairman Waxman's amendment is a ray of hope for Jackson Memorial and many other trauma care providers across the country. We cannot afford to see one more trauma unit closed due to a lack of funds and we need to remember that when such a facility closes, it is not just the victim of a drug-related violent crime who loses but, rather, all individuals needing sudden, lifesaving trauma care. For this reason, I urge our colleagues to act to ensure that their communities not face such a tragic scenario by voting for the Waxman amendment.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of the Volkmer amendment and in strong opposition to title 20 of the bill. In its current form, H.R. 3371 is nothing less than a wholesale assault on the second amendment.

Now, proponents of the bill claim that title 20 will do nothing to the law-abiding citizen or sportsman. Let's set the record straight.

The limitation of magazines to seven rounds will affect a wide variety of firearms, from the old M–1 to many semiautomatic pistols.

The current wording of the bill is designed to include practically every internal and external feature in practically every firearm, rifle, shotgun, and pistol.

Proponents claim that this language will affect only assault weapons. Well, Mr. Speaker, there's no such thing.

Assault weapons is a misnomer. They are not the weapons of choice for criminals.

The Bureau of Alcohol, Tobacco, and Firearms analysis shows that only one so-called assault weapon was traced in a narcoterrorism crime in 1989. Only one so-called assault weapon was confiscated by the Washington Police Department in the first quarter of 1989. The San Diego Police Department only confiscated two so-called assault weapons in the last year.

Mr. Chairman, guns or assault weapons aren't the problem. The problem is crime. Title 20 of the bill won't affect the criminal. We already know that.

It will, however, deprive millions of Americans of their constitutional right to keep and bear arms. Make no mistake, title 20 will affect the sportsman, the hunter, the target shooter, and the law-abiding citizen who wants to protect his home and family.

Mr. Chairman, let's get tough on crime, not the law-abiding citizen. Let's enact tough penalties for those who abuse the second amendment and use a firearm in the commission of a crime. But let's not assault the second amendment. I urge my colleagues to support the Volkmer amendment.

Ms. PELOSI. Mr. Chairman, I rise in support of Representative SCHUMER'S provision in the crime bill that would ban semiautomatic assault weapons.

As a sign of how bad the situation in our cities has become, pre-school teachers report that 4-year-old children, in school for the first time, when hearing a balloon pop cry out "drop, drop" and fall to the floor.

Assault weapons are weapons of war. Uzi's, street sweepers, and bullet feeders are being used for mass assault. Why would we condone this type of destruction on the streets of America?

At a time when we are intent on controlling weapons throughout the world, we are allowing the proliferation of weapons of destruction in our own neighborhoods. Drive-by shootings, outgunned police officers, and crowds sprayed with bullets are to our neighborhoods the equivalent of Scud missiles.

Assault weapons are used to kill, not to threaten. These weapons are an invitation to violence. H.R. 3371 will not make assault weapons disappear from our streets, but it will take a step toward restricting these weapons of violence. Let us vote today in favor of the assault weapon ban included in H.R. 3371 and take the important and logical step toward reducing the violence these weapons breed.

We cannot have a war on crime if the enforcers of crime laws are confronted with overpowering firepower.

I urge my colleagues to support this ban.

Mr. GEJDENSON. Mr. Speaker, Mr. Chairman, earlier today I had an interesting discussion with the distinguished gentleman from New York, the chairman of the Subcommittee on Crime, Mr. SCHUMER, regarding the language of title XX, subtitle B. I asked the distinguished chairman whether I was correct that the intent of the committee's language regarding assault weapons is not to restrict semiautomatic rifles which have been modified for sporting purposes.

Mr. SCHUMER informed me that I was in fact correct. He added that it is the intent of the legislation that if a weapon has been changed so as to alter its configuration by reducing its capacity, removing features characteristic of assault weapons, or modifying its functional parts so as to limit their operations, it is a different weapon and should not be construed as a copy of an assault weapon, and therefore is not prohibited by this bill.

I further sought and obtained assurances from Mr. SCHUMER that the availability of semiautomatic rifles to collectors and sportsmen for hunting, target shooting, or other competitions would not be impeded by this legislation.

Mr. STOKES. Mr. Chairman, I rise in opposition to H.R. 3371, the Omnibus Crime Control Act of 1991. While this bill includes several provisions I support as independent measures, I am particularly concerned over provisions in the bill addressing the Federal death penalty and the exclusionary rule.

Let me acknowledge the leadership of my colleague Congressman JACK BROOKS, who has not had an easy task fashioning this legislation. Although I do not support the bill in its current form, he is to be commended for addressing in H.R. 3371 some critical issues facing our Nation.

Mr. Chairman, the inclusion of the Federal death penalty in H.R. 3371 for more than 50 Federal death penalty offenses is alarming. Many of the offenses included raise grave constitutional concerns. H.R. 3371 would apply the death penalty to crimes not requiring an intentional killing, but merely reckless behavior. The imposition of the Federal death penalty for leaders of enterprises trafficking drugs in large amounts, or the so-called kingpin provision, is patently unconstitutional, because it would apply the ultimate penalty for a crime that does not involve an intent to commit murder. Furthermore, such a standard is open to far too broad an interpretation by juries.

Moreover, I am concerned that the "Good Faith" exception to the exclusionary rule in H.R. 3371, would codify the Supreme Court's 1984 decision rendered in *United States* v. *Leon,* 468 U.S. 897 (1984). The exclusionary rule was first adopted for Federal cases by the Supreme Court in 1914 and extended to State actions nearly half a century later. The rule helps prohibit the use of evidence that was illegally obtained from being used in a court of law. The adoption of the "Good Faith" exception to the rule would grievously infringe upon an individuals right to be free from unreasonable search and seizure.

The fourth amendment of our U.S. Constitution and the exclusionary rule serve as tools of protection, assuring an individual's right from unlawful search and seizure. Moreover, the exclusionary rule prohibits the use of evidence obtained by officers acting upon a search warrant later found to be unsupported by probable cause. Mr. Speaker, the "Good Faith" exception would yield way to blatant disregard for the requirement of specificity when obtaining a search warrant and would, in itself, become "the fruit of the poisonous tree."

I commend the members of the House Committee on the Judiciary for the inclusion of the measure barring execution of prisoners who demonstrate that their death sentence was imposed because of racial discrimination. Sentencing history of the death penalty shows

that its imposition has generally been arbitrary, capricious, and racially biased. The Department of Justice, Bureau of Justice Statistics reported recently that African-Americans account for 40 percent of all prisoners awaiting death penalties. This percentage is three times greater than the black population as a whole, which according to the 1990 census report was only 12.1 percent.

Mr. Chairman, H.R. 3371 contains many other meritorious provisions including the Fairness in Sentencing Act, the habeas corpus reform measures, the police brutality provisions, the various grant programs for safe schools and alternatives to incarceration for youthful offenders.

Unfortunately, I cannot support the bill in its current form, because it violates the basic rights of American citizens. I urge my colleagues to join me in opposing H.R. 3371.

Ms. DELAURO. Mr. Chairman, I rise to oppose the amendment, and to express my strong support for the ban on assault weapons.

It is my understanding that only the 13 assault weapons on the list, and weapons which are deemed copies of those guns, would be banned. This provision would have no effect on sportsmen who use semiautomatic rifles for hunting, target practice, or sporting competitions.

Further, it is my understanding that the word "copy" is defined as a weapon with a similar capacity and configuration to a banned assault weapon. That definition should be followed.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SPRATT) having assumed the chair, Mr. SKAGGS, 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. 3371) to control and prevent crime, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent from the House floor during roll call vote numbered 320. Were I present, I would have voted "aye."

PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, OCTOBER 18, 1991, TO FILE CONFERENCE REPORT ON H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, Friday, October 18, 1991, to file a conference report on the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

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

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, Thursday, October 17, 1991, to file a privileged report on a bill making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1992, and for other purposes.

Mr. MCDADE reserved all points of order on the bill.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of this week and next week.

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

Mr. MICHEL. Mr. Speaker, I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I first say that the business is finished for today. There will not be further votes today. There will not be votes tomorrow.

Monday, October 21, the House will meet at noon to consider three suspensions, but the recorded votes on the suspensions will be postponed until Tuesday, October 22. So, there will not be votes on Monday.

We will be taking up House Concurrent Resolution 197, urging the Secretary-General of the United Nations to develop plans to respond to disasters; House Resolution 116, urging the President to complete the review of the Convention on the Elimination of all Forms of Discrimination Against Women, and H.R. 1885, Limited Partnership Rollup Reform Act.

On Tuesday, October 22, the House will meet at noon to begin again consideration of H.R. 3371, the Omnibus Crime Control Act of 1991, and we would like to complete consideration of the bill that day, and that may mean that we will be here voting late on that day, Tuesday.

On Wednesday, October 23, and the balance of the week, the House will meet at 10 a.m., first on H.R. 2650, the Intermodal Surface Transportation Infrastructure Act of 1991, subject to a rule; House resolution on the dire emergency supplementals, domestic disaster assistance, and incremental costs of Operation Desert Shield/Desert Storm, subject to a rule, and then conference reports can be expected on the Interior and related agencies appropriations for fiscal year 1992; Labor, Health and Human Services appropriations for fiscal year 1992; the foreign assistance authorization for fiscal year 1992 and 1993 conference report, and then on the further continuing resolution for fiscal year 1992, subject to a rule.

Obviously other conference reports can be brought up at any time.

□ 1720

Mr. Speaker, I think that Members should keep in consideration the fact that we would meet and have votes on Friday, depending upon the state of the bills that I have outlined. We are getting close to the period of Thanksgiving. We would like to finish this first session of this Congress, and I think Members could expect from now forward that we are likely to work a number of Fridays and Mondays in order to get our work completed.

Mr. Speaker, I would like to ask the gentleman about Monday. During the last few days we have had various motions brought up on conferences that have caused votes, and obviously we want to assure Members, if we are saying that there are not going to be votes on Monday, that there not be votes on Monday. So I would like to ask the gentleman if there are any plans on his side to offer any motions on conferences or other things that would cause votes, because we want to make sure that if we tell Members there will not be votes, there will not be votes on Monday.

Mr. MICHEL. Mr. Speaker, may I say that from my personal point of view right at the moment, I know of none, but let me yield to my deputy whip here and get some expression from him on that subject.

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

I know of none either. The motions that we have had were relative to the Interior appropriation bill which has now been filed. It is my understanding that that will not come to the floor until Thursday. That being the case, I do not anticipate that there would be any further action on that, and we would hope that it would be held until Thursday because there is some effort to try to find out whether that might inspire some opposition. But I do not anticipate anything that would take place on Monday.

Mr. Speaker, may I ask a question as well?

Mr. GEPHARDT. Yes.

Mr. WALKER. One thing that I did not hear on the schedule was any men-

tion of the President's unemployment bill coming up in hopes that we could in fact move something that is signable. In fact, I heard nothing about any unemployment bill one way or the other.

Is there any kind of anticipation that a signable unemployment bill could be brought to the House floor any time next week?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, there is the possibility of movement on an unemployment bill. We do not know that at this point. We will obviously give notice, and there will be activity on the Rules Committee at the earliest possible moment if that is the case.

Mr. MICHEL. Mr. Speaker, I might say that the Secretary of Labor called me this afternoon, and it is my understanding she was certainly going to call the majority leader and the Speaker and other leaders on both sides of the Capitol with a view toward trying to work out some compromise that might be acceptable to the President. I think it is certainly within the realm of possibility that we would do that, so the question of the gentleman from Pennsylvania is, I think, well put, and obviously if we are going to be here all next week, we might very well have the opportunity behind the scenes to work up something that will be acceptable. I would hope that we could do that.

Mr. Speaker, does that complete the program?

Mr. GEPHARDT. It does, Mr. Speaker, and I thank the gentleman for yielding.

ADJOURNMENT UNTIL MONDAY, OCTOBER 21, 1991

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 194.

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

There was no objection.

ANNOUNCEMENT OF RULES COMMITTEE PROCEDURES WITH RESPECT TO CONSIDERATION OF H.R. 2950, THE INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

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

Mr. MOAKLEY. Mr. Speaker, I rise today to notify Members of the Rules Committee's plans with respect to H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991.

The Rules Committee plans to meet Tuesday, October 22, to take testimony on the bill. To assure fair consideration, the Rules Committee is considering a rule that may structure offering of amendments.

Mr. Speaker, any Member who contemplates offering an amendment to H.R. 2950 should submit 55 copies of the amendment by 5 p.m. on next Monday, October 21. The committee offices are in H-312 in the Capitol.

It is my understanding, Mr. Speaker, that the Public Works Committee introduced a bill, H.R. 3566, last night and that copies of the bill are available in the House Document Room.

It is expected that the Public Works and Ways and Means Committees will ask that the text of H.R. 3566 be considered as original text for the purposes of amendment. Members wishing to offer amendments to this legislation should draft their amendments to the text of H.R. 3566.

Mr. Speaker, I have sent a "Dear Colleague" letter to all offices explaining our intentions on this bill. We appreciate the cooperation of all Members in our effort to be fair and orderly in granting a rule.

NATIONAL DOWN SYNDROME AWARENESS MONTH

Mr. McNULTY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 131) designating October 1991 as "National Down Syndrome Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

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

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN], who is the ranking member of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of House Joint Resolution 228, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month." I commend the gentleman from Massachusetts [Mr. MAVROULES] for introducing this important measure.

Down syndrome is a chromosomal disorder which can cause delays in physical and intellectual development. To date, the cause and prevention of Down syndrome are unknown. The incidence of Down syndrome in the United States is approximately 1 in every 800–1,000 live births. Even more alarming than the number of babies afflicted with this disorder, is the fact that one-quarter million families in the United States are affected by Down syndrome.

Mr. Speaker, advances have been made to improve the quality of Down syndrome's lives. There is a wide variation in mental abilities, behavior, and physical development in individuals with Down syndrome. Programs have been developed to educate new parents of babies with Down syndrome, to develop special education classes within mainstreamed programs in schools, to provide for vocational training in preparation for entering the work force, and to prepare young adults with Down syndrome for independent living in the community.

I would like to take this opportunity to commend the actor from "Life Goes On," Christopher Burke, who has shown us that people who are afflicted with Down syndrome can lead a normal life, when they receive the love, patience, and guidance they so desperately deserve. Christopher Burke is an inspiration to all of those who are among the quarter million families affected by Down syndrome, as well as those wanting to see these wonderful individuals live a happy life.

National Down Syndrome Month will promote public awareness and a better understanding of Down syndrome. Hopefully, this measure will help alleviate the past stigmas attached to Down syndrome.

Mr. Speaker, it is time for us to work together to provide needed training, jobs and support services for those with Down syndrome and their families. By supporting this measure, we will not only promote greater awareness of this disorder, but we will help pave the way for a brighter future for these Americans.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his very appropriate statement about National Down Syndrome Awareness Month, and I join in commending the chief sponsor of this joint resolution, the gentleman from

Massachusetts [Mr. MAVROULES], and the chairman of our full Committee on Post Office and Civil Service.

I would call the attention of the House to the fact that about 4,000 babies are born every year with Down syndrome, and we have much to learn about it. They can grow up and lead fully productive lives.

So, Mr. Speaker, I commend this joint resolution to the attention of the body.

Mr. MCNULTY. Mr. Speaker, if the gentlewoman will yield, I, too, wish to express my very strong support for the joint resolution, and I commend the sponsor, the gentleman from Massachusetts [Mr. MAVROULES].

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 131

Whereas a more enlightened attitude has emerged during the past 15 years in the care and training of the developmentally disabled;

Whereas one disability which has undergone considerable reevaluation is Down syndrome;

Whereas approximately 4,000 babies are born with Down syndrome annually in the United States;

Whereas until recently, Down syndrome was stigmatized as a mentally and physically retarding condition, that required institutionalization and restricted its victims to lives of passivity;

Whereas remaining ignorance, prejudices, myths, and stereotypes regarding Down syndrome can be overcome only through increased awareness and education;

Whereas through the efforts of concerned physicians, teachers, and parent groups, such as the National Down Syndrome Congress and the National Down Syndrome Society, programs are being put into place to educate the parents of babies with Down syndrome, to develop special education classes for individuals with Down syndrome within mainstreamed school programs, to provide vocational training for individuals with Down syndrome in preparation for entering the workforce, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the television medium has greatly augmented such efforts by casting actors with Down syndrome and offering programming that demonstrates to hundreds of thousands of viewers in a positive and educational manner the everyday, personal, and family effects of living with Down syndrome;

Whereas the cost of programs designed to help individuals with Down syndrome enter their rightful plae in society as productive citizens is a small fraction of the cost of institutionalization;

Whereas advancements in genetic research are also offering a brighter outlook for individuals born with Down syndrome; and

Whereas the many children with Down syndrome who attend regular schools, play on Little League teams, and enjoy basketball and golf demonstrate daily the success that people with Down syndrome are able to achieve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated as "National Down Syndrome Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL RED RIBBON WEEK FOR A DRUG-FREE AMERICA

Mr. MCNULTY. 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. 340) to designate October 19 through 27, 1991, as "National Red Ribbon Week for a Drug-Free America," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. CARPER). Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Missouri [Ms. HORN], the chief sponsor of House Joint Resolution 340, to designate October 19, through 27, 1991, as "National Red Ribbon Week for a Drug-Free America."

Ms. HORN. Mr. Speaker, I would like to thank the gentlewoman from Maryland.

Mr. Speaker, the high rate of drug abuse by our young people troubles us all. While stiffer penalties for drug dealers and stepping up interdiction efforts can help, the only way we can truly keep our young people from drugs is through educational efforts.

In an effort to help these educational activities, I have introduced House Joint Resolution 340 to declare the week October 19 to 27, as "National Red Ribbon Week for a Drug-Free America." During this week communities and organizations all over America will display red ribbons to show their support for a drug-free America.

The National Red Ribbon Campaign and the National Federation of Parents are located in my district and they are planning large rallies and events and other activities in local schools in many communities throughout this country to highlight this week and to promote drug awareness among young people. These groups have members across the country and in almost every State.

Mr. Speaker, this resolution will help them in their efforts toward a goal I know we all share, making our schools and our communities drug free for the children of America.

Mrs. MORELLA. Mr. Speaker, continuing to reserve the right to object, it gives me pleasure now to yield to the ranking member of the Committee on Post Office and Civil Service, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 340, designating October 19 through October 27, 1991 as "National Red Ribbon Week for a Drug-Free America," and I want to commend the gentlewoman from Missouri [Ms. HORN] for her leadership in bringing this measure to the floor of the House for consideration.

House Joint Resolution 340 commends the hard work and dedication of concerned parents, youth, law enforcement officers, educators, business leaders, religious leaders, private sector organizations, and government leaders for their efforts to help achieve a drug-free America, and it encourages anti-drug activities to take place during National Red Ribbon Week. The resolution also encourages all Americans to ware or display red ribbons to symbolize their commitment to a healthy, drug-free lifestyle and to develop an attitude of intolerance to the use of drugs.

I can assure my colleagues that this resolution, which I am pleased to have cosponsored, represents an additional effort to raise the public's consciousness as to the dangers of drug abuse and to develop an attitude of intolerance to the use of illicit drugs.

If our Nation is to win the war against drug abuse, then attitudes regarding the use of illicit drugs must be changed and the public must reject their deadly drugs. House Joint Resolution 340 is an important step in that direction. Accordingly, Mr. Speaker, I urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his comments. I also want to compliment the gentlewoman from Missouri [Ms. HORN] for introducing this resolution. We should become aware of it. It is a resolution supported by a lot of groups, as the gentlewoman has mentioned, not only in here district, but throughout the country. The National Federation of Parents for Drug-Free Youth has supported it. We know that any illegal drug is unacceptable. Not only the drugs that we think of, but alcohol also. I am pleased to say that Mothers Against Drunk Drivers in my district and throughout the Nation have also supported this.

Mr. Speaker, I yield to the gentleman from New York [Mr. MCNULTY].

Mr. MCNULTY. Mr. Speaker, I too am a cosponsor of this resolution. I strongly support its adoption, and join Members in commending the gentlewoman from Missouri [Ms. HORN] for her leadership in bringing this measure to the floor.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 340

Whereas alcohol and other drug abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas alcohol and other drug abuse is a major public health threat and is one of the largest causes of preventable disease, disability and death in the United States today;

Whereas illegal drug use is not limited to persons of a particular age, gender, or socioeconomic status;

Whereas the drug problem appears to be insurmountable, but the United States has begun to lay the foundation to combat the use of illegal drugs;

Whereas the United States must continue the important strides made to combat alcohol and other drug abuse;

Whereas it has been demonstrated through public opinion polls that the American people consider drug abuse one of the most serious domestic problems facing the United States and have begun to take steps against it;

Whereas the National Federation of Parents for Drug Free Youth has declared October 19–October 27, 1991 as "National Red Ribbon Week", has organized the National Red Ribbon Campaign to coordinate the week's activities, has established the theme, "Neighbors—Drug Free and Proud" for the week, and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas the National Red Ribbon Campaign is headed by President and Mrs. George Bush and national honorary chairmen;

Whereas any use of an illegal drug is unacceptable and the illegal use of a legal drug cannot be tolerated; and

Whereas alcohol and other drug abuse destroys lives, spawns crime, undermines our economy, and threatens our security as a Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the period of October 19–27, 1991 is designated as "National Red Ribbon Week for a Drug Free Armerica";

(2) the President is authorized and directed to issue a proclamation calling on the people of the United States—

(A) to observe the week by holding conferences, meetings and other activities to support community and alcohol education, and with other appropriate activities, events and educational campaigns; and

(b) both during the week and thereafter, to wear and display red ribbons to present and symbolize commitment to a healthy, drug-free live style, and to develop an attitude of intolerance concerning the use of drugs; and

(3) Congress recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement officials, educators, business leaders, religious leaders, private sector organizations, and Government leaders in combatting the abuse of alcohol and other drugs.

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.

GENERAL LEAVE

Mr. MCNULTY. 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 the joint resolutions just considered and passed.

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

There was no objection.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. McCathran, one of his secretaries.

CONSISTENCY OF IMMIGRATION LAWS AND POLICIES OF CZECH AND SLOVAK FEDERAL REPUBLIC—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I hereby transmit the documents referred to in subsections 402(b) and 409(b) of the Trade Act of 1974 ("the Act"), 19 U.S.C. 2432(b) and 2439(b), with respect to the consistency of the emigration laws and policies of the Czech and Slovak Federal Republic with the criteria set out in subsections 402(a) and 409(a) of the Act. These documents constitute my decision that a waiver of subsections (a) and (b) of section 402 of the Act will no longer be required for the Czech and Slovak Federal Republic.

I include as part of these documents my determination that the Czech and Slovak Federal Republic is not in violation of paragraph (1), (2), or (3) of subsection 402(a) or paragraph (1), (2), or (3) of subsection 409(a) of the Act. I also include information as to the nature and implementation of the emigration laws and policies of the Czech and Slovak Federal Republic and restrictions or discrimination applied to or against persons wishing to emigrate, including those persons wishing to emigrate to the United States to join close relatives.

GEORGE BUSH.

THE WHITE HOUSE, *October 17, 1991.*

REPORT ON U.S. EXPORT CONTROLS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

1. On September 30, 1990, in Executive Order No. 12730, I declared a national emergency under the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701, *et seq.*) to deal with the threat to the national security and foreign policy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. 2401, *et seq.*) and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768, *et seq.* (1991)), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. I issued Executive Order No. 12730 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act ("NEA") (50 U.S.C. 1601, *et seq.*), and section 301 of title 3 of the United States Code. At that time, I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every 6 months. Additionally, section 401(c) of the NEA requires that the President, within 90 days after the end of each 6-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. This report, covering the 6-month period from April 1, 1991, to September 30, 1991, is submitted in compliance with these requirements.

3. Since the issuance of Executive Order No. 12730, the Department of Commerce has continued to administer the system of export controls, including antiboycott provisions, contained in the Export Administration Regulations. In administering these controls, the Department has acted under a policy of conforming actions under Executive Order No. 12730 to those required under the Export Administration Act, insofar as appropriate.

4. Since my last report to the Congress, there have been several significant developments in the area of export controls:

We continued to address the threat to the national security and foreign policy interests of the United States posed by the spread of weapons of mass destruction. In Executive Order No.

12735 of November 16, 1990, and the Enhanced Proliferation Control Initiative of December 13, 1990 ("EPCI"), we had announced major steps to strengthen export controls over goods, technology, and other forms of assistance that can contribute to the spread of chemical and biological weapons and missile systems.

—On March 7, 1991, the Department of Commerce issued two new regulations and a proposed rule to implement EPCI. The new regulations controlled the export of 50 chemicals as well as dual-use equipment and technical data that can be used to make chemical and biological weapons. (56 F.R. 10756 and 10760, March 13, 1991.)

—On August 15, 1991, the Department of Commerce made the proposed rule final. The final rule expands controls to cover exports when the exporter knows or is informed by the Department of Commerce that an export will be used for missile technology or chemical or biological weapons, or is destined for a country, region, or project engaged in such activities. The rule also restricts U.S. citizen participation in such activities, as well as the export of chemical plants and plant designs. (56 F.R. 40494, August 15, 1991.)

—The Department of Commerce also issued a new regulation that revises the list of items subject to control for nuclear nonproliferation reasons. The update list reflects technological developments in the field, as well as U.S. nuclear nonproliferation policy. (56 F.R. 42652, August 28, 1991.)

In light of the changes that have occurred in Eastern Europe, negotiations with our Coordinating Committee (COCOM) partners yielded a streamlined Core List of truly strategic items that will remain subject to multilateral national security controls. The Department of Commerce implemented this new Core List effective September 1, 1991. In implementing the Core List, the Department totally revised its Commodity Control List, now called the Commerce Control List (CCL), and made certain additional substantive changes in controls. (56 F.R. 42824, August 29, 1991.)

—For the first time, all controlled software and technical data have been integrated into the CCL, including definitions for these items that parallel those of our COCOM partners.

—Following my decision to remove certain sanctions under the Comprehensive Anti-Apartheid Act, controls on certain exports to South Africa of computers, aircraft, and petroleum products have been removed. Other controls affecting South Africa, such as those implemented pursuant to the United Nations arms embargo, remain in place.

—On August 28, 1991, the Department of Commerce submitted a report to the Congress indicating that the Department was reformulating controls on exports to countries that had been designated by the Secretary of State as repeatedly having provided support for acts of international terrorism. In a few instances we reported that controls were being expanded, particularly with respect to Iran and Syria, the only two of the six countries designated as terrorist-supporting not presently subject to separate trade embargoes. In addition, the report indicated that the Department was expanding controls on items of missile proliferation concern. The changes reported to the Congress were implemented in the course of revising the CCL.

Enforcement efforts have continued unabated:

—On August 21, 1991, the Department of Commerce renewed a previous Temporary Denial Order to withhold the export privileges of a Dutch company, Delft Instruments N.V., and certain related companies, in connection with an investigation of illegal reexport of U.S.-origin night vision equipment to Iraq. (56 F.R. 42977, August 30, 1991.)

—On August 28, 1991, Special Agents from the Department of Commerce's Bureau of Export Administration arrested two Iranian businessmen in Newport Beach, California, on charges of illegally exporting to Iran U.S.-origin equipment with possible nuclear and/or missile technology applications. The two businessmen were subsequently charged in a 17-count indictment with conspiracy, illegally exporting U.S.-origin equipment, and making false statements to the United States Government in connection with the exports.

—Following numerous discussions with officials of Czechoslovakia, Hungary, and Poland, the Department of Commerce has assisted the new East European democracies to implement and strengthen their export control systems, including prelicense inspections and postshipment verifications. These developments will allow for enhanced and much-needed trade in high technology items in the region, while helping to prevent unauthorized shipments or uses of such items.

5. The expenses incurred by the Federal Government in the 6-month period from April 1, 1991, to September 30, 1991, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration. Expenditures by the Department of Commerce are anticipated to be $20,390,000.00, most of which represents wages and salary costs for Federal personnel.

6. The unrestricted access of foreign parties to U.S. goods, technology, and technical data and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, continue to constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. I shall continue to exercise the powers at my disposal to retain the export control system, including the antiboycott provisions, and will continue to report periodically to the Congress.

GEORGE BUSH.

THE WHITE HOUSE, *October 17, 1991.*

ANNUAL REPORT OF TOURISM POLICY COUNCIL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

To the Congress of the United States:

In accordance with section 302 of the International Travel Act of 1961, as amended (22 U.S.C. 2124a(f)), I transmit herewith the annual report of the Tourism Policy Council, which covers fiscal year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *October 17, 1991.*

ALABAMA'S MEDICAID PROGRAM COULD BE WIPED OUT

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

Mr. BEVILL. Mr. Speaker, the Health Care Financing Administration has proposed a new rule that could wipe out Alabama's Medicaid Program. This rule will have a devastating effect on the elderly, the poor and the children of Alabama. It will affect the lives of thousands of people. And, it could mean the difference between life and death for many of them. If this rule goes into effect, as many as 10,000 senior citizens would be put out of nursing homes. Some of them have no other place to live.

The rule would prevent States like Alabama from using taxes on providers—such as hospitals and nursing homes—to help pay the States' share of Medicaid.

The rule would have a disastrous effect on rural hospitals. In my district,

three rural hospitals together would lose over $4.7 million. Baptist Medical Center De Kalb alone would lose over $3 million. This is the county's only hospital.

Rural hospitals are struggling to survive with Medicaid funds. I hate to think what will happen if these hospitals lose their Medicaid funding. They may have to shut their doors.

Congress intended that provider specific taxes be used to match Federal Medicaid funds. It was not our intent to have the rug pulled out from under the States. This rule far exceeds congressional intent.

We should be looking for ways to help State and local governments deal with the problems of the poor, the elderly, and the children. We certainly should not be creating more problems for the needy and for those who serve them.

I sincerely hope that the Health Care Financing Administration will revise this rule before it does needless damage to the lives of innocent people.

Mr. Speaker, I am inserting a copy of my testimony today on this matter before the House Energy and Commerce Subcommittee on Health and the Environment.

TESTIMONY OF THE HONORABLE TOM BEVILL BEFORE THE HOUSE ENERGY AND COMMERCE SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT, OCTOBER 16, 1991

Mr. Chairman, I appreciate the opportunity to address this distinguished panel. I am here because the Health Care Financing Administration has promulgated a new rule that could wipe out Alabama's Medicaid Program, I am here to tell you that this rule will have a devastating effect on the elderly, the poor, and the children of Alabama. It will affect the lives of thousands of people. And, it could mean the difference between life and death for many of them.

As you know, the proposed rule would prevent States like Alabama from applying provider specific taxes to the States' share of Medicaid. And, Alabama is not the only State that would suffer if this rule goes into effect. Many other States also use these taxes to help fund their Medicaid programs.

At the September 30 hearing before this subcommittee, you heard from two of my distinguished colleagues from Alabama, Congressman Ben Erdreich and Congressman Claude Harris, and the Commissioner of the Alabama Medicaid Agency, Carol Herrmann. I can assure you that I share their assessment of the dire consequences this proposed regulation would have on the State of Alabama.

As our Medicaid Commissioner told you, loss of this source of matching funds could shut down the Medicaid Program in Alabama. This would be disastrous to hundreds of thousands of Alabamians. As many as 10,000 senior citizens would be put out of nursing homes. Some of them have no other place to live. And, it would also be disastrous to hospitals, particularly rural hospitals.

In the Fourth District of Alabama, there are three rural hospitals which together would lose over $4.7 million. One of these hospitals, Baptist Medical Center De Kalb, alone would lose over $3 million. The tragedy here is that this is the county's only hospital. The fact is, this would be a disaster for rural hospitals everywhere. These hospitals have a moral obligation to care for the citizens of the communities they serve. Without this Medicaid funding it is a distinct possibility that they would have to close their doors. At a time when rural hospitals are struggling to survive with Medicaid funds, I hate to think what will happen if these hospitals lose their Medicaid funding.

Congress intended that provider specific taxes be used to match Federal Medicaid funds. A very limited restriction was included in the Omnibus Budget Reconciliation Act of 1990. But clearly, it was not the intent of Congress to have the rug pulled out from under the States. The restrictions in the promulgated rule far exceed congressional intent.

Now, HCFA and the Office of Management and Budget are attempting to restrict a State's right to legislate taxes and use the proceeds of such taxes for the benefit of the State's residents. This comes after Federal mandates have increased the amount of Medicaid benefits which a State must provide to its citizens. In my judgment, States have the right to raise whatever taxes they see fit. Frankly, I don't think the Federal Government should be tampering with State taxes.

We should be looking for ways to help State and local governments deal with the problems of the poor, the elderly and the children. We certainly shouldn't be creating more problems for the needy and for those who serve them.

Finally, I want to thank Chairman Waxman and the subcommittee. Your continued leadership on this most critical issue is of vital importance to the country. I also want to assure you of my full support and that of the entire Alabama delegation in addressing this most pressing matter.

□ 1740

THANK YOU, ATLANTA BRAVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. JONES] is recognized for 5 minutes.

Mr. JONES of Georgia. Mr. Speaker, I would like to take a few minutes to talk baseball. I would like to tip my hat to the 1991 Atlanta Braves.

Mr. Speaker, the Braves have a long and colorful history going back to the 1930's, when they were the Boston Braves. Babe Ruth wore the colors. Casey Stengel was there. And then in the 1940's in Boston, it was Spahn and Sain and pray for rain.

A young slugger named Eddie Mathews came up playing third base as the team moved to Milwaukee. In 1957 and 1958 in Milwaukee, the great Milwaukee Braves won the pennant, won a world championship with Warren Spahn, Lou Burdette. It was about that time that a youngster from Alabama named Henry Aaron came along and put on number 44 and proceeded to play the game as well as anybody ever played it.

The Braves moved to Atlanta in 1966 and, in 1969, with Henry Aaron and a young knuckleballer named Phil Niekro, won the division championship. They won it again in 1982, with a slugger named Dale Murphy, who is as fine a gentleman as ever played the game.

But all that is prolog, the past, to this season, this extraordinary 1991 season.

There is a game tonight. There is a baseball game that starts at 8:37 in Pittsburgh, PA.

I know that there are a few hardy optimistic Pittsburghans, folks up there in Pennsylvania who believe that the Pirates are going to prevail. I would hate to disappoint them, Mr. Speaker, but I must, because I truly believe in my heart that the Atlanta Braves are going to win tonight.

They are going to win the National League Championship. We are not going to meet again to speak until next Tuesday, and I will not be able tomorrow to come to this floor and say congratulations to the Atlanta Braves. So I want to do that beforehand.

I admit that there is that chance in 1 million that the Pirates will prevail, that somehow perhaps a bad hop will get through or another bad call, as we have seen in this series, will affect the outcome of the game. There is that 1 in a million chance.

If that is the case, there is going to be a parade Monday in Atlanta to celebrate these Atlanta Braves, America's team, for the season that they have had. But I think that Saturday we are going to see the Atlanta Braves play the Minnesota Twins for the World Championship, starting the World Series.

We in Georgia want to thank them. The Braves have fans throughout Georgia, throughout the Southeast, in fact across the United States. We want to thank them. In fact, across the world. The tomahawk chop is being done from here to Hong Kong, and on behalf of all of us who this year have been thrilled by the Braves, who have done the tomahawk chop and seen this team come from last place to first place in one of the most extraordinary pennant races ever, and then to have seen this magnificent seven-game National League championship series with the Pittsburgh Pirates, we want to say thank you.

That is why I am here, to thank the Atlanta Braves, to thank Ted Turner, to thank general manager John Scheurholtz, to thank manager Bobby Cox, his tremendous pitching staff, all of the Braves who have given so much all year, who have persevered through tough luck, through setbacks, and have never said die.

They are now on the threshold of the championship. I just want to say thank you. This season, this pennant drive, this championship season is proof that the good Lord loves baseball, Mr. Speaker. We are going to chop, chop, chop until we drop.

Go, Braves, Thank you, Braves.

UPON INTRODUCTION OF H.R. 3585 "THE FEDERAL SUPPLEMENTAL COMPENSATION ACT OF 1991"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today, in response to the Senate's failure yesterday to override the President's veto of S. 1722, The Emergency Unemployment Compensation Act of 1991, I am introducing H.R. 3575, the Federal Supplemental Compensation Act of 1991.

When the President vetoed S. 1722, he raised several objections to the bill. First, he said its three tiers of benefits were too complex and would lead to administrative problems. Second, he said it would cost too much. Third, he said it would bust the budget summit agreement because the bill did not provide for offsetting revenue increases or outlay cuts.

Mr. Speaker, in the spirit of compromise with the President, I am introducing a modified version of S. 1722 that responds constructively to the President's veto objections.

First, H.R. 3575 simplifies the program by reducing the number of tiers of benefits from three to two, the same number of tiers of benefits in the bill the President said he would sign.

Second, it reduces the cost from CBO's original estimate of $6.4 billion to approximately $5.3 billion, over $1 billion lower than the cost of the conference report on S. 1722.

Third, it fully pays for itself by: First, making permanent the nontax-debt-collection provisions scheduled to expire at the beginning of 1994; second, extending the 0.2 percent Federal unemployment surtax for 1 year through 1996; and third, raising the Federal unemployment taxable wage base from the current $7,000 to $7,700.

In addition, the bill adds a provision that was overwhelmingly supported by the House during consideration of H.R. 3040, giving States the option to pay unemployment benefits to nonprofessional school employees between academic years or terms.

Mr. Speaker, we have come a long way on this issue. The President says he wants to extend benefits to the long-term unemployed, but he wants to spend less than Congress proposes, and he does not want to increase the Federal budget deficit. H.R. 3575 meets each and every of the President's conditions.

Mr. Speaker, 300 Members of the House supported S. 1722. I strongly urge all my colleagues on both sides of the aisle to support this bill, and pass it as soon as possible. Equally important, I urge the President—who pledged himself to a "kinder and gentler" America—to sign this bill. In the spirit of true compromise and in the interest of millions of unemployed Americans and their families, I have attempted to squarely meet the President's objections to S. 1722. America's workers have waited long enough for us to act—long enough for us to compromise. Let us quit the partisan bickering, and get on with the Nation's business.

The text of the bill follows:

H.R. 3575

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Supplemental Compensation Act of 1991".

TITLE 1—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

SEC. 101. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in a agreement under this Act with the Secretary of Labor (hereafter in this Act referred to as the "Secretary"). Any State which is a party to an agreement under this Act may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law,

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and are not paid or entitled to be paid any additional compensation under any State or Federal law), and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada, and

(2) for any week of unemployment which begins in the individual's period of eligibility (as defined in section 106(2)).

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment for wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT.—For purposes of any agreement under this Act—

(1) the amount of Federal supplemental compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment,

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof, except where inconsistent with the provisions of this act, or with the regulations or operating instructions of the Secretary promulgated to carry out this Act, and

(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under section 102 shall not exceed the amount established in such account for such individual.

(e) ELECTION.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State in a 7-percent period, as defined in section 102(c), is authorized to and may elect to trigger off an extended compensation period in order to provide payment of Federal supplemental compensation to individuals who have exhausted their rights to regular compensation under State law.

SEC. 102. FEDERAL SUPPLEMENTAL COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this Act shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 100 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which the individual most recently received regular compensation, or

(B) the applicable limit times the individuals's average weekly benefit amount for the benefit year.

(2) APPLICABLE LIMIT.—For purposes of this section—

(A) IN GENERAL.—Except as provided in this paragraph, the applicable limit shall be determined under the following table:

In the case of weeks beginning during as:	The applicable limit is:
7-percent period	13
6-percent period or other period	7.

(B) APPLICABLE LIMIT NOT REDUCED.—An individual's applicable limit for any week shall in no event be less than the highest applicable limit in effect for any prior week for which Federal supplemental compensation was payable to the individual from the account involved.

(C) INCREASE IN APPLICABLE LIMIT.—If the applicable limit in effect for any week is higher than the applicable limit for any prior week, the applicable limit shall be the higher applicable limit, reduced (but not below zero) by the number of prior weeks for which Federal supplemental compensation was paid to the individual from the account involved.

(3) REDUCTION FOR EXTENDED BENEFITS.—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970.

(4) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) DETERMINATION OF PERIODS.—

(1) IN GENERAL.—For purposes of this section, the terms "7-percent period", 6-percent period", and "other period" mean, with respect to any State, the period which—

(A) begins with the second Sunday of the month after the first month during which the applicable trigger for such period is on, and

(B) ends with the Saturday immediately preceding the second Sunday of the month after the first month during which the applicable trigger for such period is off.

(2) APPLICABLE TRIGGER.—In the case of a 7-percent period, 6-percent period, or other period, as the case may be, the applicable trigger is on for any week with respect to any

such period if the average rate of total unemployment in the State for the period consisting of the most recent 6-calendar month period for which data are published—

(A) equals or exceeds 6 percent, and

(B) falls within the applicable range (as defined in paragraph (3)).

Subparagraph (A) shall only apply in the case of a 7-percent period or 6-percent period.

(3) APPLICABLE RANGE.—For purposes of this subsection, the applicable range is as follows:

In the case of a:	The applicable range is:
7-percent period	A rate equal to or exceeding 7 percent.
6-percent period	A rate equal to or exceeding 6 percent but less than 7 percent.
Other period	A rate less than 6 percent.

(4) SPECIAL RULES FOR DETERMINING PERIODS.—

(A) MINIMUM PERIOD.—Except as provided in subparagraph (B), if for any week beginning after November 2, 1991, a 7-percent period, 6-percent period, or other period, as the case may be, is triggered on with respect to such State, such period shall last for not less than 13 weeks.

(B) EXCEPTION IF APPLICABLE RANGE INCREASES.—If, but for subparagraph (A), another period with a higher applicable range would be in effect for such State, such other period shall take effect without regard to subparagraph (A).

(5) NOTIFICATION BY SECRETARY.—When a determination has been made that a 7-percent period, 6-percent period, or other period is beginning or ending with respect to a State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no Federal supplemental compensation shall be payable to any individual under this Act for any week—

(A) beginning before the later of—

(i) November 3, 1991, or

(ii) the first week following the week in which an agreement under this Act is entered into, or

(B) beginning after July 4, 1992.

(2) TRANSITION.—In the case of an individual who is receiving Federal supplemental compensation for a week which includes July 4, 1992, such compensation shall continue to be payable to such individual in accordance with subsection (b) for any week beginning in a period of consecutive weeks for each of which the individual meets the eligibility requirements of this Act.

(3) REACHBACK PROVISIONS.—

(A) IN GENERAL.—If—

(i) any individual exhausted such individual's rights to regular compensation (or extended compensation) under the State law after February 28, 1991, and before the first week following November 2, 1991 (or, if later, the first week following the week in which the agreement under this Act is entered into), and

(ii) a period described in subsection (c)(2)(A) is in effect with respect to the State for the first week following November 2, 1991,

such individual shall be entitled to Federal supplemental compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of the following week referred to in clause (i).

(B) SPECIAL RULE.—A State not meeting the requirements of subparagraph (A)(ii) shall be treated as meeting such requirements if such State would have met them for the first week following August 31, 1991, or October 5, 1991, if this Act had been in effect for such week.

(C) LIMITATION OF BENEFITS.—In the case of an individual who has exhausted such individual's rights to both regular and extended compensation, any Federal supplemental compensation payable under subparagraph (A) or (B) shall be reduced in accordance with subsection (b)(3).

SEC. 103. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this Act an amount equal to 100 percent of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this Act or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this Act in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the state. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 104. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this Act.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(c) ASSISTANCE TO STATES.—There are hereby authorized to be appropriated without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as may be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code, and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 105. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this Act to which he was not entitled, such individual—

(1) shall be ineligible for further Federal supplemental compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of Federal supplemental compensation under this Act to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 106. DEFINITIONS.

For purposes of this Act:

(1) IN GENERAL.—The terms "compensation", "regular compensation", "extended

compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(2) ELIGIBILITY PERIOD.—An individual's eligibility period shall consist of the weeks in the individual's benefit year which begin in a 7-percent period, 6-percent period, or other period under this Act and, if the individual's benefit year ends on or after November 2, 1991, any weeks thereafter which begin in any such period. In no event shall an individual's period of eligibility include any weeks after the 39th week after the end of the benefit year for which the individual exhausted his rights to regular compensation or extended compensation.

(3) RATE OF TOTAL UNEMPLOYMENT.—The term "rate of total unemployment" means the average unadjusted total rate of unemployment (as determined by the Secretary) for a State for the period consisting of the most recent 6-calendar-month period for which data are published.

TITLE II—DEMONSTRATION PROGRAM TO PROVIDE FOR JOB SEARCH ASSISTANCE

SEC. 201. DEMONSTRATION PROGRAM TO PROVIDE FOR JOB SEARCH ASSISTANCE.

(a) GENERAL RULE.—The Secretary of Labor (hereafter in this title referred to as the "Secretary") shall carry out a demonstration program under this title for purposes of determining the feasibility of implementing job search assistance programs. To carry out such demonstration program, the Secretary shall enter into agreements with 3 States which—

(1) apply to participate in such program, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of an agreement under this section.

(b) SELECTION OF STATES.—

(1) IN GENERAL.—In determining whether to enter into an agreement with a State under this section, the Secretary shall take into consideration at least—

(A) the size, geography, and occupational and industrial composition of the State,

(B) the adequacy of State resources to carry out a job search assistance program,

(C) the range and extent of specialized services to be provided by the State to individuals covered by the agreement, and

(D) the design of the evaluation to be applied by the State to the program.

(2) REPLICATION OF PRIOR DEMONSTRATION PROJECT.—At least 1 of the States selected by the Secretary under subsection (a) shall be a State which has operated a successful demonstration project with respect to job search assistance under a contract with the Department of Labor. The demonstration program under this title of any such State shall, at a minimum, replicate the project it operated under such contract in the same geographic areas.

(c) PROVISIONS OF AGREEMENT.—Any agreement entered into with a State under this section shall—

(1) provide that the State will implement a job search assistance program during the 1-year period specified in such agreement,

(2) provide that such implementation will begin not later than the date 1 year after the date of the enactment of this Act,

(3) contain such provisions as may be necessary to ensure an accurate evaluation of the effectiveness of a job search assistance program, including—

(A) random selection of eligible individuals for participation in the program and for inclusion in a control group, and

(B) collection of data on participants and members of a control group as of the close of the 1-year period and 2-year period after the operations of the program cease,

(4) provide that not more than 5 percent of the claimants for unemployment compensation under the State law shall be selected as participants in the job search assistance program, and

(5) contain such other provisions as the Secretary may require.

SEC. 202. JOB SEARCH ASSISTANCE PROGRAM.

(a) GENERAL RULE.—For purposes of this title, a job search assistance program shall provide that—

(1) eligible individuals who are selected to participate in the program shall be required to participate in a qualified intensive job search program after receiving compensation under such State law during any benefit year for at least 6 but not more than 10 weeks,

(2) every individual required to participate in a job search program under paragraph (1) shall be entitled to receive an intensive job search program voucher, and

(3) any individual who is required under paragraph (1) to participate in a qualified intensive job search program and who does not satisfactorily participate in such program shall be disqualified from receiving compensation under such State law for the period (of not more than 10 weeks) specified in the agreement under section 201.

(b) ELIGIBLE INDIVIDUAL.—For purposes of this title—

(1) IN GENERAL.—The term "Eligible individual" means any individual receiving compensation under the State law during any benefit year if, during the 3-year period ending on the last day of the base period for such benefit year, such individual had at least 126 weeks of employment at wages of $30 or more a week with such individual's last employer in such base period (or, if data with respect to weeks of employment with such last employer are not available, an equivalent amount of employment computed under regulations prescribed by the Secretary).

(2) EXCEPTION.—Such term shall not include any individual if—

(A) such individual has a definite date for recall to his former employment,

(B) such individual seeks employment through a union hall or similar arrangement, or

(C) the State agency—

(i) waives the requirements of subsection (a)(1) for good cause shown by such individual, or

(ii) determines that such participation would not be appropriate for such individual.

(c) QUALIFIED INTENSIVE JOB SEARCH PROGRAM.—For purposes of this section, the term "qualified intensive job search program" means any intensive job search assistance program which—

(1) is approved by the State agency,

(2) is provided by an organization qualified to provide job search assistance programs under any other Federal law, and

(3) includes—

(A) all basic employment services, such as orientation, testing, a job-search workshop, and an individual assessment and counseling interview, and

(A) additional services, such as ongoing contact with the program staff, followup assistance, resource centers, and job search materials and equipment.

(d) INTENSIVE JOB SEARCH VOUCHER.—For purposes of this section, the term "intensive job search voucher" means any voucher which entitles the organization (including the State employment service) providing the qualified intensive job search assistance program to a payment from the State agency equal to the lesser of—

(1) the reasonable costs of providing such program, or

(2) the average weekly benefit amount in the State.

SEC. 203. ADMINISTRATIVE PROVISIONS.

(a) FINANCING PROVISIONS.—

(1) PAYMENTS TO STATES.—There shall be paid to each State which enters into an agreement under section 201 an amount equal to the lesser of the reasonable costs of operating the job search assistance program pursuant to such agreement or the State's average weekly benefit amount for each individual selected to participate in the job search assistance program operated by such State pursuant to such agreement. Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) shall be used for purposes of making such payments.

(2) PAYMENTS ON CALENDAR MONTH BASIS.—There shall be paid to each State either in advance or by way of reimbursement, as may be determined by the Secretary, such sum as the Secretary estimates the State will be entitled to receive under this subsection for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such method as may be agreed upon by the Secretary and the State agency.

(3) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this subsection. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(4) SPECIAL RULE.—Notwithstanding any other provision of law, amounts in the account of a State in the Unemployment Trust Fund may be used for purposes of making payments pursuant to intensive job search vouchers provided pursuant to an agreement under this title.

(b) REPORTS TO CONGRESS.—

(1) INTERIM REPORTS.—The Secretary shall submit 2 interim reports to the Congress on the effectiveness of the demonstration program carried out under this title. The 1st such report shall be submitted before the date 2 years after operations under the demonstration program commenced and the 2d such report shall be submitted before the date 4 years after such commencement.

(2) FINAL REPORT.—Not later than the date 5 years after the commencement referred to in paragraph (1), the Secretary shall submit a final report to the Congress on the demonstration program carried out under this title. Such report shall include estimates of program impact, such as—

(A) changes in duration of unemployment, earnings, and hours worked of participants,

(B) changes in unemployment compensation outlays,

(C) changes in unemployment taxes,

(D) net effect on the Unemployment Trust Fund,

(E) net effect on Federal unified budget deficit, and

(F) net social benefits or costs of the program.

(c) DEFINITIONS.—For purposes of this title, the terms "compensation", "benefit year", "State", "State agency", "State law", "base period", and "week" have the respective meanings given such terms by section 106.

TITLE III—OTHER PROVISIONS

SEC. 301. PAYMENTS OF UNEMPLOYMENT COMPENSATION TO FORMER MEMBERS OF THE ARMED FORCES.

(a) REPEAL OF CERTAIN LIMITATIONS.—Subsection (c) of section 8521 of title 5, United States Code, is hereby repealed.

(b) REDUCTION IN LENGTH OF REQUIRED ACTIVE DUTY BY RESERVES.—Paragraph (1) of section 8521(a) of such title 5 is amended by striking "180 days" and inserting "90 days".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning on or after the date of the enactment of this Act.

SEC. 302. OPTIONAL BENEFITS FOR CERTAIN SCHOOL EMPLOYEES.

(a) IN GENERAL.—

(1) Subclause (I) of section 3304(a)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking "shall be denied" and inserting "may be denied".

(2) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking "and" at the end of clauses (iii) and (iv) and by inserting after clause (v) the following new clause:

"(vi) with respect to services described in clause (ii), clauses (iii) and (iv) shall be applied by substituting 'may be denied' for 'shall be denied', and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the date of the enactment of this Act.

SEC. 303. ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION.

Section 908 of the Social Security Act is amended to read as follows:

"ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION

"SEC. 908. (a) ESTABLISHMENT.—Not later than February 1, 1992, and every 4th year thereafter, the Secretary of Labor shall establish an advisory council to be known as the Advisory Council on Unemployment Compensation (referred to in this section as the 'Council').

"(b) FUNCTION.—It shall be the function of each Council to evaluate the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program and to make recommendations for improvement.

"(c) MEMBERS.—

"(1) IN GENERAL.—Each Council shall consist of 11 members as follows:

"(A) 5 members appointed by the President, to include representatives of business, labor, State government, and the public.

"(B) 3 members appointed by the President pro tempore of the Senate, in consultation with the Chairman and ranking member of the Committee on Finance.

"(C) 3 members appointed by the Speaker of the House, in consultation with the chairman and ranking member of the Committee on Ways and Means.

"(2) QUALIFICATIONS.—In appointing members under subparagraphs (B) and (C), the President pro tempore of the Senate and the Speaker of the House shall each appoint—

"(A) 1 representative of the interests of business,

"(B) 1 representative of the interests of labor, and

"(C) 1 representative of the interests of State governments.

"(3) VACANCIES.—A vacancy in any Council shall be filled in the manner in which the original appointment was made.

"(4) CHAIRMAN.—The President shall appoint the Chairman.

"(d) STAFF AND OTHER ASSISTANCE.—

"(1) IN GENERAL.—Each council may engage any technical assistance (including actuarial services) required by the Council to carry out its functions under this section.

"(2) ASSISTANCE FROM SECRETARY OF LABOR.—The Secretary of Labor shall provide each Council with any staff, office facilities, and other assistance, and any data prepared by the Department of Labor, required by the Council to carry out its functions under this section.

"(e) COMPENSATION.—Each member of any Council—

"(1) shall be entitled to receive compensation at the rate of pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Council, and

"(2) while engaged in the performance of such duties away from such member's home or regular place of business, shall be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(f) REPORT.—

"(1) IN GENERAL.—Not later than February 1 of the second year following the year in which any council is required to be established under subsection (a), the Council shall submit to the President and the Congress a report setting forth the findings and recommendations of the Council as a result of its evaluation of the unemployment compensation program under this section.

"(2) REPORT OF FIRST COUNCIL.—The Council shall include in its February 1, 1994, report findings and recommendations with respect to determining eligibility for extended unemployment benefits on the basis of unemployment statistics for regions, States, or subdivisions of States.".

SEC. 304. REPORT OF METHOD OF ALLOCATING ADMINISTRATIVE FUNDS AMONG STATES.

"(a) IN GENERAL.—The Secretary of Labor shall submit to the Congress, within the 12-month period beginning on the date of the enactment of this Act, a comprehensive report setting forth a proposal for revising the method of allocating grants among the States under section 302 of the Social Security Act.

"(b) SPECIFIC REQUIREMENTS.—The report required by subsection 9a) shall include an analysis of—

(1) the use of unemployment insurance workload levels as the primary factor in allocating grants among the States under section 302 of the Social Security Act,

(2) ways to ensure that each State receive not less than a minimum grant amount for each fiscal year,

(3) the use of nationally available objective data to determine the unemployment compensation administrative costs of each State, with consideration of legitimate cost differences among the States,

(4) ways to simplify the method of allocating such grants among the States,

(5) ways to eliminate the disincentives to productivity and efficiency which exist in the current method of allocating such grants among the States,

(6) ways to promote innovation and cost-effective practices in the method of allocating such grants among the States, and

(7) the effect of the proposal set forth in such report on the grant amounts allocated to each State.

(c) CONGRESSIONAL REVIEW PERIOD.—The Secretary of Labor may not revise the method in effect on the date of the enactment of this Act for allocating grants among the States under section 302 of the Social Security Act, until after the expiration of the 12-month period beginning on the date on which the report required by subsection (a) is submitted to the Congress.

TITLE IV—FINANCING PROVISIONS

SEC. 401. PERMANENT EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "on or before January 10, 1994".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1991.

SEC. 402. EXTENSION OF FUTA SURTAX.

Section 3301 of the Internal Revenue Code of 1986 (relating to rate of unemployment tax) is amended—

(1) by striking "1995" in paragraph (1) and inserting "1996", and

(2) by striking "1996" in paragraph (2) and inserting "1997".

SEC. 403. INCREASE IN FUTA WAGE BASE.

(a) GENERAL RULE.—Paragraph (1) of section 3306(b) of the Internal Revenue Code of 1986 (defining wages) is amended by striking "$7,000" each place it appears and inserting "$7,700".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1991.

TITLE V—BUDGET PROVISIONS

SEC. 501. TREATMENT UNDER PAY-AS-YOU-GO PROCEDURES.

Any amount of new budget authority, outlays, or receipts resulting from the provisions of (and amendments made by) this Act shall not be considered for any purpose under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 502. EXEMPTION OF FEDERAL SUPPLEMENTAL COMPENSATION FROM SEQUESTRATION.

Payments under title I of this Act (relating to Federal supplemental compensation) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 503. COST ESTIMATE.

The applicable cost estimate of this Act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1986 shall be as follows:

For fiscal year	Increase in Outlays	Increase in Receipts
1992	$4,770,000,000	$1,100,000,000
1993	137,000,000	880,000,000
1994	140,000,000	1,080,000,000
1995	140,000,000	880,000,000

TRIBUTE TO GUILFORD, CT, BUSINESSMAN H. LOGAN PAGE III

(The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.)

Ms. DELAURO. Mr. Speaker, I rise today to congratulate an outstanding man and community leader on the occasion of his election to the presidency of the National Retail Hardware Association. H. Logan Page III, owner of Page Hardware and Appliance Co. in Guilford, CT, was elected president of the National Retail Hardware Association [NHRA], at NHRA's annual business meeting in July.

Mr. Page and his family have operated the Page Hardware and Appliance Co. since 1939. Logan became sole owner when he purchased his brother's share of the company in 1973 and has expanded the store several times to better serve the needs of Guilford.

Mr. Page and other small businessmen like him, provide an invaluable service to their community as well as supporting our Nation's economy. The small businessman is the backbone of our country. In each community across America, it is the small businesses that provide the seeds for greater economic enhancement. It is the small businessperson who has the time and concern to give of themselves to the community.

A native of Guilford, Mr. Page has been very active in local community organizations. He is trustee of the Guilford Savings Bank and is on the board of directors of the Alderbrook Cemetery Association. He has served as president of the Guilford Parents Advisory Council, the Guilford Jaycees, and Eagle Hose Company Number 2 of the Guilford Volunteer Fire Department. He was chairman of the Guilford Green Merchants Association and of the First Congregational Church Business Committee, and was member of the board of finance of the town of Guilford for 14 years.

In addition to his involvement in the local community, Mr. Page has also helped to further the interests and activities of the retail hardware community. He is a respected, past president of the Connecticut Hardware Association and the New England Hardware Dealers Association as well as treasurer and member of the board of directors of the Connecticut Hardware Supply Co. Mr. Page is also active director of the American Hardware Mutual Insurance Co.

The National Retail Hardware Association has elected an able and respected leader as their president. They are fortunate to have such a leader and I commend Mr. Page on the occasion of his election.

AN UPDATE ON THE AIDS VIRUS

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 whole 60 minutes, but I did want to update my colleagues on what has been going on with the virulent, deadly AIDS virus in this country.

People in this country are very concerned about this deadly virus, but it appears as though we do not get all of the information that we should in order to be able to protect ourselves. So I would like to start out by citing some statistics and some new information which has come to my attention over the last week.

First of all, the Centers for Disease Control is going to be changing the definition of those who have active AIDS. And when that definition is changed, it is estimated that there will be up to an additional 200,000 people defined as having active AIDS that will be either dead or dying from this dread disease.

As of the end of this year, using the old standard on how many people have active AIDS, dead or dying from it, we would have 270,000 people who would be fatally afflicted with this disease. But under the new definition, that figure will go to somewhere between 250,000 and 400,000 who are defined as having active AIDS and are either dead of it or dying from it.

The projections that we had 5 years ago, 4 or 5 years ago, estimated that we would have between 250,000 and 280,000 people dead or dying by the end of 1991. With this new definition being applied by CDC, we are going to go over that. It is going to be between 250,000 and 400,000.

If we extrapolate these figures on out through the middle of the 1990's, it shows that we will have between a million and a million and a half people dead or dying of AIDS in this country by the mid-1990's.

These figures have been pooh-poohed from time to time by HHS, Health and Human Services, and the Centers for Disease Control. But the facts bear out the figures I just cited. With the new definition being applied by CDC, we will probably go over the 250,000 dead or dying by the end of this year. And it will probably be closer to 400,000.

Five years ago we projected there would be between 250,000 and 280,000. So we are going to be low on those figures.

If we extrapolate the lower figures that we used 5 years ago, we come out to between 1 and 1½ million people dead or dying of AIDS by the mid-1990's.

Why do I bring this figure up? Because we are really not doing anything to deal with this crisis. Five years ago the Centers for Disease Control told the people of this country that we had between a million and a million and a half people infected with AIDS and it was doubling every year to a year and a half, year to 18 months. Here we are 5 years later, and we know that we are going to have between 250,000 and 400,000 people actually dead or dying of the disease by the end of this year, and yet the CDC still tells us we have between a million and a million and a half people infected. That does not make sense.

Nobody knows for sure because we have never had a comprehensive testing program to find out how widespread the AIDS virus is in this country. We are running around with our head in a sack, and we are not coming to any valid conclusions about how bad the disease is, how widespread it is.

□ 1750

I believe that we have between 4 million and 5 million, maybe 6 million people infected. That is 1 out of every 40 or 50 people in this country that have the virus. Perhaps my figure is high, but I do not believe so.

But the fact of the matter is the extrapolation we came up with 4 or 5 years ago on how many people would be dead or dying is accurate. In fact, we are a little bit below on those figures based upon CDC's projections.

So I just say to my colleagues, we have a disease that is probably going to rival the worst epidemics in the history of mankind, and we as a governing body are more concerned about things like civil rights than we are about the health of the Nation. I am concerned about the civil rights of the people of this country, but we have a disease that is deadly. It is not curable. It is going to kill we know 250,000 to 400,000 people within the next year or two, and we are not doing anything concrete to combat it.

I have said time and again we need to have a comprehensive program to deal with this pandemic. I said that 5 years ago, I said it 4 years ago, 3 years ago, 2 years ago, and last year, and I am saying it now. We need a program that not only educates the people of this country, but we need a program that expends large sums of money for scientific research, which we are doing, and we could spend more for that because it is important. We need to have a testing program to test everybody in this country on a routine basis so we could come to conclusions about how really bad it is, and we can come to conclusions about how it is breeding, where it is spreading, and how rapidly it is spreading so that we can get a handle on it.

We need to do contact tracing. Each year people would be tested, and if people who have the AIDS virus and know they have it continue to spread it, they are killing other human beings, and through contact tracing we could find out who they are, and they should be constrained. We cannot allow them to continue to kill other people. We have people in this country who know they have AIDS and deliberately infect other human beings, deliberately go out and kill them. That cannot be tolerated, and that should be part of a comprehensive program.

Also a part of the program should be psychological help in the initial stages at least for those who know they have the AIDS virus, because it is a very traumatic experience for anybody when they find out they have got it.

Finally, we need to protect the jobs, the housing, the civil rights, and the health care benefits of people who have the AIDS virus. So that needs to be part of the comprehensive program.

But we do not have a comprehensive program to deal with AIDS. We are

doing scientific research and we are doing education, and education is not going to stop the disease.

Let me give the reason why I say that. A doctor wrote this recently. We have been told to tell young people in this country, and we see it on the television every single day, we have been told that condoms will provide safe sexual conduct for those involved.

Here is what a doctor says: "What do I know about this," he says. "I'm an infectious disease physician and an AIDS doctor to the poor. Passing out condoms to teenagers is like issuing them squirt guns for a four-alarm fire. Condoms just don't hack it. We should stop kidding ourselves."

He goes on to say that, "Nobody these days lobbies for abstinence, virginity, or single lifetime sexual partners. That would be boring. Abstinence or sexual intercourse with one mutually faithful uninfected partner are the only totally effective prevention strategies. That's from another recently published Government report. What am I going to tell my daughters?" He says, "I'm going to tell them that condoms give a false sense of security, and that having sex is dangerous. Reducing the risk is not the same as eliminating the risk. Condoms aren't going to make a dent in the sexual epidemic we are facing."

The fact of the matter is, according to studies, 18 to 25 percent of the people who use condoms while having sexual contact with somebody who is HIV-infected is seroconverted. That means they got AIDS, they got the virus. One out of six to one out of four of the people using condoms still get the AIDS virus, and so when they tell young people categorically that this is going to provide a mechanism for safe sex, we are lying to them and we are giving them a false sense of security, and we are creating a situation where their life could be taken from them because of misinformation.

The fact of the matter is there is no such thing any longer in this world as safe sexual contact with another individual outside of a monogamous relationship. That means one person, one man, one woman, marriage, or a one-person relationship.

I want to give some other information that I think is very important, and I hope many of my colleagues are paying attention. Last fall, and this report is a little bit older,

Last week's report of the National Commission on AIDS, criticizing the Nation's failure to develop a comprehensive strategy for combatting the disease, is only the latest salvo in a reporting war of grim statistics. Note some other dire projections:

1. Last fall, Dr. Antonia C. Novello, U.S. Surgeon General, noted that the main mode of transmission in Africa where the disease is rampant—heterosexual contact—"also may be becoming the trend" in parts of the United States.

Many of my friends do not believe that that is the case, but I want to tell you something. Here in Washington, DC we just found out that the rate of infection among teenagers, teenagers in Washington, DC, not from drugs, but from sexual contact, the increase has been 300 percent, over 300 percent in the last 3 years. It has gone from four-tenths of 1 percent of the teenage population in Washington, DC to 1.3 percent in 3 years.

Well, you say, 1.3 percent is not very much. But wait until this steamroller gets going.

The most adversely impacted segment of our society in the next decade is going to be the teenagers and the college students of this country. And what is so terrible about this is they are getting misinformation.

At Ball State University right on the edge of my congressional district they are selling, as I understand it, condoms in vending machines on campus. And the students were interviewed. I watched the television interview last week, and they were saying that they were selling out. They were all practicing safe sex, and they were being very careful, and they took a survey and found that 80 percent of the college students at Ball State University are sexually active, 80 percent. I submit that is not unusual. It is probably the same on most college campuses across this country. And those young people believe that those condoms are going to protect their lives. And one out of six to one out of four of them are likely over the long term to get AIDS, even though they are using those condoms.

That is a terrible tragedy, and it is because we have been giving them misinformation. They need to know that abstinence, and I know that this is a tough thing to say to a young person, abstinence and a monogamous relationship is the only safe bet. But we keep telling them otherwise.

Another item. "The Centers for Disease Control in Atlanta estimates that AIDS will become one of the top five causes of death in 1991 for women of childbearing age."

Women are getting hit harder than men. We know now scientifically that women are about seven or eight times as likely to get AIDS through contact with an infected partner as a man is. And I think that is something that women ought to think about.

As early as November 1988, the CDC estimated that 3 of every 1,000 college students were infected with the AIDS virus—a figure that in recent months has been challenged as much too conservative.

Most people believe that over 5 percent or as many as 5 percent of our college students on some of these campuses are infected. But here they are saying 3 out of 1,000. Well, if 3 out of 1,000 young people on any campus are infected, and they are having sexual contact with other people on that campus, it is bound to spread, and that percentage is going to go up rapidly, especially if we realize that 80 percent of them are sexually active, as is the case at Ball State University.

So we have to educate young people, and we have to have a comprehensive plan to deal with this.

4. Because college-aged people tend to have more sexual partners than any other age group, they carry a greater risk of contracting the disease. Already the epidemic rise of syphilis, cases, the highest since 1949, suggests continued sexual behavior as usual that will encourage the spread of AIDS.

We had a couple of opportunities in the last few weeks to try to come to grips with at least part of the epidemic. We had the Kimberly Bergalis health care bill. She is one of five people who were infected by Dr. Acer, a dentist in Florida that had AIDS and infected these five people. This young lady is in her early twenties. She is dying. She does not have a long time left now. She came to the Congress to testify in behalf of the Kimberly Bergalis health care bill, which would have mandated that health care workers be tested on a routine basis, regular basis, and if they are infected they have the obligation to tell their patients that they are infected.

□ 1800

Ninety-some percent, 95 percent approximately, of the people of this country believe that if a health care worker is infected, they, as their patient, have a right to know, and that bill never even got out of committee.

In addition to that, this was not a one-sided bill. It not only let patients know of the HIV status of their doctor, it also let the doctor test the patient if he or she felt there was any possibility they might have the AIDS virus. So it was a two-way street. The doctor could test the patient; the patient could demand to know the HIV status of their doctor or dentist.

I personally would not want a doctor or dentist doing invasive procedures on me if they had the AIDS virus. That is a personal preference. Some people would not mind a doctor or dentist working on them internally if they had the AIDS virus. I personally feel very strongly about it, but I believe people ought to be able to make that decision informed. They have a right to know.

That bill never even got out of committee. We killed it. It was a step in the right direction towards illuminating for this country the problem we have with AIDS and protecting individual citizens.

Now, they said that Dr. Koop, who was the Surgeon General, sent out to every house in this country a brochure on AIDS. In that brochure he said you could not get, he categorically denied that you could get AIDS from a doctor, a dentist, or a hairdresser, or any health care worker. We now know from Dr. Acer's case that that is not true. So now they have asked Dr. Koop about whether or not health care workers

should be tested. He said that the chances of getting it from a health care worker are so small that it should not be considered, testing health care workers. Well, just a couple of years ago, he said you could not get it at all, and now he says the situation is so small that the chance of getting it does not merit testing. He was wrong before, and he is wrong again.

A case in point: In the prisons in Maryland, they had two dentists who had the AIDS virus. Those dentists treated a lot of inmates in that prison. In fact, they treated about 957 of them. In fact, they treated more than that, but 957 of the inmates who did not believe they had any dangerous behavior wanted to be tested for AIDS. The 957 of them were tested, and 33 of them tested seropositive for AIDS, 33 out of the 957. That is about 3 percent of the population that thought they did not have any behavioral pattern that would give them AIDS, but they got AIDS from these dentists. So we know for a fact that Dr. Acer gave 5 of his patients AIDS through contact in his office, and now we know that 33 inmates in the Maryland penitentiary have gotten AIDS from 2 dentists.

Yet, when I asked CDC and I asked the Maryland prison officials if they were going to pursue this to see if they could categorically find out for sure, if they could categorically confirm or deny whether they got the AIDS from these dentists, they would not do it. They said it was too costly, and they indicated they did not think it could be done. Well, it can be done through DNA samples through testing, and we can find out categorically if those 33 inmates got that disease from those dentists.

We should, because it will give us a guide and give us some knowledge about whether or not there really is danger in addition to Dr. Acer. It will give more conclusive evidence that there is danger in going to a health care worker who has the AIDS virus. Yet, we are having a difficult time getting CDC to follow up on this.

I have written them a letter. I have asked them to give me a reason why they do not follow up on this. I have yet to hear from them. But you can rest assured that I will continue checking this out.

Another related bit of information, because of HIV AIDS, we are seeing a tremendous explosion in TB cases in this country and around the world. TB worldwide is the greatest killer of human beings, and in the United States we are seeing an explosion of TB cases in New York hospitals where AIDS is really prevalent, and the situation there is really disastrous right now.

Many of these TB cases cannot be treated with drugs. They are not susceptible to the antibiotics that are being used, so what we are seeing, because of AIDS, is we are seeing a tremendous increase in the number of TB cases, because the immune system is broken down when you get the AIDS virus, and other diseases are easy to catch, such as hepatitis B and tuberculosis.

These new cases of TB, and this is very disturbing, many of them cannot even be treated with conventional drugs and antibiotics, because they are related to AIDS, and that is very disturbing, because we are going to have a lot of people die from tuberculosis because they caught it from a person who had the HIV virus, and it has properties in it which make it resistant to antibiotics that we use today.

Finally, in USA Today this morning, they asked the people in a survey around this country what they thought about testing for AIDS. I have seen polls in the past that said over 70 percent of the people in this country believe that a universal testing program is necessary in order to get a handle on this terrible disease.

Here is what we found today in USA Today:

> Most people favor tough AIDS control measures such as mandatory testing that are generally opposed by AIDS activists, a new poll shows. "People really want this thing stamped out," says Calvin Martin of the Gallup Organization, which conducted the poll for the American Association of Blood Banks. Among findings from the survey of over 1,000 adults was, No. 1, 89 percent of the people in this country favor mandatory AIDS tests for health care workers.

Well, the last one I saw showed over 95 percent favored that, but 89 percent of the people in this country want to know the HIV status of their health care workers; 82 percent of the people favor mandatory tests for hospital patients; 82 percent want the names of infected people reported to health care agencies.

Many activists and health experts oppose forced testing, saying it would infringe on civil rights. Again, there is that civil rights issue. Health is not important; civil rights is; deplete money available for other anti-AIDS efforts and produce few benefits; name reporting is controversial because of potential for breaches in confidentiality.

Among other findings, AIDS is named as the Nation's top health problem by 27 percent, down from a high of 36 percent in 1988, and that is because people are not aware of all of these things, next to cancer and so forth; 22 percent of the people in this country know someone infected with the AIDS virus, up from 16 percent; 71 percent say the blood supply is very or somewhat safe, down slightly from 74 percent in 1989; 26 percent believe wrongly that people are likely to get AIDS from giving blood.

Donating carries absolutely no risk, because they use clean needles there. Fifty-two percent, they say in this paper, also wrongly believe that people are apt to get AIDS from a transfusion. Despite some celebrated cases, the actual risk ranges from about 1 in 40,000.

I can tell you this, that if I had to have a blood transfusion and it was elective surgery, I most certainly would donate my own blood and make sure I was not running the risk, even if it is 1 in 40,000, of getting it from a blood transfusion.

In closing, let me say to my colleagues one more time—and I will be back down here periodically talking about this with additional information—that these are the facts: We are going to have over 250,000 people dead or dying of AIDS by the end of this year. That was projected 5 years ago, and the projections, if carried out through the mid-1990's, would indicate to me and to many others that we are going to have between 1 million and 1½ million people dead or dying. That is a cataclysmic experience, a cataclysmic number.

I believe we have 4 million, 5 million, 6 million people infected right now. But we do not know who they are, and they do not know who they are, and as a result, they continue to carry on their activities in colleges, in high schools, in pubs around this country, and spreading this disease, and they do not know they have it, and the people that are coming in contact with them obviously do not know that they have it.

I believe that in the next few years the most rapidly growing segment of our society that is going to be infected with the AIDS virus is going to be our college students, our high school students, and our people in their sexually active years.

A poll taken at Ball State University showed 80 percent of the people there are sexually active. I think that is consistent with many universities around the country, yet they believe that there is safe sex by using condoms.

The fact of the matter is that 230 million AIDS viruses will fit on a period at the end of a sentence. It is in every single bodily fluid, and condoms will not give you the kind of protection you believe. Eighteen to 25 percent of the people in this country who have used condoms while having sexual contact with people who are infected with AIDS get it, and so there is still a great risk.

So finally, I would like to say that we need a comprehensive program, and I plead with my colleagues one more time that instead of turning our backs on bills like the Kimberly Bergalis health care bill, as the gentleman from California [Mr. WAXMAN] and his committee did just a couple of weeks ago, we need to come to grips with this.

□ 1810

The people of this country and the future generations of this country, the young people of this country, are going

to hold us accountable for our inaction if we do not do something about this. We need a comprehensive program.

I will say this once again probably for the 5,000th time in the last 5 years—testing, contact tracing, education, scientific research, psychological help, penalties for those who have the AIDS virus and continue to spread it, and finally, to protect the civil rights of those who have the virus so that they will know we are concerned about them. We should be concerned about those folks who have AIDS, but we should be even more concerned about the people who do not have it, who might become infected because of ignorance and because of our inaction in this body and in this Government.

MAKING AMERICA WORK AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

Mr. OBEY. Mr. Speaker, I normally do not take special orders, because as anyone who really understands this place knows, special orders occur at the end of the day when everybody has gone home and so you are pretty much talking to yourself; but I suspect this is often not an unusual occurrence for politicians, so I wanted to take this time tonight because I care very deeply about the subject and I think people need to understand what is happening to our economy before we can decide what to do about it.

The question is often asked: Why are people so cynical about their politicians and about politics? One answer is that often people are concerned about the ethics of people in government. I have heard that answer many times, and I agree with it. I think my record shows that I have been at the center of virtually every effort to strengthen ethics codes for elected officials, to reform the ways in which political campaigns obtain and spend money and to reform the way Congress itself operates. I frankly made some enemies, some powerful ones on occasion, because of those reform efforts.

But I really believe that the most important reason why the public is angry with government is because they think that government is ignoring their most basic needs, and they are right.

Nowhere is it more obvious than in the White House itself. The President has admitted that he much prefers to deal with foreign policy rather than dealing with domestic and economic affairs. He tells us continually that it is important for us to be engaged internationally and he points to Harry Truman's efforts to defend the West from economic and military catastrophe through NATO, through the Bretton Woods Agreement and the Marshall plan.

It is true that Harry Truman did all those things in those days and that was a hard sell, because the American people had sacrificed greatly during World War II and they wanted to deal with the problems at home. Public support for Harry Truman's foreign aid policies never rose above 20 percent in the opinion polls, yet the American people acquiesced in what Harry Truman was doing abroad. They allowed him to play Churchill abroad because he was not playing Scrooge at home. They allowed Truman to engage abroad because they knew he was already engaged at home.

I think it is important to remember three things about Harry Truman. First, Truman presented the Marshall plan and his other proposals within the context of a balanced budget.

Second, he presented them to the country in the context of expanding economic opportunity for American families.

Third, he presented his proposals in the context of economic policy at home that put Government on the side of the average American. Americans did think in those days that Government was on their side. It was helping families to buy their first house through the VA and the FHA housing programs so they could build equity and grab a piece of the American dream. It was helping to create economic opportunity for all by making quality education available through the GI bill. And it was seen as fair because it had a progressive tax system which taxed people on the basis of their ability to pay, not on the basis of their ability to pay lobbyists to get out of paying.

The price of Harry Truman's activities was expensive and Americans did not like it much, but they tolerated it because the U.S. economy stood astride the world like a colossus and the American worker was king. Economic opportunity was expanding and people expected that it would continue to expand. The American educational system was the best in the world. American workers were the best trained. American managers were the world's best. Our research and development led the world and our technology, both product and process technology, was unmatched.

Today President Bush, as did Harry Truman, wants to play Churchill abroad. But in contrast to old Harry, old George is playing Scrooge at home and the American people resent it because times and prospects have changed.

Today our elementary and secondary education is at best, average. Fewer than 20 percent of our students in the 4th, 8th, and 12th grades have reached competence in mathematics. Our worker training programs show less than average effort. Our civilian research and development programs are a pale imitation of our past strengths. Our technology is mediocre and Government economic policy, instead of making things better, is making them worse.

As a result, for most Americans, family income is not rising. It is falling, in contrast to what it was doing under Harry Truman.

The American people have a right to ask, how did it happen? Well, part of our relative decline was certainly inevitable as other countries rebuilt their economies, often with our help. It was inevitable that our share of world markets would decline and that our dominance would recede, but our problems are much more serious than that.

First of all, America's private sector rested on its lead. Many sectors of American business took economic and technological leadership for granted. They did not invest as much as they should. They did not train their workers as much as they should. They did not think ahead as much as they should, and in 1973 we first paid a price. The first round of oil price shocks demonstrated which economies in the world were organized in a way best able to handle those shocks and ours was not one of them.

But something happened in the public sector as well. From 1945 to the late 1970's America had a national consensus that certain public investments were crucial to the strength and stability and decency of this society, but that consensus began to show strains during the second round of energy price shocks in the late 1970's and in 1981 and 1982 that consensus was shattered.

Let us review a little history. In 1981, the day that Ronald Reagan walked in the White House door, the Federal deficit stood at $57.9 billion. The Defense budget stood at $160 billion. Tax rates at that time ranged from 14 percent in the lowest brackets to 50 percent in the highest, on income above $215,000. The national debt stood at $830 billion.

The Reagan-Bush administration argued that we could double military spending, reduce Government involvement in the economy, deregulate business, cut taxes primarily for high income people, all at the same time and that the result would be both a balanced budget by 1985 and unparalleled economic prosperity for all.

On May 7, 1981, the key economic decisions of that decade were made. The administration rammed through its Gramm-Latta budget by a vote of 253 to 176. Republicans voted for it 190 to 0. Democrats opposed it by a vote of 176 to 63.

Eleven weeks later, the Reagan-Bush administration rammed through their tax package which reduced revenues by huge amounts, primarily by providing huge tax increases for high income people. That package also passed. Republicans voted for it 190 to 1. Democrats voted against it 194 to 48. It passed 238 to 195.

I am proud to say that at that time I offered one of the two Democratic alternatives to each of those packages. Our budget amendments would have

spent less and borrowed less and our tax amendments would have extracted fewer taxes from middle-income people than the budget and tax packages which passed, but we would have rejected the bonanzas for the rich in the administration's successful package. But we were clobbered.

On passage of that Tax bill, then-Secretary of the Treasury Donald Regan said, "Our program is now in place."

Thus began the Republican experiment in supply side economics. Those decisions set us on the road to a massive transfer of income and wealth from almost all income groups in society to the very wealthiest among us. Those decisions also provided an immense increase in military spending.

□ 1820

At the same time they provided a massive and damaging disinvestment in some key building blocks of national strength and stability, such as worker training, community development and education programs.

Some of us warned at the time that those decisions would lead to record deficits and a dangerous, long-term undermining of our economic strength. But our warnings were drowned out by the national megaphone at the White House.

David Stockman, Budget Director for the Reagan/Bush administration, revealed later in his famous article in the Atlantic Monthly that he had been explaining for 6 months "to the West Wing guys that these numbers just didn't add." He explained that he got his budget deficit projections "down to $31 billion by hook or by crook, mostly the latter."

Then he went on to say this, he said:

> We didn't think it all the way through, we didn't add up the numbers. We should have designed those pieces to be more compatible. But the pieces were moving on independent tracks. You see, it didn't quite match. That is what happened, but you see, we got away with it because of the novelty of it all.

In fact, the deficit that year increased by over $160 billion. Still, the administration correctly argued at the time that initiatives needed to be taken to increase economic growth, to strengthen the supply side of the economy. But we now know what the real purpose of the administration's Kemp-Roth supply side program was, because it was also revealed to us by Mr. Stockman in that famous article when he said as follows:

> Kemp-Roth was always a Trojan horse to bring down the top rate. It is kind of hard to sell trickle-down, so the supply-side formula was the only way to get a tax policy that was really trickle-down. Supply-side is trickle-down theory.

What makes it all so sad is that some of the criticism that the administration leveled against previous Government policies was correct. Stockman said in that famous Atlantic Monthly article that the debate, the economic debate, began with two premises, which in my view were correct. First, he thought that liberal politics in its later stages in the 1970's had lost the ability to judge claims on Government, and so it yielded to all of them, creating what he called a constituency-based choice-making, which could no longer address national interests, including fiscal control.

Then he said that the way to change that was to curtail weak claims rather than weak clients. He correctly observed that key to political and economic success was to demonstrate that the administration would not just attack weak clients. We have to show that we are willing to attack powerful clients with weak claims, he said.

He was right. But how did he assess the final administration product? In describing the bidding war on the tax bill, which the administration finally won, he said, "The hogs were really feeding, the greed level, the level of opportunism just got out of control."

And what about the administration's original goal of curtailing weak claims? Did the tax and budget changes rammed through by the administration really result in attacking powerful clients with weak claims? Or did they wind up shooting the sick and the economy along with it?

Well, as the Atlantic Monthly article noted:

> What had changed fundamentally was the list of winning clients, but not the nature of the game.

The average American lost out, in other words, to the powerful, whose political clout ensured that their claims continued to be addressed no matter how unsubstantial they were.

So what is the record after the years of Reagan-Bush policies? What have they delivered? They promised us record economic growth when, in fact, at the end of his first 3 years in office, with an average annual growth in GNP of no more than 1 percent, the Bush administration will have the lowest economic growth on record. They promised us huge productivity increases, but productivity growth of roughly 1.1 percent over the last decade places us way behind our closest competitors.

They promised us more jobs and increased prosperity. But as this chart would demonstrate, in fact, under the Bush administration we have had lower average monthly job growth than under any President, going back to Eisenhower: 14,000 jobs created per month on average under Bush, 208,000 created per month under Carter, 174,000 created under Reagan. Even old Ike did better than that, with 43,500 jobs per month.

And if you take a look at the kind of jobs since January of 1989, 900,000 manufacturing jobs have been lost. The jobs being created are usually in the service sector, and they are characterized by low wages and no benefits. Today, two-thirds of those earning minimum wage are adults. Overall wage growth in the United States lags behind that of most other industrialized countries.

Now, the administration also claims that family income has made great strides in the past decade. But the reality is quite different.

It is true that many families have kept pace economically, but only by sending a lot of wives into the work force. In plain language, many families need two earners today to maintain the same living standard that was achievable with only the husband in the workplace a generation ago.

From 1973 to 1978, a male worker at the exact middle of the American wage scale saw the purchasing power of his wages actually decline by 2 percent after inflation.

During the 1980's, the real average income of a 30-year-old male who dropped out of high school had fallen 40 percent. Average income of the high school graduate has fallen, in terms of real purchasing power, by 17 percent.

The average income of a 30-year-old college-educated male has risen only slightly, by 5 percent—not 5 percent a year, but 5 percent over the entire decade.

From 1978 to 1988, average hourly earnings measured in terms of their purchasing power declined a full dollar, from $11.72 to $10.13, or nearly 16 percent, figuring both of those numbers in 1988 dollars.

That meant that the worker in the middle lost $2,000 in real purchasing power over the decade. And since President Bush has walked into the White House, per-person income has dropped some more, by $428, from $14,800 to $14,385, over the last 2 years, and that does not count the further drop that you will see this year.

The earnings of men who work full time have declined for the third year in a row.

Now, the administration will brag about the fact that women's pay in comparison to men's has risen over the past few years. But as this chart will show, that is not because women's wages have increased; it is because male wages have actually declined. That is the wrong way to go in evening up the difference.

Then we get to the question of overall income, and we see that the richest 1 percent in this society have doubled their income over the last 12 years from $300,000 to $600,000. While 80 percent of Americans have seen their income remain the same or drop. In fact, the richest 1 percent of all Americans have had more growth in income than 90 percent of American families combined.

And in fact, if you compare the numbers today, you will see that the richest 1 percent average $600,000 in income whereas the average income for all American families is $35,000.

Yet, since 1981, taxes on middle-class families have risen at the same time that the wealthiest 1 percent have had tax reductions averaging $80,000. This chart shows how the tax burden distribution changed over that same period. You see increases in virtually every tax bracket except the richest 5 percent, and the richest 1 percent has had a 12-percent reduction in their taxes over that time, amounting to $80,000 on average.

While middle-class workers are continuing to be squeezed and the poor are continuing to be crushed, the very wealthiest people are riding the gravy train. Not only does the Government not do anything about it, it promotes more of the same. And the evidence is all around us.

And yet, official Washington and the Bush administration has been telling us last year that we were not going to have a recession, and then after we got into it, they have kept telling us that we are out of it.

□ 1830

But the facts show the opposite to be true. One day after the White House called efforts to extend unemployment insurance compensation to workers who lost their jobs garbage. The Government's own numbers showed that the recession was continuing even as the Government was denying it. Jobless rates have increased to 8.4 million, up nearly 1.6 million since the recession began in July 1990, and nearly 6 million people are working part-time because they cannot find full-time work.

Long-term unemployment, those unemployed 154 weeks and longer, stands at 2.4 million Americans, about 850,000 above the July 1990 figure. Over the last 10 weeks, as President Bush saw fit to deny the long-term unemployed some help, roughly 700,000 additional Americans have exhausted their benefits. Up to 10 million American families will experience unemployment by someone in their family over the next year and a half.

Mr. Speaker, people are scared. Right now the number of persons who are unemployed and are without any unemployment compensation is larger than it has been in the last 40 years. And yet Government remains, as FDR once said, "frozen in the ice of its own indifference."

The number of people living in poverty grew by more than 2 million people over the same period. After 20 years of substantial economic growth, the poverty rate is higher now than under Nixon. One out of five kids is growing up in poverty, and those numbers are for last year. When the numbers come out for this year, they will be worse. People often talk about this problem as being a problem of racial minorities, but the fact is two-thirds of people in poverty today are white.

Now I am often accused of having a temper. I plead guilty, and these numbers leave me angry because what they show is what is happening to human beings behind the numbers. What deepens my anger is the insistence of official Washington and the administration in denying these facts and looking the other way while working people continue to get squeezed. That is not only immoral; it is lousy economics.

Mr. Speaker, this country will not keep decent-paying jobs in America if the Government does not stop being limp-wristed on the trade front, if Government does not start recognizing that Germany invests twice as much to train workers as does America and if it does not admit that taxes on the middle class are too high, while taxes on the very wealthy are too light.

Now I do not have anything against rich people. I think everybody ought to be rich. But I want tax burdens distributed fairly so that everybody can share in the American dream, and I want somebody to benefit in this society except the economic elite.

We cannot afford to allow the younger generation to be the first generation in the 20th century to wind up being less well off than their parents, but that is exactly what is going to happen if this systematic trend of disinvestment on the domestic side of the ledger continues.

It is time to recognize that the major threat to the United States is no longer a Russian soldier coming over the horizon. It is a German, or a Swiss, or a Japanese, or an Italian, or Irish worker in a modern plant who is able to take away American jobs because, while we have been spending money to defend Europe and the rest of the world, they have been investing in new plants, new equipment, worker training, preparing to knock our socks off on the trade front. If you do not think it has worked, just take a look at the trade deficit numbers today.

Mr. Speaker, since the budget summit last year a few things have changed. We had a major revolution. The Soviet Union is in disarray. The Warsaw Pact no longer exists. Germany is united. The Communist Party is legal in the United States today, but it is suspended in Russia. Those changes and others, it seems to me, have given us a second chance to reclaim our future.

Now some of us tried to begin that process last year. Last year, in the teeth of all of the evidence, the administration tried to pass a budget at the summit which took $30 billion out of Medicare and raised taxes on middle-income people by twice as much as it raised taxes on the very wealthy. A majority of Democrats said, "Hell, no," and we helped to bring it down, and out of that came a bill which was a lot more fair to the middle class. It put $20 billion back in the pockets of senior citizens on Medicare, and it raised taxes on the wealthy twice as much as it did on the middle class. It made marginal progress in redressing the unfairness in the Tax Code. It was a tiny start toward tax justice.

However, Mr. Speaker, it is not enough, and this year we need to go back to that fight again.

Yet the administration still has learned virtually nothing. Today the facts came out that the trade deficit is up 13 percent, industrial production is flat, inflation is up by four-tenths of 1 percent development, which ought to concern everyone, real earnings are up by a tiny one-tenth of 1 percent this month in comparison to 1.1 percent the previous month. We have an actual drop in hours worked. In fact, the economy is in a stall!

Mr. Speaker, the administration's response to that is to go back to the same old tired, "reward-the-gravy-train-boys" approach which they showed up within the budget summit last October. They want more capital gains, and 80 percent of the benefits under the President's last capital gains proposal went to the very wealthiest people in this society.

Oh, yes, the President talks about providing some help for first-time homebuyers under IRA's. Welcome aboard. That was in the Democratic tax package more than 1 year ago. But he is still missing the point.

What we need to do in the short term to restore a sense of confidence in Government fairness toward working families. And what we need to do to get the economy moving again is to provide a middle income tax cut. The best way to help this economy is to help working families. The best way to jump-start the economy is to put more money in their pockets.

That is why the gentleman from New York [Mr. DOWNEY], and the gentleman from California [Mr. MILLER], and I, and a number of others—I see the gentleman from Michigan [Mr. BONIOR] on the floor; he as well—are pushing the Working Family Tax Relief Act, a bill that would provide a tax cut averaging $800 for the families who need it most, those with kids who earn less than $75,000. To prevent adding to the deficit, we would pay for it by, among other things, imposing a 15-percent surtax on those with adjusted gross incomes over $200,000.

We need to do that, and we need to do it now. We should not wait until January. We should not wait until after the election. We ought to do it now, and the Democratic Party has an obligation to support that, and so does the Republican Party.

But over the long term we need to do more than that. We need to reorder our budget priorities so that we can make investments that are needed to rebuild America. Now that the Soviet Union has collapsed, we need a healthy cut in

military spending so that we can move more resources home to help us deal with our own education, our own economic investment needs and our own tax problems. We simply have to reinvest in our physical and human resources now in order to continue to be economically competitive in the future.

We have two bridges a day falling down in this country. We ought to do something about it. We need to pass the new highway bill which came out of the Committee on Public Works and the Committee on Ways and Means this week. And we need to have an administration that gets behind it rather than threatening to veto it.

We need to reinvest in our physical and human resources in many other ways. The Federal Government pulled the plug on education in the 1980's in order to push money into the military budget. Now that the military threat is largely evaporated, we need to bring some of that money back home to relieve the very property taxes which the Federal Government drove up when it pulled the plug on education. Local property taxes today are $11 billion higher than they would be if the Federal Government supported elementary and secondary education to the same degree that it did in 1980. We need to bring some of that money home and put it back into programs that will enable us to relieve the property tax squeeze for education at the local level.

□ 1840

We obviously need to do more than that on the educational front. We also have to raise education standards. We have to increase the length of the school year. We are not going to win the game long-term if we are on the field 20 or 40 days a year shorter than our competitors.

Worker training and employment programs have been cut over 50 percent in the last decade, and yet the President proposed to entirely eliminate the program that provides training for workers displaced by foreign competition and to reduce by over 200,000 the number of workers served by the Job Training Partnership Act.

In order to attain a high skills-high wage path for our economy, we need to be fully funding these programs, and we need to develop school work transition programs for our non-college-bound youth while simultaneously shifting economic rewards to people who deserve them the most.

The result of the economic policies that we have had has been to produce a massive disinvestment in the things that are crucial to economic growth at the same time that we have rewarded people who need help the least. The result has been fewer jobs at lower pay and a dimmer future for a growing portion of America's working families.

I know that many people who are well off do not want to hear about these problems. They just do not want to hear about them. It makes them uncomfortable. But the fact is that America has never worked when we have ignored the problems of our neighbors. America has always had a standard of decency and a belief in fairness which is being ignored today, and we have always tried to look at tomorrow, not just the next quarterly report.

We all have to work hard to reverse a decade of neglect, and we also have to look forward to policies which can rebuild America, but first we need a better balance in the way we spend our money. We need to retarget the scarce dollars we have and at the same time be tough enough to cut spending on programs that are outdated or were designed to protect us against a threat that no longer exists. And we need a better balance in the way this society rewards hard work.

In 1960, the year Jack Kennedy walked into the White House, the average corporation president for the 200 largest nonbanking corporations in this country, earned about 12 times as much as the average worker in that same plant. Today that same corporate president earns 75 times as much as the average worker in that same plant. That is simply not right. It is unjust, and it is lousy economics.

But most of all, what we need on the part of government is a better balance in whose problems are paid attention to by the government. The test of America has always been what we do for the greatest number in our society, not the greatest number of those with power and leverage. After 2 years of neglect, now the White House wakes up and discovers that not only is the country threatened by these economic problems but perhaps the administration's continued lease on the White House is threatened by the continuation of these problems. But they suggest that we do something about it by rewarding the people who need help the least, by rewarding the people who had the most benefits over the 80's. They continue to send the bill to the people who were not invited to the party in the 1980's, and it is time the Democratic Party and the House of Representatives stand up to that and say, "no more." And it is time that we insist that we get action, and action now, as FDR said when he gave his inaugural speech in 1932.

So it just seems to me, Mr. Speaker, that instead of watching the White House give a sugar pill to the average American family while it gives another martini to the rich, we have an obligation to keep pushing that unemployment compensation legislation until the White House is shamed into signing it, and we have an obligation to renew the fight which we joined last October to restore some tax justice to the middle class, because that is the most direct way we can not only restore fairness but to jump-start this economy at the same time.

The so-called budget summit deal which was agreed to a year ago is past history. It ought to be assigned to the ash can of history. It served a temporary, short-term purpose, but as I have said earlier, we have had an incredible revolution internationally since that time. That budget summit was designed to protect the defense budget from attacks. It was designed to keep the money flowing to the Pentagon. We do not need that much money there any more. It is time to bring it home and put some of that money into the pockets of middle-class taxpayers and put some of the rest of it into public programs to rebuild the investment portion of the budget which has been savaged over the last 12 years.

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

Mr. OBEY. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I would like to associate myself with my colleague's remarks and congratulate him for taking this time to raise this issue today and raise as many issues as he has raised this evening.

I am in sync with not only what you said and with the priorities you set, but with the tone of your remarks, which are sensible but which have a sense of anger in them and a outrage. And we should be outraged. The statistics you gave to us this evening with respect to income disparity, with respect to the neglect of the unemployed, with respect to what we have on our plate and what we are not moving, and what we should move, ought to outrage every American who is listening to the gentleman this evening.

I also want to make a statement, if the gentleman will yield further, on the question of unemployment compensation which he addressed in his remarks just a second ago. Last week, for the second time, the President blocked desperately needed benefits for millions of Americans. In July he killed benefits by refusing to declare an emergency. Last week he vetoed a bill approved by an overwhelming majority of Americans and by 300 Members in this body and 65 in the other body, and in both cases he demonstrated that unemployment just is not important enough to divert his attention from other issues. He justified himself with a cloud of rhetoric about breaking the budget.

I ask my colleagues, when did George Bush become so concerned about the budget. He did not mention it when he approved emergency spending for the Kurds. He seemed to have no qualms about breaking the rules to give millions to the Turks or the Israelis. He did not seem concerned about the budget when the sent literally hundreds of thousands of our men and women into battle last winter, but when these same

men and women returned, he failed through the sponsored bill he supports, the Dole bill, to take care of these same men and women who cannot find jobs when they return from service to their country.

The President was simply reminding us that Americans just do not qualify for the same special considerations as his friends abroad. The real irony here is the fact that unemployed Americans are not asking for any special treatment. We are not asking for anything that we do not have entitled to us. They simply want the President to release the money that is already in the unemployment trust fund. Eight billion dollars has been set aside for that purpose. The American people and the majority in Congress have twice called upon the President to release the trust fund. It is aptly named. It is properly named. It is a trust fund. And on Friday the President said no again. He clings to this fantasy that the recession is over and that those embarrassing unemployed workers are just going to fade away.

But we have heard from the gentleman from Wisconsin who has given us the growth figures over the last 40 years since Eisenhower. There is no growth in this economy. It is dead in the water. The statistics the gentleman gave us a second ago with regard to personal income, with regard to the inflation rate, and with regard to the number of unemployed who have exhausted their benefits last month, are scary, and they should be scary.

□ 1850

The President does not understand the deep trouble that the country is in. Twenty percent, the New York Times poll last week indicated, of the people thought this was the No. 1 domestic issue, unemployment. It is an interesting figure. One out of 5 Americans list this as the No. 1 problem, yet only 7 out of 100 people are directly affected by it.

This shows the amount of concern and anger and edginess that people have about this issue. They have someone in their family affected, or they are worried about their own job.

Now, we all know the pain, the mental anguish this causes. We all know people have trouble paying for their mortgages when they are unemployed, paying for their utility bills. Jobless workers are troubled deeply about this false sense of optimism that the President has put up in a bravado of real disguise. The real hoax that has been perpetrated on the American people has been the fact that the President has not awakened to the fact that he has got a serious economic problem and that he has tried on two occasions to mask this issue by, No. 1, last August, signing the bill that we sent him, but not releasing the funds; and No. 2, last week, vetoing the bill while the country was focusing its attention on the Supreme Court nomination process.

Cynicism, callousness, the height of it. I think that, quite frankly, Mr. Speaker, the President now is worried. He ought to be worried. He is worried about his own political hide, and he ought to be worried about it, because this issue is growing.

Twenty percent of the American people say that this is the No. 1 issue. Seventeen percent additionally look at the economy and say that is the No. 1 issue.

These are real people in this country who have problems. I want to read to Members, if I may, a letter that I received several weeks ago from a constituent of mine in Mt. Clements, MI. He lost his job and his unemployment benefits have run out. Listen to what he says about his family.

> We are educated people. I have an electrical engineering degree. To serve my country, I did a tour in Vietnam. Now I need help. With a wife and three children, we are living with shattered dreams and fright from day to day. My savings are gone and we may soon have to put the home we worked 18 years for on the market. Is there any hope in sight?

Yesterday, in the Detroit newspapers, I picked this up from a woman who reacted to that veto. This is a woman who is 60 years of age, worked 42 years. She is a resident of Lathrup Village. With only two more unemployment checks due her, this is what she says.

> It stinks. If this recession is over or if it is going to be over, it is going to take time. Some people are going to need financial support. I haven't the foggiest idea of what I will do now. I am not as bad off as other people out there, but I will be. It is scary. I really feel sorry for people with small children. I am very upset with the President. He doesn't seem to care about people.

She indicated in the article that she voted for George Bush last time. Would she support him in the future? Absolutely not. She urges voters to write Bush and their Congressmen about their anger over the veto.

Or Joseph Chronowski, a 34-year-old resident in my district in Roseville, who lost his job of 12 years when the Borden Dairy plant in Madison Heights closed down last December. He says:

> I was counting on that 20 weeks. I am a little worried about it. It gets a little depressing when you go to an interview and find hundreds of people waiting for the same job.

Mr. Speaker, Members have hundreds of these letters, thousands of these letters, from constituents, asking us, asking the President, to do something about this unemployment situation, to do something about the economy.

The Bureau of Labor Statistics says that 8.4 million Americans are unemployed today. The gentleman from Wisconsin [Mr. OBEY] knows as well as I do that that figure is much higher. Structurally we have had literally thousands, if not millions of people, dropped from the rolls. During the last 12 months, 3.1 million Americans have exhausted their unemployment benefits. According to the Labor Department, that number could jump to 3.4 million next year.

These are people who are out of work because of George Bush's recession. They have run out of unemployment benefits, and now they are suffering from the President's rather insensitive and callous veto.

After this week there will be no State in the Union that will be eligible for extended unemployment benefits. Despite these record-breaking statistics, the President and his advisers have decided that these issues are trivial.

We have got the Secretary of Treasury saying that this recession is, "no big deal." It is no big deal to him. We have got the OMB Director saying that people stay on these extended unemployment benefits so they do not have to go to work, not understanding the dignity of work and how important it is to these people I have just quoted in my statement, and literally millions of others who look for work as a source of providing not only for their families, but for their own self-worth.

Mr. Speaker, the cruelest and most cynical hoax of all is the President's so-called alternative to our Democratic plan on unemployment. I would just like, if I could, to address that a second, and perhaps even engage the gentleman from Wisconsin [Mr. OBEY] as to his reaction to it.

The so-called Dole unemployment bill which the President has given his reluctant and last minute support to is just another bit of trickery. Let us strip away the cynical rhetoric and gimmicks and look at what the Dole bill actually does.

First of all, the proposal only covers a tiny fraction of the jobless Americans who really deserve and need help today. Under the Dole proposal, most of the long-term unemployed workers who have exhausted their benefits over the last 6 months would receive no benefits at all. In fact, only 14 percent of these workers would receive benefits if the Dole bill was adopted today—14 percent.

Furthermore, the Dole proposal entirely eliminates benefits for many veterans. According to a recent study, the bill would deny a half a billion dollars in benefits to veterans over the next 5 years.

It gets even more ridiculous. Under the Dole bill the States with the highest unemployment rate, like Michigan, where my district has 11 percent unemployment right now, as well as 9.7 statewide, Michigan, the highest unemployment rate States, are ineligible to reach back for benefits for people who have exhausted theirs.

States like New Jersey get additional benefits, States with low unemployment rates.

I do not understand what rationale, what logic, went into putting this proposal together. When the President says the Dole bill pays for itself, the gimmickry reaches epic proportions. The benefits in the bill depend upon some cockamany scheme to sell radio frequencies at fire sale prices. It contains a deceptive attempt to count school loan repayment years before the money is actually even repaid.

Mr. Speaker, I just do not understand why all these smoke and mirrors, why all the hair brain funding schemes. Why not just give the jobless workers the benefits they have already paid for from the $8 billion that is in the trust fund that was set aside for this purpose? The Dole bill is just one more trick in the latest of a long line of deceptive tactics to divert attention from the simple truth: President Bush and his friends in Congress just are not interested in the problems of most Americans. They are interested, as the gentleman from Wisconsin [Mr. OBEY] said, in taking care of those who got theirs during the eighties, those people at the top. Capital gains for the wealthy. Let us keep the money flowing. Let us try this trickle down a little bit more.

What we need, as the gentleman correctly indicated a little earlier, is a little bubble-up. We need to give the breaks, the tax cuts, to middle income Americans. Eight hundred dollars a year in the proposal that the gentleman from Wisconsin, the gentleman from New York, and the gentleman from California [Mr. MILLER] has sponsored. That is what we need to get this economy moving again. Not trickle-down capital gains, 80 percent to the wealthiest group of people in our country. Not more money for those people at the top 1 percent of our population making literally hundreds of thousands of dollars a year, getting about a 122-percent increase in after-tax income over the last decade.

Mr. Speaker, they had their day. They had their day. Now it is the turn for the middle class working families in this country.

We need to get that bill out on the floor, we need to debate it, and we need to get it over to the White House. We need to do this unemployment bill again, and we are going to do it again, and we are going to get it to the President, and, hopefully he will sign it. If he does not sign it, we will hopefully get enough Senators to join us. We just need two more to get those compensation benefits.

We need to do the highway bill. As the gentleman from Wisconsin [Mr. OBEY] indicated, two bridges fall apart every day. Sixty-one percent of our roads need repair. There are 2 million jobs in that bill, 2 million jobs in that bill over a 6-year period. That is an economic program, an economic stimulus program we can put into effect in short order.

□ 1900

I would also join my colleague in calling for property tax relief at the local level to take care of the schools, making sure that the benefits to our educational system are not harmed. The property tax rates in this country have gone and accelerated to ridiculous proportions to the point where people cannot buy a home, young families and older people cannot stay in their homes.

I am personally leading a statewide petition to drive to get on the ballot a proposal that would put between $500 and $600 in the pockets of middle-class homeowners in the State of Michigan and would not touch the schools because it would close two business loopholes to pay for it, loopholes that were given to large corporations, the same folks that got all the breaks over the last 12 years.

Mr. Speaker, I want to join my friend from Wisconsin in his call for support for working middle-class families and his agenda and his timeliness of his remarks in terms of moving that agenda soon and ask the American people and ask my colleagues to call the President, to write the President, to make him understand that we are in a deep and a prolonged recession.

We need help. We need it now. We need to get moving now on this economic program.

People like the gentleman I referred to, the Vietnam veteran and his family, who are going to lose their home, Mr. Chronowski, who is afraid that he is going to lose what he has for his family. Mrs. Ferman, a 60-year-old woman who has worked 42 years, who is out of work now and has not the foggiest idea what she is going to do in the future because of this situation. They need our help.

We are here to provide that help, and I commend my colleague for his remarks in addressing their concerns and their needs.

I want to tell him that I look forward in the next 5 to 6 weeks, that I suspect we will be around here, to moving the agenda on employment in this country, to get this country back to work. I thank him for his patience in standing and yielding to me on this issue.

Mr. OBEY. Mr. Speaker, I thank the gentleman. I just have one observation.

I served with a fellow in the State legislature a number of years ago by the name of Harvey Duholme. Harvey observed once, he said, "You know, the problem with this country is all too often the poor and the rich get the same amount of ice but the poor get theirs in the wintertime."

That is pretty much what the President's tax package reminds me of. It is not just the poor that are ignored under that tax package. It is the average middle class taxpayer, the average middle class worker as well.

I do not know how the President stays in touch with the public. I understand they pool all the time. Well, that is one way of doing it.

The way that I do it, among others, is that I as often as I can simply get out and knock on some doors in different neighborhoods so that people have an opportunity to cut through the filter and tell me directly what it is that is bugging them or give me their views on issues.

If we do that enough, we will soon understand that the average American is not looking for any handout. The average American wants to know that his or her work is rewarded. That is what they want to know.

What they are frustrated by is that when they work, husband, wife, kid, when they are all in the work force and they still, at the end of the month, cannot make ends meet, when they see that they cannot afford to send their kids to college and get any help under the Pell grant program, for instance, if they make more than a modest amount when they see that they cannot afford to keep paying their health insurance, when they see the cost of that rising through the roof, they do not see the Government paying attention.

I would simply hope that now that the Nation has gotten away from the television show that we watched over the weekend on the Thomas confirmation hearings, I would hope that this city and this Congress and this President will get back to the business of focusing on the problems of the average American. That is what they expect us to do. That is what they need us to do. That is what we have to do if the country itself is going to be in better shape.

It seems to me that it is essential for us to do that.

I also think that the public has to understand that in the end none of this is going to be possible without cooperation rather than obstruction from the White House. While I do not like it, the fact is that going all the way back to Harry Truman's time, no Congress has ever been able to change any President's budget by more than about 2 percent.

What we can try to do is prick the conscience of the White House, to point out the facts, to put on some pressure and try to be messengers of the public to those on the throne in the White House.

The White House seems to almost redefine the Presidency. They are trying to con the American people into thinking that the President is only in charge of the rest of the world but somehow he is not in charge here in his own country, that he is not responsible for the day-to-day actions of government, the administration of government.

The Congress does not administer the laws. The Congress cannot make agencies do what needs to be done. All we can do is pass legislation and hope that it is effectively handled.

We need more help from the White House in focusing on the real problems

of average Americans, and we are not going to get that until the average American demonstrates clearly that he and she understands that without White House involvement, deep involvement, this simply is not going to get done.

Mr. BONIOR. And they expect us to deliver that message as we are doing tonight and in other ways to prick the conscience of the administration with regard to these problems.

The gentleman is absolutely correct. The American people are squeezed on a number of fronts, many of which the gentleman has mentioned. When we go back to our congressional districts, and I hear this from my colleagues every day when they come back on Monday from a weekend at home, four or five town meetings, people are talking about the same thing.

They are talking about the squeeze in health care. They are talking about the squeeze in terms of being able to provide for their child's education, perhaps a college education. They are talking about the tax squeeze. They are squeezed to death.

They do not have enough money to make ends meet at the end of the month, and they want the President to deal with the situation in a realistic way.

They want his attention. They want his attention. The President has not given his attention to the American people.

He has given it to the Mideast. He has given it to the Soviet Union. He has given it to the war that we had last year. He has given it to the Kurds, the Bangladeshis. He has given it to Red China, but he has not given it here at home.

People want him to focus here on the problems in America. People want him to start taking care of our own here at home. The President has to understand that.

We will continue to take that message to him. It is one of the great political tragedies on legislation that I have had to witness in my almost 20 years of elected public life that the President, under these dire economic situations in this country today, with almost 10 million people out of work with no hope, the economy flat as it is, would veto an unemployment compensation bill twice in a row.

He vetoed it once. He signed one before, but he failed to release the money for it. It is even worse than a veto because it was a cruel hoax. He said, "No," twice to the American people.

Yet in the same breath he has said "Yes," to people around the world. I do not understand that.

The American people do not understand it, and they are angry. And they are mad, and they are looking for some hope.

I hope that we as a party, with my friend's support, will bring together a package, a highway bill to put people to work, tax relief so we can get some bubble up in this economy to get money in people's pockets so they are spending, saving, providing for their families to get their economy moving again and to take care in the short term of the needs of those people who through no fault of their own, 10 million of them have been thrown out of work by this cruel, long, debilitating recession that we are in.

I thank my colleague for yielding to me to express our views on this important issue.

VACATION OF SPECIAL ORDER

Mr. KYL. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order previously requested for this evening and convert it to a 5-minute special order.

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

There was no objection.

BRAY VERSUS ALEXANDRIA, A CLEAR CHOICE; VIOLENCE OR LAW AND ORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today 1 day after the Senate confirmed a Supreme Court Justice who would not make clear his views on Roe versus Wade, the Supreme Court is hearing arguments in the first abortion-related case of its 1991 term. While it is not the only case that will come before the Court, it raises the very troubling prospect that the Court may issue a ruling that ties the hands of Federal officials to protect access to family planning clinics. The case is Bray versus Alexandria.

At stake in this case is not just access to abortion services in Alexandria, VA. but access to clinics around the country including Wichita, KS, Iowa City, IA, and my own district of Westchester County, NY. The principle at stake in this case is clear. It is the protection of clients of family planning clinics throughout this Nation from harassment and even violence as they try to enter those clinics.

Letters cited in an amicus brief in the Bray Case are replete with tales of horror growing out of Operation Rescue demonstrations. They include countless reports of people—exercising constitutionally protected rights—pinned against walls, tripped and trampled, held hostage, and threatened with sticks, clubs, and worse. The demonstrators have engaged in "mob action and terrorist behavior * * * similar to the conspiracy of violence and intimidation carried out by the Ku Klux Klan," according to the brief.

The demonstrators have left us no choice but to believe that they care little, if at all, about the lives of those seeking help from those clinics. In one case, Operation Rescue demonstrators blocked a woman diagnosed as diabetic whose physician had determined an abortion was medically necessary. In another, protestors stood in the way of a laminaria patient who had to have an abortion that day or risk serious complications. Another had come to a health clinic for further screening after an abnormal pap smear to determine if she had cervical cancer.

Just as real as the physical abuse is the psychological brutality which these demonstrators inflict: screaming at women and their children, "Do you want to kill this one too?" Incessant name calling and threats to personal safety. No one should be subject to such verbal abuse as they seek to exercise their constitutional rights.

In the face of such abuse, one would think it appropriate to turn to Federal authorities for protection. Who is better suited to protect our constitutional rights than Federal marshals? And that is what judges in Alexandria and Wichita have tried to do. They have sought to apply to this situation a post-Civil War law which protects classes of people from being subjected to concerted efforts aimed at violating constitutional rights.

Yet our Justice Department's and our President's response is almost as infuriating as these protests themselves. In the Justice Department brief, former Attorney General Thornburgh argued that this is "a matter properly handled in State and local courts." During the Wichita fiasco, the President said this is not "A matter for the President to be concerned about, especially on the first day of his vacation." This vacation is over, and in my view while this case is before the Court, it seems to me that the President should speak out strongly in support of protecting the right of every American to avail herself of her constitutionally protected right to choose. But in all candor, I do not expect that to happen.

The Justice Department bases its brief in the lower court cases on the faulty premise that the Operation Rescue activities do not represent A class-based, invidiously discriminatory animus. They argue at great length that the women of this Nation—the only ones who could even need to exercise the right to choose abortion—are not a class to be protected under Federal law. While the courts have recognized that women are a target of discrimination in other cases, the Justice Department had decided to cast its lot with mob action and against law and order in this instance.

And the Justice Department position is in line with its provisions on record. We all recall that they argued strenuously in Rust versus Sullivan that it was within bounds to prevent doctors in federally funded health clinics from fulfilling their hippocratic oath by not allowing them to tell their patients about the abortion option. Surely it is, to them, a logical though frightening extension of that reasoning to say that these mobs should be permitted to systematically use physical and psychological violence to blockade the abortion option.

While we might not be able to sway the administration by calling for the protection of constitutional rights or by explaining the emotional and physical impact these protests have on women's lives, they should look at the fiscal implications of their hands-off policy in not responding to those who seek to obstruct Americans in exercising their right.

Police protection is expensive. Our local governments are already under severe financial strain. Many are being forced to cut back on services including police protection. In my own district of Westchester County, the governments have spent upwards of $300,000 this year alone on police protection for its clinics. Why? Because Federal officials will not stand up for what is right. They will not stand at the side of those who want to exercise their rights.

In this case, the Supreme Court has an opportunity to bring the power of the Federal Government to bear in protecting American citizens. As the eight Justices hear this case today, I hope they will be swayed by those arguing on behalf of the women of America. What we ask is simple. We want to be able to enter health care facilities and make medical decisions freely, without being blocked and harassed by individuals who know nothing of the reasons behind our decisions, but who are intent on taking away our right to choose. American women have the values, the judgment, and the intelligence to make choices about reproductive health care without being threatened and browbeaten by those who object themselves to abortions. They are entitled to their views, but not to imposing them on others through harassment and violence.

STOP THE SQUABBLING OVER BALTIC TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, last August, millions of Americans joined with the people of Latvia, Lithuania, and Estonia in celebrating their emergence from tyranny.

Now, the people of the Baltic Republics are struggling to overcome the economic disaster spawned by 50 years of exploitation by the former Soviet Union.

Recognizing the need to encourage this process, I have joined nearly 100 colleagues in cosponsoring House Resolution 3314. This bill would restore most-favored-nation trading status to the Baltic Republics, a condition that was authorized by treaties in the mid-1920's, but later suspended to prevent the Soviets from exploiting the Baltic people. This bill won't require any Federal funds, but it will help the Baltic people to implement market reforms.

Unfortunately, a recent political squabble between Members of Congress and the administration has put this bill on hold. While the questions involved in that dispute go beyond the issue of trade with the Baltic Republics, they do not outweigh the urgent need to pass this bill. The people of the Baltic Republics have suffered too long to endure additional delays.

Anyone who doubts this view should read "Three Days in Riga," an article published in the November edition of the American Spectator. This story details last August's failed coup in the Soviet Union through telex messages from Latvia that were received by Ojars Kalnins at the Latvian Embassy in Washington. Excerpts of these telexes follow:

Monday, August 19, 1991:

05:36 EST: For the time being all is calm in Riga. According to latest reports the commander of the Liepaja Garrison has seized the executive council of the city of Liepaja. (Republic of Latvia President Anatolijs Gorbunovs went on radio at 11:00 urging people to maintain calm and not to obey any orders given by illegally formed ruling structures. (FM)

05:42 EST: An emergency parliamentary session will begin at 12:00. There are unconfirmed reports of armored vehicles in Riga. The situation is generally still calm. As soon as we have new information we will send it without delay.

Tuesday, August 20:

04:09 EST: The parliament and government are working. We are cut off from phone contact. Telex is still working. Reports we have indicate that a journalist and Supreme Council deputy Aivars Berkis were injured during the takeover of the radio. The city is quiet. Armored vehicles are only on the bridges. Supply trucks are not being allowed out of the city. (FM)

10:33 EST: Latvian Republic Foreign Ministry Announcement: 'The attempted military coup of August 19, 1991 by Soviet Bolshevik military powers is in reality open aggression against the Latvian Republic and the other Baltic states. In Riga, the interior ministry has been taken by force, all communications have been blocked and television and radio centers have been occupied. The Latvian Republic and its governing bodies have been effectively shut off from the rest of the world. (FM)

12:26 EST: Three are dead, two or more are injured, but not seriously. This is since yesterday. The Supreme Council has not been taken, but rumors are spreading * * *. We will keep sending, for we don't know when we'll get cut off from the outside world. Ojars, if you can, please answer as soon as you receive this telex. (FM)

Wednesday, August 21:

08:28 EST: I've found a telex that works. It's a private business that hasn't been disconnected. This is the only way we can maintain contact. Today tanks approached the Supreme Council building and 10-15 OMON soldiers released tear gas and appeared to be ready to seize the building, but then retreated. I don't know what will happen next. People are on strike, but it's hard to tell how many. The Supreme Council has adopted and released a new declaration of independence, without a transition period. (FM)

16:10 EST: The situation in Riga is becoming normal. The paratroopers have left all occupied buildings: radio, TV, international telephone central. All war materiel has been removed from Riga. Latvia TV and Radio are working again. The Foreign Ministry will begin working again at 7:00 GMT. We will all be in our places. Thank (Latvia's charge d'affairs in Washington) Dr. Dinbergs for the congratulatory note on our declaration of independence. (FM)

Mr. Speaker, after the Baltic Republics finally regained their independence, our attention shifted to other matters. This left the long-suffering Baltic people with the daunting task of rebuilding their homeland. As the world's leading democracy, the United States of America has a moral obligation to help the Baltic Republics. There is no justification for this Congress to delay the restoration of most-favored-nation trading status to Latvia, Lithuania, and Estonia. I urge everyone involved with this issue to settle their differences so we can move forward on H.R. 3314.

HUMAN RIGHTS IN MEXICO—ITS EFFECT ON THE PROPOSED TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes.

Ms. KAPTUR. Mr. Speaker, I rise today to speak about some very troubling concerns regarding the state of human rights in Mexico, and its effect on the proposed trade agreement between the United States, Mexico and Canada. I rise also in memory of United States drug enforcement official Enrique Camarena Salazar, who was tortured and murdered in 1985 with the complicity of the Mexican police.

A review of the New York Times supplement on October 6 gives a truly chilling picture of political conditions in Mexico, where human rights violations are flaunted to suppress critics of the Government. Many of my colleagues may have already seen the startling expose of official police corruption in Mexico by New York Times Mexico bureau chief Mark Uhlig in the magazine section. I would like to submit sections of this article for the RECORD. Mr. Uhlig writes that, once Mexican police officials became aware that he and his assistant were in the possession of information regarding police corruption, they were the subject of intimidation. According to Uhlig, "Notoriously sensitive to press coverage, Mexican officials expect local news media to withhold unflattering information. Journalists who ignore this rule do so at their own peril." He goes on to cite the torture and assassination of a Mexican journalist and human rights investigator, respectively.

The point of this article is that the Mexican Federal Judicial Police is deeply, systemically—with examples from top to bottom—infiltrated by corrupt officials in the pay of drug mafia and that the judicial system doesn't work. Writes Uhlig, "Relatively few corrupt Mexican officials ever spend time in jail, and when they do, it is often for minor related offenses that serve principally to cut short investigations of their serious crimes."

Indeed, charges of judicial impunity for government officials has been the major criticism of Mexican human rights organizations, including the well-respected Commission for Defense and Promotion of Human Rights based in Mexico City. The New York Times article observes:

Such pervasive wrongdoing contrasted sharply with a refurbished national image that Mexico has recently tried to project. Since taking office in late 1988, President Carlos Salinas de Gortari has relied on strong economic initiatives to quell most foreign discussion of Mexican corruption and human rights abuses. Buoyed by a personal friendship between Salinas and President Bush, the Mexican Government has won Washington's commitment to a new North

American free-trade-agreement that would make Mexico a full economic partner with the United States and Canada. "President Salinas' bold economic reform and modernization program is a model for countries in this hemisphere and other countries around the world," declared Secretary of State James A. Baker 3d last month in Mexico City. But for average Mexicans, who have long suffered the predations of their own public servants, the Matamoros episode was a dark reminder of the rot that lingers behind their Government's polished new exterior.

Yet, why is the Bush administration proceeding full steam ahead on a free trade agreement with Mexico that has no provisions relating to human rights nor freedoms. I ask, how free can such an agreement be?

And now, within the past month, prestigious international human rights organizations have lent their own voices to what is happening in Mexico.

Mexico: Torture with Impunity was released by Amnesty International on September 18. The report documents the use of torture techniques during the great majority of police detentions, as well as targeting political opposition leaders, journalists, indigenous people and labor and human rights activists. Amnesty International concludes:

The principal factors which facilitate the practice of torture by law enforcement agents in Mexico are: constitutional safeguards are routinely violated; aspects of the Mexican criminal justice system foster the use of torture; investigation and prosecution of the perpetrators is rare and the victims of torture and their relatives are provided with few and inadequate means of seeking redress.

In his letter to Members of Congress, Amnesty International Washington director James O'Dea announced Amnesty has launched an international campaign against Mexican impunity. He wrote, "I hope that you do everything you can to ensure that human rights are not left out of any discussion on Mexico."

Unceasing Abuses: Human Rights in Mexico One Year After the Introduction of Reforms was released by Americans Watch [AW] in September 1991. While lauding reforms such as the banning of confessions not made before a judge or public prosecutor and the establishment of the National Human Rights Commission, AW concluded that crucial steps to check rural violence, judicial impunity and on-going violations of the rights of freedom of expression and association—particularly of labor and political activists—have not been taken. The report concludes:

Negotiations for a North American Free Trade Agreement (NAFTA) are proceeding without any publicly acknowledged discussion about human rights conditions on either side of the United States-Mexico border. . . . we are disappointed that both governments are ignoring this extraordinary opportunity for bilateral cooperation to focus attention of and assist Mexico in bringing about an end to human rights abuses.

Mr. Homero Aridjis, president of the Group of 100, a Mexican environmental group, wrote in an op-ed in the New York Times on October 7, "Even defending dolphins in Mexico has been a risky business. I have received death threats and been attacked in the press. Criticizing the slaughter is unpatriotic * * *", he laments. Mr. Aridjis concludes with a plea that "environmental issues be an integral part of talks on the United States-Mexico free-trade pact."

Finally, with regard to political rights, I wish to remind my colleagues of the very disturbing results of midterm elections in Mexico held this past August 18. On September 17, our distinguished colleague JOHN LAFALCE hosted a forum on the midterm Mexican elections, with independent views presented by experts Andrew Reding, World Policy Institute, Douglas Payne, Freedom House, and Carlos Heredia—Equipo Pueblo. All three analysts agreed that the elections were seriously marred by fraud, with the objective of the ruling PRI party—with its satellite parties—to gain a two-thirds majority in the Chamber of Deputies. This majority was achieved. Reding suggests that this majority was not necessary for President Salinas to achieve his economic program—he already has the support of the right-leaning PAN for that—but for his political program, which may include a constitutional amendment to permit his own reelection.

Aspects of the fraud included: selective withholding of the voter credential; ballot-box stuffing; annulment of ballots; banning of pollwatchers from their assigned sites. Until the Federal electoral commission is reformed and not presided over by the Minister of the Interior, we cannot speak of free and fair elections in Mexico. Only Cuba and Mexico do not permit access to international observers.

Finally, the election observers spoke of the Mexican elections as being inherently unfair because of the enormous advantages enjoyed by the ruling party. Heredia mentioned that, in addition to receiving the lion's share of official campaign financing—by virtue of being the winners of the last elections—the PRI receives government funding which is not accountable by Mexican laws. It is estimated that about $1 million per night was spent for PRI's TV prime time advertising for the three months leading up to the elections.

I believe it is incumbent on the United States Congress to respond to this staggering display of recent documentation of human rights abuse in Mexico. Frankly, human rights remains an obstacle to the establishment of the bilateral trust necessary for developing a North American free trade zone and will remain one as long as there remains the evidence of a lack of political will in Mexico to correct this dismal state of affairs. The United States stands for Democracy and we must insist on democracy as part of the terms of entering into a free trade agreement with Mexico. How can we promote free trade while ignoring the inherent right of Mexicans to be free.

Mr. Speaker, I want to submit for the RECORD an article by John Burstein of the Center for International Policy published in the Orlando Sentinel that outlines the importance of linking human rights and electoral reforms in Mexico with any potential trade agreement entered into by the United States with that country. Let me quote from the article:

Mexico's human rights record is a highly appropriate concern of Washington in the context of our deepening bilateral relations. There already exists an array of U.S. law that conditions U.S. foreign policy on respect for human rights generally. And, by the U.S. International Financial Institutions Act, violations of internationally recognized labor rights constitute an unfair trading practice, a determination which prohibits special bilateral benefits.

And yet the Bush administration is intent on concluding the free-trade agreement in the shortest time possible—requesting the House Ways and Means Committee and the Senate Finance Committee to support "fast track authorization"—and to limit the issues under discussion to tariffs, intellectual property and investment.

Labor rights ought to be specifically included in the agreement. If not, labor exploitation on contravention of internationally recognized results will continue and likely expand along with the expansion of foreign-owned industry.

Similarly, acceptance of political and human rights monitoring and international dispute resolution mechanisms ought to be a condition of closer bilateral relations, to ensure stability and in accord with stated U.S. policy goals generally to promote respect for human rights and democracy.

We must in the body of the agreement insist on conditions for a free trade agreement with Mexico, and one of these conditions must be the acceptance of political and human rights monitoring and international dispute resolution mechanisms. The social dimension of the North American Free Trade Agreement cannot be ignored and cannot be separated from trade. It must be considered concurrently with the notion of opening investment and trade. I urge the administration to take this opportunity to set the standards and define the international instruments to guarantee internationally recognized human rights as party of any North American free trade agreement.

Mr. Speaker, the article referred to is as follows:

[From the New York Times October 6, 1991]

BEHIND A MEXICAN PRISON UPRISING: TWO WARRING DRUG LORDS AND CORRUPT POLICE ON EITHER SIDE

(By Mark A. Uhlig)

By nightfall, the toll from the eight-day-old prison uprising in Matamoros, Mexico, had reached 18 dead. The man holding the police and soldiers at bay was one of Mexico's

most notorious imprisoned drug lords, 29-year-old Oliverio Chavez Araujo. When I arrived in Matamoros with Silvana Paternostro, a New York Times stringer, the prison siege loomed like a classic showdown between a cornered criminal and the massed strength of Mexican law enforcement. But as the standoff continued, it became clear that the true story of the siege remained hidden from view.

Chavez asserted that he had ordered the prison takeover to protect himself from corrupt Mexican police officials seeking to kill him. In another country, such claims might have been dismissed as a desperate ploy. But in Mexico, where police corruption has played a role in nearly every recent major crime scandal, the allegations aired the ring of truth. The drug lord's accounts corroborated allegations by American law enforcement officials that Mexican police had participated directly in the brutal drug war that had provoked the prison takeover.

Such pervasive wrongdoing contrasted sharply with a refurbished national image that Mexico has recently tried to project. Since taking office in late 1988, President Carlos Salinas de Gortari has relied on strong economic initiatives to quell most foreign discussion of Mexican corruption and human rights abuses. Buoyed by a personal friendship between Salinas and President Bush, the Mexican Government has won Washington's commitment to a new North American free-trade-agreement that would make Mexico a full economic partner with the United States and Canada. "President Salinas' bold economic reform and modernization program is a model for countries in this hemisphere and other countries around the world," declared Secretary of State James A. Baker 3d last month in Mexico City.

But for average Mexicans, who have long suffered the predations of their own public servants, the Matamoros episode was a dark reminder of the rot that lingers behind their Government's polished new exterior. Because protection from criminal harm is so central to the functioning of a modern society, its absence carries over to virtually all aspects of Mexican life. In politics, police corruption opens the door to fraud and intimidation; in a civil lawsuit, it can mean systematic payoffs even for the right to bring a case to trial; in the business world, it can mean weekly gifts for the local telephone repairman to prevent him from shutting off service, and for a homeowners, it can mean regular graft to the local inspector to ward off trumped-up "building code violations."

Feared and mistrusted by average citizens and by their own civilian commanders, Mexico's police are described by international human rights organizations as an important cause of violent crime in the country. According to Amnesty International, at least 80 percent of suspects arrested by Mexican police are subjected to torture. Thousands of Mexican citizens each year are robbed, raped or blackmailed after falling into police hands, and dozens, perhaps hundreds, are killed outright.

With the explosive growth of cocaine trafficking across the porous border between Mexico and the United States, the involvement of corrupt police officials in major crimes has mushroomed, extending from the torture-slaying of a United States drug-enforcement agent, Enrique Camarena Salazar, to the bizarre rituals of a sacrificial drug cult that was broken up in 1989 after it had murdered at least 15 people, including a vacationing American college student.

But if history is any guide, the men in charge of Mexico's current anti-corruption campaign will be the principal targets of the next. The officials brought in to clean up the federal police in the early 1980's were later indicted for helping to plan the torture and murder of Enrique Camarena. Senior police commanders who helped resolve the Camarena case were subsequently revealed to have ties to the so-called narcosatanic drug cult. And just two years before the Matamoros prison uprising, the city's entire federal police detachment was imprisoned for corruption and replaced. "There is no easy way to change a system like this," said a senior Western diplomat in Mexico City. "After so long, the dirt is the glue that holds everything together."

Chavez's arrival at the Matamoros prison coincided with a fundamental shift in the tactics employed by Colombian cocaine producers. Faced with increasing interception of drug shipments across the Caribbean, cartel leaders had begun to reorient their trade toward the United States-Mexico border, where local couriers could ferry the drugs to American destinations in trucks or even backpacks. Organizing such shipments through friends and relatives outside the prison, Chavez found he could earn up to $4,000 for every kilogram (2.2 pounds) of cocaine he successfully smuggled. His gang was transporting more than 2,000 kilos a month, earning the young drug lord roughly $100 million a year.

Following Mexican prison practice that permits wealthy inmates to buy privileges from their jailers, he obtained control of a cell block intended for 50 men, furnishing it with carpeting, cellular phones, a fax machine, a microwave oven, a refrigerator, airconditioning, wood paneling and a color television. Such flagrant corruption infuriated American drug agents across the border in Texas who were tracking Chavez's smuggling business. But Chavez's drug dealings could have gone unimpeded if he had not begun to infringe on the territory of Mexico's most powerful and established cocaine trafficker, Juan Garcia Abrego.

Garcia Abrego expanded his smuggling operations to epic proportions. According to a 131-count Federal indictment handed down in Dallas, his gang was responsible for the second-largest cache of cocaine ever uncovered in the United States—a nine-ton (18,000 pounds) mountain of drugs captured in October 1989 near Harlingen, Tex. At wholesale prices, that stockpile was worth more than $360 million. The greatest potential threat to Garcia Abrego and his gang was not the risk of arrest but competition from the region's brash newcomer, Oliverio Chavez. So Garcia Abrego moved to strike back.

In case after case, members of the Chavez gang were found dead after being taken into custody by the Mexican federal police. Any remaining uncertainty about the police role in the killings were erased on May 9, 1991, when two of Chavez's Colombian associates were released from the Matamoros prison for deportation. While they were being processed at a Mexican immigration office in Matamoros, the Colombians and their Mexican legal worker were arrested, shackled and taken away by armed men identifying themselves as Federal Judicial Police. Five days later, the corpses of the Colombians and the Mexican legal worker were found dumped on the American side of the Rio Grande. All three had been executed with a heavy-caliber machine gun.

The discovery of the bodies on American soil outraged Brownsville officials. But as frightening as it may have seemed to Americans, the image of badge-carrying assassins was hardly a novelty in Mexico. The criminal potential of such a system was dramatically illustrated in 1985, when American investigations into the kidnapping and murder of Enrique Camarena revealed complicity by Mexican police officials in nearly every aspect of the crime and its subsequent coverup. Virtually all of the major drug-trafficking figures implicated in the murder had been issued police credentials from Mexico's Federal Judicial Police or from the Federal Security Directorate, a new-disbanded federal police unite known by its initials D.F.S. Mexico's highest-ranking police official, Manuel Ibarra Herrera, who was in charge of investigating the case, was later indicted in the United States for direct involvement in planning Camarena's death.

After a bitter, extended exchange of recriminations over the Camarena murder, the United States and Mexico agreed to put the case aside and to focus on rebuilding their badly strained relationship. But the episode did little to change Mexican police behavior. Many of the country's most spectacular criminal cases have centered on police wrongdoing. Arturo (El Negro) Durazo Moreno, the police chief of Mexico City, fled the country in 1982 after a binge of corrupt activities that paid for lavish mansions, personal helicopters, dog kennels, horse stables, a casino and even a private discotheque with live-in disk jockey.

In the country's most notorious recent assassination, unidentified gunmen killed one of Mexico's best-known newspaper columnists Manuel Buendia, on a Mexico City street in May 1984. The man who was later tried for masterminding the killing was Jose Antonio Zorrilla Perez, the D.F.S. commander who had directed the initial Government investigation of the murder. In 1989, Federal Judicial Police officials were identified as direct accomplices of the most notorious criminals of recent Mexican history, the narcosatanic drug cult that killed at least 15 people, 13 of whom were dismembered in black-magic rites on a ranch outside Matamoros.

The problem of corruption and abuses by Mexican police agents has grown markedly with the increase in drug shipments across the Mexico-United States border. "Federal narcotics police are accountable for a large number of the cases of murder, torture and abuse of due process in Mexico today," declared a special Americas Watch report in June 1990. Techniques used by Mexican police range from beatings and electric shocks to a procedure known as 'la Tehuacan', after a local bottled water, in which soda water laced with the juice of chili peppers is forced into the victim's nostrils, causing intense pain. Justice is dispensed not by laws but by a local patron, or strongman, who offers protection in return for favors and other tribute.

After photographing drug-world figures in northern Mexico in March 1989, Sergio Dorantes, a Mexican freelance photographer whose work appears frequently in The New York Times, Time and Newsweek, was abducted at gunpoint in Mexico City by four apparent police agents. Forcing him into an unmarked radio patrol car, the men told Dorantes that he would "confess everything" before they arrived at the Federal Judicial Police detention cells. During a four-hour car ride, the men forced Dorantes to drink a near fatal quantity of tequila, and beat him severely with automatic pistols, fracturing his skull and sternum before leaving him for

dead on a darkened back street. Discovered there by Red Cross, Dorantes survived, but no suspects were ever arrested.

Last year, three gunmen killed Norma Corona Sapien, president of the nongovernmental Commission in Defense of Human Rights. At the time of her murder, Corona was investigating the deaths of three Venezuelan men and a Mexican lawyer, whose bodies were found 17 days after they were arrested by Federal Judicial Police.

For other disgraced officials, being charged with wrongdoing has not stood in the way of a promotion. After being accused of human rights abuses ranging from extortion to murder and being indicted in the United States for running a giant auto-theft ring along the U.S.-Mexico border, the former head of the Federal Security Directorate, Miguel Nazar Haro, was named by the Salinas Government to assume the powerful job of chief of police intelligence for Mexico City. Only after an international outcry did Salinas replace him. Human rights advocates are hopeful that the same economic aspirations that have deflected American criticism will give Mexico's leaders a direct interest in seeing their system of justice improved.

[From the Orlando Sentinel, April 1, 1991]

U.S.-MEXICAN FREE TRADE PACT? NOT AT EXPENSE OF HUMAN RIGHTS

(By John Burstein)

With President Bush scheduled to meet Mexican President Carlos Salinas de Gortari on Sunday in Houston, relations between Mexico and the United States are closer today than at any time in more than half a century.

Yet with keen interest in cinching a free trade deal, the Bush administration is loath to rock the boat by bringing up the delicate issue of human rights. Let's integrate trade now, they say, and worry about social issues such as human rights later. But it won't work, and every day it becomes more apparent that the two sorts of issues, being intertwined, must be treated together.

Human rights—including basic rights of physical integrity, political rights and labor rights—are under growing assault in Mexico. Violations, as documented by both human rights organizations and the just-released State Department human rights report, range from torture in Mexican prisons to electoral fraud.

Amnesty International calculates that at least 80 percent of detainees are tortured, and there remain more than 500 unresolved cases of disappearance. Meanwhile, politically motivated violence has grown endemic. The center-left Party of the Democratic Revolution, created three years ago, claims more than 100 deaths and disappearances at the hands of government-linked forces. In the countryside, leaders of independent peasant organizations are targets of government-condoned violence and police harassment. Labor organizations defying the monolithic government-linked Confederation of Mexico Workers are similarly under attack.

Freedom of the press? The London-based Article 19 human rights organization documents 51 killings of journalists between 1970–1988, and intimidation of the press has continued to the present.

Despite electoral reforms, the practice of fraud has been blatantly repeated in the states of Guerrero, Mexico and Yucatan.

Despite legal reforms, including curtailed reliance on confessions and the passage of anti-torture laws, the implementor—that is, the court system—is still far from functioning adequately. Corruption and cronyism are central elements of that system—which has yet to prosecute a government official for human rights abuse. Indeed, a "policy of impunity" reigns in Mexico, according to the most recent Americas Watch report.

Labor rights? The Confederation of Mexican Workers—whose members make up more than half of the country's organized labor—it thoroughly integrated with the governing Institutional Revolution Party, with the attendant, significant restrictions on freedoms to associate, organize and strike. Mexico's minimum wage is $3.50 a day in U.S. money, and according to U.S. State Department statistics, buying power has been halved in the last decade.

The fault of these abuses does not lie in Mexican law—Mexico's constitution is among the world's best for its protection of all manner of basic social and economic rights. The fault lies with implementation. Reform of these longstanding structures permitting or even promoting disregard for human rights is a massive political undertaking, even for the most well-intentioned leadership.

Is this the business of the U.S. government? Mexico's human rights record is a highly appropriate concern of Washington in the context of our deepening bilateral relations. There already exists an array of U.S. law that conditions U.S. foreign policy on respect for human rights generally. And, by the U.S. International Financial Institutions Act, violations of internationally recognized labor rights constitute an unfair trading practice, a determination which prohibits special bilateral benefits.

And yet the Bush administration is intent on concluding the free-trade agreement in the shortest time possible—requesting the House Ways and Means Committee and the Senate Finance Committee to support "fast-track authorization"—and to limit the issues under discussion to tariffs, intellectual property and investment.

Labor rights ought to be specifically included in the agreement. If not, labor exploitation in contravention of internationally recognized rights will continue and likely expand along with expansion of foreign-owned industry.

Similarly, acceptance of political and human rights monitoring and international dispute resolution mechanisms ought to be a condition of closer bilateral relations, to ensure stability and in accord with stated U.S. policy goals generally to promote respect for human rights and democracy.

CONFERENCE REPORT ON H.R. 2686

Mr. YATES submitted the following conference report and statement on the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–256)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2686) making appropriations for the Department of the Interior and Related Agencies, for the fiscal year ending September 30, 1992, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 8, 13, 17, 31, 35, 38, 42, 44, 45, 46, 49, 50, 59, 61, 67, 72, 73, 77, 78, 79, 80, 82, 90, 92, 93, 94, 99, 110, 112, 125, 132, 139, 140, 141, 146, 150, 156, 159, 160, 161, 162, 166, 177, 178, 186, 192, 200, 203, 223, and 225.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 5, 15, 27, 83, 84, 85, 102, 103, 104, 114, 115, 116, 117, 118, 119, 120, 147, 155, 158, 168, 169, 189, 210, 211, 220, and 221 and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$23,500,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate number 10, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$14,318,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$25,322,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$518,437,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$4,370,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$12,000,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$965,665,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named insert *$5,000,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$106,570,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$207,070,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$66,584,000*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$1,236,078,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named insert *$248,152,000;* and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$213,163,000;* and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named insert *$5,000,000;* and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$93,477,000;* and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$89,447,000;* and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$4,030,000;* and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$24,451,000;* and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$64,445,000;* and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$31,525,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 113. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with federally appropriated amounts from the Land and Water Conservation Fund.

SEC. 114. The provision of section 113 shall not apply if the transfer of management or control is ratified by law; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the section number named by said amendment, insert *115*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the section number named by said amendment, insert *116*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$182,812,000*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

in lieu of the sum named by said amendment insert *$1,359,662,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows, *including $26,968,000 for wilderness management;* and the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$275,178,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$193,089,000*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$89,433,000*; and the Senate agree to the same.

Amendment numbered 172:

That the House recede from its disagreement to the amendment of the Senate numbered 172, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$458,104,000*; and the Senate agree to the same.

Amendment numbered 173:

That the House recede from its disagreement to the amendment of the Senate numbered 173, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$338,000*; and the Senate agree to the same.

Amendment numbered 181:

That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$543,166,000*; and the Senate agree to the same.

Amendment numbered 182:

That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$243,433,000*; and the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate numbered 183, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$2,000,000*; and the Senate agree to the same.

Amendment numbered 188:

That the House recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$14,771,000*; and the Senate agree to the same.

Amendment numbered 194:

That the House recede from its disagreement to the amendment of the Senate numbered 194, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$77,233,000*; and the Senate agree to the same.

Amendment numbered 198:

That the House recede from its disagreement to the amendment of the Senate numbered 198, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$277,852,000*; and the Senate agree to the same.

Amendment numbered 202:

That the House recede from its disagreement to the amendment of the Senate numbered 202, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$6,612,000*; and the Senate agree to the same.

Amendment numbered 204:

That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$283,961,000*; and the Senate agree to the same.

Amendment numbered 205:

That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$25,839,000*; and the Senate agree to the same.

Amendment numbered 206:

That the House recede from its disagreement to the amendment of the Senate numbered 206, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$24,710,000*; and the Senate agree to the same.

Amendment numbered 207:

That the House recede from its disagreement to the amendment of the Senate numbered 207, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$19,400,000*; and the Senate agree to the same.

Amendment numbered 208:

That the House recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$49,192,000*; and the Senate agree to the same.

Amendment numbered 209:

That the House recede from its disagreement to the amendment of the Senate numbered 209, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$3,120,000*; and the Senate agree to the same.

Amendment numbered 212:

That the House recede from its disagreement to the amendment of the Senate numbered 212, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert

$147,700,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: Provided, That none of the funds made available in this Act for the National Endowment for the Arts may be used to fund any application for a grant that is not submitted to the Endowment pursuant to existing law as contained in section 5(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(d)), for which terms are defined in section 3 of that Act (20 U.S.C. 952); and the Senate agree to the same.

Amendment numbered 213:

That the House recede from its disagreement to the amendment of the Senate numbered 213, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$152,650,000*; and the Senate agree to the same.

Amendment numbered 215:

That the House recede from its disagreement to the amendment of the Senate numbered 215, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$25,550,000*; and the Senate agree to the same.

Amendment numbered 216:

That the House recede from its disagreement to the amendment of the Senate numbered 216, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$12,550,000*; and the Senate agree to the same.

Amendment numbered 217:

That the House recede from its disagreement to the amendment of the Senate numbered 217, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert; *$4,775,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 6, 9, 12, 16, 18, 19, 20, 21, 22, 24, 26, 28, 29, 32, 33, 34, 36, 37, 39, 40, 41, 43, 51, 52, 53, 54, 55, 56, 60, 62, 63, 64, 65, 66, 68, 69, 70, 71, 76, 81, 86, 87, 88, 89, 96, 105, 108, 109, 111, 113, 124, 126, 127, 129, 130, 131, 133, 136, 137, 138, 142, 144, 149, 151, 152, 153, 154, 157, 163, 164, 165, 167, 170, 171, 174, 175, 176, 179, 180, 184, 185, 187, 190, 191, 193, 195, 196, 197, 199, 201, 214, 218, 219, 222, 224, and 226.

SIDNEY R. YATES,
JOHN P. MURTHA,
NORMAN D. DICKS,
LES AUCOIN,
TOM BEVILL,
CHESTER G. ATKINS,
JAMIE L. WHITTEN
(except amendment No. 212),
RALPH REGULA
(except amendments Nos. 167, 212, and 221),
JOSEPH M. MCDADE
(except amendment No. 167),
BILL LOWERY
(except amendment No. 212),
JOE SKEEN,
Managers on the Part of the House.

ROBERT C. BYRD,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
DALE BUMPERS,
ERNEST F. HOLLINGS,
HARRY REID,
DON NICKLES
(except amendment No. 212),
TED STEVENS,
JAKE GARN,
THAD COCHRAN,
WARREN B. RUDMAN,
PETE V. DOMENICI
(except amendment No. 95),
SLADE GORTON,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2686), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1992, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 2686 incorporates some of the provisions of both the House and the Senate versions of the bill. The language and allocations set forth in House Report 102–116 and Senate Report 102–122 shall be complied with unless specifically addressed to the contrary in the conference agreement and accompanying statement of the managers.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that appropriates $538,940,000 for management of lands and resources instead of $516,865,000 as proposed by the House and $537,199,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House consists of increases of $12,300,000 in mining law administration; $1,000,000 for Alaska lands; $175,000 for forest management to initiate an Alaska forestry program; $100,000 for a population model, $200,000 for immunocontraception research, $100,000 for vegetation monitoring, $250,000 for mapping and census data, and $200,000 for fertility control, all in Nevada and all in the wild horse and burro program; $700,000 to restore the general budget increase and $1,050,000 for 50 percent of the cost of range improvement projects, both in rangeland management; $560,000 for anadromous fish activity in Oregon, Washington, and Idaho, and $1,580,000 for riparian, wetland, and general programs with a priority for work in the Lake Creek area, Odessa, WA all in wildlife habitat management; $500,000 in cultural resources management, including implementation of prehistoric trackway studies; $2,400,000 in recreation resources management, which should include priority consideration of the needs of Flagstaff Hill, OR, the Alcan Highway, AK, Gila Box Riparian NRA, AZ, and Red Rock Canyon, NV, in addition to restoring the budgeted increase; $2,000,000 for Alaska cadastral surveys; $100,000 for the Four Corners cultural resources protection task force in resource protection and law enforcement; and $1,560,000 to restore the budgeted increase, with priority consideration for Flagstaff Hill, OR, and Red Rock Canyon, NV, $1,300,000 to restore road reconstruction, and $1,500,000 to restore project engineering and design, all in facilities maintenance; and decreases of $3,500,000 for the automated land and mineral record system; and $2,000,000 for hazardous materials management.

The managers agree that amounts for mining law administration include Alaska programs at the 1991 base level.

The managers agree that a portion of amounts for both Alaska lands and Alaska cadastral surveys should be used to modernize and upgrade systems involved in this activity to improve efficiency.

The managers agree that the Bureau should consider the Scandinavian model in developing a forest management plan in Alaska.

The managers are concerned about the apparent lack of meaningful progress in negotiations between the Department and the Potlatch Corporation regarding the transfer to the Fish and Wildlife Service of wetlands

owned by Potlatch in Arkansas in exchange for public lands in Idaho. The managers continue to support an equal value exchange as a means of acquiring prime wetland habitat for public use, and continue to urge the Department to proceed as expeditiously as possible with the necessary actions required to conclude the negotiations.

The managers expect the Bureau to fund 50 percent of the cost of range improvement projects from funds in the range improvement appropriation.

The managers agree with the Senate position supporting the orderly phasedown of wild horse sanctuary operations by adoption of existing herds. It is expected that adoption of horses from sanctuaries will be the highest priority since no additional roundup costs are necessary. It is also expected that no additional horses will be placed in the sanctuaries.

The managers expect the Bureau to ensure that the percentage of wild horse and burro program funds both spent in Nevada and directly benefiting Nevada will increase over historic levels, and to provide a plan for such increases to the House and Senate Appropriations Committees by December 1, 1991. The plan should address targets for direct spending included in Senate Report 102-122, and how and why they can or cannot be achieved.

For planning, preparation and offer of timber sales for fiscal year 1992, and in planning for sales in future years, the managers direct the Bureau to designate, not later than 10 days after enactment of this Act, if not already in place, at least one person in each BLM district where timber is harvested under BLM jurisdiction in Oregon and Washington, and one person in each of the Idaho and California State Offices or the districts where timber is harvested in these States determined by the State Director, to be designated as the primary person responsible for coordination and oversight on Pacific Yew issues.

The managers further direct the Bureau to establish a special Task Force to develop a comprehensive strategy document for ensuring a sustainable supply of Pacific Yew for the medical community with the least impact to the environment and to the Pacific Yew resource, publish the comprehensive strategy plan for comment no later than June 30, 1992, and implement a strategy no later than November 30, 1992.

Amendment No. 2: Earmarks $23,500,000 for the Automated Land and Mineral Record System Project instead of $27,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

Amendment No. 3: Deletes House proposed appropriation of $12,300,000 for mining law administration as proposed by the Senate. This amount is included in Amendment No. 1.

Amendment No. 4: Deletes House language which provided for use and earmarking of funds from a mining claim holding fee as proposed by the Senate.

Amendment No. 5: Deletes House language limiting patenting of mining claims on Federal lands under current mining laws as was proposed by the Senate.

The managers agree to delete the House language with the understanding that the Senate will take up this issue in the appropriate authorizing committee during fiscal year 1992. The managers expect the Senate to address the specific concerns regarding fair market value for mining patents, a reversionary clause precluding mining patents from being transferred for other uses, and some type of holding fee for non-patented mining claims.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the date named in said amendment, insert: *October 1, 1992.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment prohibits issuance of land patents for certain oil shale mining claims before October 1, 1992, instead of July 1, 1992 as proposed by the Senate. The House had no similar provision. This makes the provision applicable for the full fiscal year.

FIREFIGHTING

Amendment No. 7: Appropriates $122,010,000 for firefighting as proposed by the House instead of $222,879,000 as proposed by the Senate. Additional amounts are included in amendment No. 9.

Amendment No. 8: Deletes language proposed by the Senate which designated amounts above $100,869,000 as "emergency requirements" pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. The House had no similar provision. This item is addressed in Amendment No. 9.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

EMERGENCY DEPARTMENT OF THE INTERIOR

FIREFIGHTING FUND

For the purpose of establishing an "Emergency Department of the Interior Firefighting Fund" in the Treasury of the United States to be available only for emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $100,869,000, to remain available until expended: Provided, That all funds available under this head are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That hereafter, beginning in fiscal year 1993, and in each year thereafter, only amounts for emergency rehabilitation and wildfire suppression activities that are in excess of the average of such costs for the previous ten years shall be considered "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment restores the House proposed appropriation of $100,869,000 for emergency firefighting and includes a Congressional designation of an emergency under the Balanced Budget and Emergency Deficit Control Act of 1985. The amendment deletes language requiring a similar Presidential declaration in order to spend the funds. Language is also included specifying that in future years only amounts in excess of the ten-year average for emergency firefighting costs will be considered "emergency requirements" under the Act.

CONSTRUCTION AND ACCESS

Amendment No. 10: Appropriates $14,318,000 for construction and access instead of $12,503,000 as proposed by the House and $15,768,000 as proposed by the Senate. The net decrease below the amount proposed by the Senate consists of increases of $100,000 for the Cisco boat take-out facility, UT; $370,000 for the La Cueva picnic area, Organ Mountains, NM; $200,000 for Baker Dam and Sand Mountain in the Dixie Resource Area, UT; and $400,000 to reconstruct the pipeline water system on the McGregor Range, NM; and decreases of $950,000 for the interagency administrative office in Nevada, leaving $650,000 for survey and design; $320,000 for the Campbell Tract in Alaska, leaving $100,000 for design activities; $1,000,000 for Yaquina Head, OR, leaving $2,119,000 for lower quarry and tidal zone work only; and $250,000 for End of the Oregon Trail visitor center planning and design.

LAND ACQUISITION

Amendment No. 11: Appropriates $25,322,000 for Bureau of Land Management land acquisition instead of $33,640,000 as proposed by the House and $16,660,000 as proposed by the Senate.

The managers agree to the following distribution:

Arkansas River, CO	$250,000
Bear Creek Flats, MT	800,000
Blanca Waterfowl Habitat, CO	400,000
Cache Creek ACEC, CA	500,000
Carrizo Plains, CA	2,020,000
Central Pacific RR ACEC, UT	750,000
Cross Mtn. NCA, CO	1,400,000
Desert Tortoise Habitat	700,000
Dos Palmas/Salt Creek, CA	500,000
El Malpais NM, NM	750,000
Grande Ronde ACEC, WA	950,000
King Range NCA, CA	100,000
Lopez Islands, WA	1,100,000
Merced W&SR, CA	100,000
Morongo Canyon, CA	250,000
New River ACEC, OR	1,500,000
N. Fork American W&SR, CA	400,000
San Pedro Ecosystem, AZ	2,000,000
San Pedro NCA, AZ	500,000
San Sebastian Marsh ACEC, CA	100,000
Santa Rosa Mtns NSA, CA	1,000,000
S. Fork Snake River SRMA, ID	450,000
Steens Mountain, OR (Warner Basin)	2,000,000
Upper Sacramento River, CA	750,000
West Eugene Wetlands, OR	2,000,000
Wolf Lodge/Beauty Bay SRMA, ID	120,000
Yakima River Canyon, WA	1,832,000
Acquistion Management	1,600,000
Inholdings, emergencies and hardships	500,000
Total	25,322,000

Priority for acquisitions at Santa Rosa Mountains NSA, CA, should be given to those tracts with greatest benefit to wildlife resources.

The managers recognize an agreement which exists between the Bureau of Land Management and Lake and Harney Counties regarding continued acquisition of private lands by the Federal Government in the Steens Mountain, OR area. Pursuant to this agreement, the Nature Conservancy will make annual tax equivalency payments to the counties based on the purchase price per acre and shall continue making such annual payments until legislation is enacted which will increase the overall level of Payment-in-Lieu-of-Taxes payments to the counties.

While the managers support the acquisition of the Gillette Ranch properties, this

project should be accomplished to the greatest extent possible through a land exchange. The managers provide an amount not to exceed $2,000,000 to acquire only what cannot be acquired through land exchange.

The managers further direct the Bureau of Land Management to develop, within one year, and implement, within two years, from the date of enactment of this Act, a plan to restore the Federal land ownership ratio to that which existed prior to this fiscal year 1992 acquisition.

OREGON AND CALIFORNIA GRANT LANDS

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that appropriates $90,274,000 for Oregon and California grant lands instead of $93,074,000 as proposed by the House and $96,994,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net decrease below the amount proposed by the House consists of increases of $1,500,000 for timber management; and $800,000 for resource management planning; and a decrease of $5,100,000 for reforestation. Within the total amount of $79,109,000 for resources management the Bureau may adjust amounts for timber management, resource management planning and reforestation based on operating needs provided that any significant changes are reported to the House and Senate Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

Amendment No. 13: Restores House language stricken by the Senate excepting cooperative printing arrangements from certain requirements.

U.S. FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Amendment No. 14: Appropriates $518,437,000 for Resource Management instead of $509,891,000 as proposed by the House and $526,675,000 as proposed by the Senate.

The net increase to the amount in the House includes increases of:

Endangered species consultation	$250,000
Endangered species recovery (Pacific Islands)	400,000
Upper Colorado River Basin Recovery	200,000
Wildstock monitoring evaluation in Oregon	200,000
Wolf reintroduction EIS	348,000
Farm Bill Technical Assistance	1,500,000
Middle Rio Grande bosque habitats study	200,000
Grand Island NE biodiversity study	150,000
Lake Champlain Special Designation Act	500,000
Baltimore port of entry	200,000
Appropriate Technology Transfer	1,200,000
Underground storage tank replacement	500,000
Chesapeake Bay and Estuary program	400,000
Gulf of Maine estuary program	100,000
Water rights acquisition	810,000
Wetland restoration and management	350,000
Alaska subsistence	400,000
Environmental education	200,000
Pintail management	175,000
Norfork NFH, AR	200,000
Greers Fork NFH, AR	80,000
Bowden NFH, WV	30,000
Tishomingo NFH, OK	100,000
Lower Snake River Compensation Fund	500,000
Mitigation hatcheries	375,000
Shellfish harvest dispute	200,000
Upper Colorado River basin recovery (research)	50,000
Leetown striped bass conservation study	250,000
Forest bird avian disease investigations	300,000
Wetland loss research	400,000
Acidic mitigation studies in Appalachia	300,000
Hawaii biodiversity inventories	250,000
Platte River wetland studies	200,000
Brant & Emperor Geese studies	250,000
Breeding waterfowl survey improvements	200,000
Tustumena Lake salmon studies	100,000
Marbled Murrlets & steller's eiders studies	150,000
Yukon River salmon studies	325,000
Arctic Goose education activities	550,000
Training Office	300,000
Restoration of general reduction (research)	1,625,000
Restoration of general reduction (administration)	250,000
Decreases to the House position include:	
Endangered species listing	250,000
Chicago wetlands office	100,000
Portland, OR urban wetlands project	100,000
Hydroelectric licensing review	100,000
Puget Sound Estuary	100,000
Southern California Coast	75,000
Hawaii and Pacific refuge operations	100,000
Refuge operations	4,000,000
Refuge contaminant cleanup	197,000
Washington State Ecosystems project	250,000
Law enforcement	500,000
Neotropical migratory birds	200,000
Aquatic nuisance control	200,000
Chehalis River Study	350,000

The managers agree to the following:

1. Pursuant to an Inspector General's report, for fiscal year 1993 the Service must have in place a mechanism to recover costs for operation of four mitigation hatcheries.

2. Aquatic nuisance control includes increases of $300,000 for work related to control of the zebra mussel, $200,000 for the laboratory at Sandusky, OH and $200,000 for the La-Crosse NFRC, WI.

3. The Service is expected to establish an ecological services suboffice in northern Indiana.

4. No funds are made available for a study of seals and sea lions at the Ballard Locks in Seattle.

5. In total $500,000 is available for Service participation in the Southern California wetlands cooperative research project.

6. The Service is to survey the wetlands and wildlife habitat at Fort Devens, MA for possible inclusion in the adjacent Oxbow National Wildlife Refuge and report its findings to the Committee by December 31, 1991.

The managers are aware of the multi-species habitat conservation plans which are being developed for coastal sage scrub areas of southern California. This comprehensive planning requires the cooperation of Federal, state and local governments and the affected property owners. The conference report provides $600,000 to the Laguna Niguel field office of the Fish and Wildlife Service for the sole purpose of evaluating and processing these plans. The managers expect the headquarters and regional office of the U.S. Fish and Wildlife Service to work closely with the field office in order to utilize Service expertise in habitat conservation planning.

The managers reiterate the Senate report language directing the U.S. Fish and Wildlife Service to report on hatchery practices and agree that the report should address tribal proposals for hatchery practice reform. The Service shall report on modifications to existing Columbia Basin hatchery programs that will be necessary to implement hatchery reform proposals consistent with the trusteeship responsibilities of the Service and its duty to mitigate fish losses due to hydroelectric development. The managers further direct the Service to consult within the framework of the Columbia River Management Plan under United States v. Oregon on a pilot project implementing Chapter C entitled "Supplementation" of the Integrated Systems Plan unanimously submitted to the Northwest Power Planning Council on June 1, 1991, by the member tribes and agencies of the Columbia Basin Fish and Wildlife Authority. However, the pilot project shall be consistent with the duty of the Service to mitigate fish losses due to hydroelectric development and shall not interfere with the genetic integrity of existing wild salmon populations.

The managers direct the Fish and Wildlife Service to do a study of the staffing needs at the Silvio O. Conte Anadromous Fish Lab and report back to Congress by March 1, 1992.

The Service in cooperation with the Governor of the State of Washington is to initiate a negotiated settlement of the shellfish harvest dispute in the State of Washington with the $200,000 provided. The managers expect that after consultation with affected parties, and in cooperation with the Governor of the State of Washington, $150,000 of the amount provided shall be expended for necessary facilitation, staff support, and technical expertise. The managers direct the remaining $50,000 to be divided equally between the Northwest Indian Fisheries Commission and private landowner organizations for negotiation support.

Amendment No. 15: Provides $10,806,000 for the Lower Snake River Compensation Fund as proposed by the Senate instead of $10,306,000 as proposed by the House.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *: Provided, That none of the funds in this Act may be expended to reintroduce wolves in Yellowstone National Park and Central Idaho*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to include language in the bill to prohibit use of funds in this Act to reintroduce wolves into Yellowstone National Park and Central Idaho. The managers further agree that:

1. The Fish and Wildlife Service is to prepare an environmental impact statement in

consultation with the National Park Service and the Forest Service. For this purpose, $348,000 is provided for the Fish and Wildlife Service and $150,000 is provided for the National Park Service. Forest Service needs are to be covered within funding for the agency's endangered species responsibilities.

2. The environmental impact statement is to cover a broad range of alternatives.

3. The draft environmental impact statement should be completed no later than 18 months after enactment of the 1992 Interior appropriations bill.

4. The Fish and Wildlife Service is to provide quarterly reports on the progress of the draft EIS.

5. The Fish and Wildlife Service should follow normal distribution patterns for EIS including appropriate Congressional distribution.

CONSTRUCTION AND ANADROMOUS FISH

Amendment No. 17: Retains the heading "And Anadromous Fish" as proposed by the House instead of deleting it as proposed by the Senate.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $114,895,000 for Construction and Anadromous Fish instead of $71,102,000 as proposed by the House and $96,750,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to the following distribution of funds:

Aransas National Wildlife Refuge, TX (boat house/ranch house rehab)	$199,000
Audubon Institute Species Survival and Research Center, LA	6,500,000
Bear River Refuge, UT (flood damage repairs)	1,738,000
Bo Ginn National Fish Hatchery, GA (rehabilitation planning)	300,000
Bosque del Apache, NM (equipment/water delivery system)	200,000
Bridge inspections and analyses	500,000
Buffalo Lake National Wildlife Refuge, TX (Umbarger dam)	3,729,000
Cameron Prairie (visitor center)	571,000
Coleman National Fish Hatchery, CA:	
Fish barrier dam	739,000
Water sterilization system	3,475,000
Crab Orchard National Wildlife Refuge, IL:	
Superfund site cleanup	9,929,000
Little Grassy Dam	6,255,000
D.C. Booth Hatchery, SD (rehabilitation)	1,585,000
Dam reinspections	450,000
Fairbanks, AK (airport hangar)	1,800,000
Felsenthal National Wildlife Refuge, AR (bridge replacements)	263,000
Flint Hills National Wildlife Refuge, KS	680,000
Greak Lakes Research Center (research vessel)	3,475,000
Great Swamp National Wildlife Refuge, NJ	450,000
Harpers Ferry NETC, WV	12,689,000
Hawaii Refuges (fencing and water systems)	750,000
Lower Suwannee National Wildlife Refuge, FL (bridge replacement)	174,000
Maine Atlantic Sea-Run Salmon Commission	100,000
Mammoth Springs National Fish Hatchery, AR	450,000
Mora National Fish Hatchery, NM	5,000,000
Natchtioches National Fish Hatchery, LA	750,000
National Fishery Research Center, Seattle, WA	8,200,000
National Key Deer National Wildlife Refuge, FL (sewage treatment)	74,000
National Wetlands Center (move facility)	1,500,000
Neosho National Fish Hatchery, MO (radon gas reduction)	318,000
North Attleboro National Fish Hatchery, MA (Greenwood Lake Dam)	2,990,000
Northeast Fisheries Lab (rehab 10 ponds)	250,000
Parker River National Wildlife Refuge, MA:	
Hazardous materials cleanup	4,270,000
Road repairs	1,390,000
Patuxent WRC, MD:	
Hazardous materials cleanup	1,986,000
Complete visitor facility	4,375,000
Poulsbo Marine Science Center, WA	268,000
Research centers (6 chemical storage buildings)	496,000
San Francisco Bay National Wildlife Refuge, CA (maintenance facility)	650,000
Saratoga National Fish Hatchery, WY (water supply/rehab)	2,135,000
Skilak Loop, AK	1,000,000
Striped bass study	300,000
Walnut Creek, National Wildlife Refuge, IA (development)	13,550,000
Wichita Mountains National Wildlife Refuge, OK	2,075,000
Wichita National Environmental Education Center, KS	680,000
Construction management	4,637,000
Emergency, health, and safety	1,000,000
Total, construction and anadromous fish	114,895,000

The managers agree to the following:

1. No money is provided for planning a new visitor facility at Mammoth Springs NFH, AR.

2. The striped bass study is to be carried out at Leetown NFRC, WV.

3. Remaining repairs necessary to complete flood damage repair at Leavenworth NFH, WA are to be accomplished within available funds.

The managers direct the Services to study the feasibility of a joint partnership with the Wildlife of the American West Art Museum, a not-for-profie organization, to develop a fish and wildlife interpretative/educational facility on non-Service lands adjacent to the National Elk Refuge and Jackson National Fish Hatchery. The study will include provisions for public access to the joint facility, the Refuge Sleigh Ride, the hatchery and related facilities with minimal impact on the environment and operation of the refuge and hatchery. A report on this matter should be submitted to the Committees on Appropriations not later than March 1, 1992.

The managers agree that total construction costs for the National Education and Training Center shall be no more than $100,000,000 and that total costs for the Center, including land acquisition, site preparation, planning, design and outfitting shall be no more than $125,000,000.

The $6,500,000 appropriation for construction of the Audubon Institute Audubon Center for Research in Endangered Species (ACRES) is contingent upon a commitment by the Center to focus research and propagation for species determined by the Fish and Wildlife Service to be highest priority. Service priorities will include native species (i.e., those with a range that includes part of the United States including the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands) that are listed under the Endangered Species Act (Act) or are candidates for listing under the Act. The Service and the Institute shall jointly develop a binding cooperative agreement that identifies particular species or groups of species for which the Service has identified a priority need for captive propagation, research associated with reproductive biology or other endangered species research, and establishes a mechanism for addressing the research needs.

The managers understand that the total project is expected to cost $30 million. The Federal share for this project shall be limited to $15 million, or 50 percent of the total cost, whichever is less.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken by said amendment, insert: *, of which $400,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757g) and of which $13,000,000 for Walnut Creek NWR, IA shall be made available on September 30, 1992*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment restores House language regarding the Anadromous Fish Conservation Act and provides $13,000,000 for Walnut Creek NWR, IA to become available on September 30, 1992.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows for full procurements for the Patuxent Wildlife Research Center, for the National Education and Training Center and the National Fisheries Research Center.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION FUND

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds the words "and Restoration" to the account title of the Natural Resource Damage Assessment Fund.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows restoration activities to be funded through this account.

It is the intent of the managers that restoration activities be funded through reim-

bursements to the account. The Service is to report quarterly on the receipts and disbursements in this account.

Amendment No. 23: Appropriates $4,370,000 for the Natural Resource Damage Assessment and Restoration Fund instead of $3,740,000 as proposed by the House and $5,000,000 as proposed by the Senate.

Within funds provided for the Natural Resource Damage Assessment program, $300,000 is to be used by the Fish and Wildlife Service, as a Natural Resource Trustee, to work with other public and private entities, including the Commencement Bay Cleanup Action Committee, to develop, administer, and implement a natural resource damage assessment and restoration plan for the Commencement Bay environment. The assessment and restoration plan should be developed as a bay-wide rather than piecemeal approach to assessment and restoration. The plan should be completed in one to three years, with the scope of work for the plan to be completed within no more than one year.

LAND ACQUISITION

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $100,117,000 for Fish and Wildlife Service land acquisition instead of $87,722,000 as proposed by the House and $84,720,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to the following distribution:

ACE River Basin, SC	2,000,000
Alligator River NWR, NC	750,000
Anahuac NWR, TX	1,500,000
Archie Carr NWR, FL	1,500,000
Back Bay NWR, VA	2,750,000
Balcones Canyonlands, TX	4,000,000
Bald Knob NWR, AR	3,000,000
Bayou Cocodrie NWR, LA	1,455,000
Bogue Chitto NWR, LA	500,000
Bon Secour NWR, AL	500,000
Bond Swamp NWR, GA	700,000
Cape May NWR, NJ	3,000,000
Cokeville Meadows NWR,, WY	1,000,000
Colorado wetlands, CO	500,000
Crystal River NWR, FL	500,000
Cypress Creek NWR, IL	2,000,000
Dahomey NWR, MS	1,000,000
Deep Fork NWR, OK	1,500,000
E.B. Forsythe NWR, NJ	4,000,000
Grand Bay NWR, AL/MS	1,000,000
Great Meadows NWR, MA	1,500,000
Great Swamp NWR, NJ	1,000,000
Harpers Ferry NETC, WV	2,000,000
James River NWR, VA	4,500,000
Kaskaskia NWR, IL	250,000
Lake Umbagog NWR, NH	5,000,000
Lower Rio Grande Valley NWR, TX	6,500,000
Marais des Cygnes NWR, KS	2,000,000
Marin Islands, CA	1,000,000
Minnesota Valley NWR, MN	1,000,000
Moosehorn NWR, ME	2,000,000
National Key Deer NWR, FL	2,000,000
Ohio Key, FL	350,000
Ohio River Islands NWR, WV	1,000,000
Oregon Islands NWR, OR	2,000,000
Ottawa NWR, OH	2,700,000
Rachel Carson NWR, ME	1,700,000
Rainwater Basin, NE	500,000
Reelfoot NWR, TN	1,000,000
Sacramento River NWR, CA	7,000,000
San Francisco Bay NWR, CA	3,000,000
Savannah River NWR, GA (Bear Island))	812,000
Stillwater NWR, NV (water rights)	3,800,000
Trinity River, TX	2,000,000
Walden Pond, MA	350,000
Wallkill River NWR, NJ	500,000
Wetlands Acquisition (NFWF)	2,000,000
Acquisition management	7,500,000
Emergency & hardships	1,000,000
Inholdings	1,000,000
Total	100,117,000

The managers agree that:

1. The Forest Service is to be consulted as part of the study to determine possible acquisition at Afognak Island from oil spill settlement funds. Potential acquisitions are not expected to be carried out by the use of condemnation.

2. The Service may use unobligated balances from the San Joaquin NWR, CA for purchase of property in the East Grasslands area of California.

3. Funds for E.B. Forsythe NWR, NJ are for properties at Reedy Creek and Cedar Bonnet Island.

4. Additional funds to complete acquisition at Savannah River NWR, GA will be considered in fiscal year 1993.

The managers direct the Fish and Wildlife Service to study alternatives for managing the new addition to the Ottawa National Wildlife Refuge. This study should include options for dealing with the current contracts to pump surface runoff for area residents; current farming operations; and the feasibility of using land acquired as a flow through filtration system for water. Particular attention should be paid to management of the land for endangered and threatened species, neotropical migrants and the potential for restoring biodiversity. It is the managers' intention that the acquisition not include the 6309 square foot manor house, adjacent to the property.

The managers agree to provide initial funding for the establishment of Bald Knob National Wildlife Refuge, Arkansas and expect that this refuge will be managed in a manner to sustain not less than 50 percent bottom land hardwood characteristics as the refuge is developed.

The $5,000,000 agreed to for Lake Umbagog NWR, NH/ME is conditioned upon final approval by the Appropriations Committees on the terms and conditions of the easements proposed for acquisition.

NATIONAL WILDLIFE REFUGE FUND

Amendment No. 25: Appropriates $12,000,000 for the National Wildlife Refuge Fund instead of $11,000,000 as proposed by the House and $14,000,000 as proposed by the Senate.

NORTH AMERICAN WETLANDS CONSERVATION FUND

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, P.L. 101-233, in fiscal year 1992 and thereafter, amounts above $1,000,000 received under section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) as penalties or fines or from forfeitures of property or collateral, but not to exceed $12,000,000; and, in fiscal year 1992 and thereafter, amounts credited as interest during the immediately preceding fiscal year to the Federal Aid in Wildlife Restoration Fund in accordance with section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669(b)), as amended. All amounts made available herein shall remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to recommend up to $12,000,000 in appropriations for the North American Wetlands Conservation Act from fines paid by Exxon and Exxon Shipping Company as a result of the Exxon Valdez spill in Prince William Sound, Alaska rather than $8,500,000 as proposed by the Senate under the North American Wetlands Conservation Act. These funds are in addition to $14,000,000 in permanent appropriations which will be available in fiscal year 1992 for the wetlands conservation program.

SPORT FISH RESTORATION ACCOUNT

Amendment No. 27: Deletes House provision stricken by the Senate capping the State share of Sport Fish Restoration Account at $190,000,000.

ADMINISTRATIVE PROVISIONS

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the Fish and Wildlife Service to enter into cooperative arrangements and grants with public and private agencies, organizations, institutions, and individuals to implement, on a public-private cost-sharing basis, the North American Wetlands Conservation Act and the North American Waterfowl Management Plan.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the National Fish and Wildlife Foundation to draw down Federal funds when matching requirements have been met. It also allows interest earned by the Foundation and its subgrantees on funds drawn down to date but not immediately disbursed to be used to fund direct projects and programs.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Amendment No. 30: Appropriates $965,665,000 for Operation of the National Park System instead of $969,047,000 as proposed by the House and $949,976,000 as proposed by the Senate.

In management of park areas, the change to the House position includes increases of $75,000 for Acadia NP, $250,000 for Alaska subsistence operations, $160,000 for Agate Fossil Beds NM, $70,000 for Buffalo NR, $200,000 for Gateway NRA, $125,000 for Great Basin NP, $50,000 for Lake Meredith RA & Alibates Flint Quarries, $200,000 for the U.S.S. Arizona Memorial on a one-time basis, $100,000 for Natchez NHP, MS, $100,000 for New River Gorge NR, WV, and $50,000 for Scotts Bluff NM and decreases of $80,000 for the Accokeek Foundation, $35,000 for the Alice Ferguson Foundation, $150,000 for Blackstone River Corridor Technical Assistance, $150,000 for Lowell NHP, $150,000 for the servicewide intake program, $250,000 for the William O. Douglas Outdoor Education Center and a $5,000,000 general reduction.

For concessions management, there is no change to the House position. Under interpretation and visitor services there are increases of $150,000 for Harpers Ferry NHP and $100,000 for Knife River.

Under visitor protection and safety Olympic NP is to receive $56,000 for a one-time installment of a telephone and radio dispatch service.

In maintenance, the change to the House position includes increases of $100,000 for Cape Cod NS, $30,000 for Chickasaw NRA, $225,000 for Jean Lafitte NHP, $50,000 for Lake Mead NRA, $150,000 for Lowell NHP, $400,000 for New River Gorge NR, $100,000 for San Antonio Missions NHP, and $300,000 for Hot Springs NP, and a decrease of $50,000 for San Francisco Maritime NHP.

For resources management, the change to the House position includes increases of $75,000 for the applied ethnography program, $300,000 for Chacoan Outliers NM, $250,000 for Lake Mead NRA, and $550,000 for Mimbres Native American archaeological sites and decreases of $1,000,000 in global change research, $198,000 for a wolf EIS and $5,000,000 in the Targeted parks program.

There is a decrease of $125,000 to the amount provided by the House for the International Union for the Conservation of Nature and Natural Resources.

There is a decrease of $2,000,000 in the proposed Challenge Cost Share program.

The managers agree to the following distribution of funds under Statutory and Contractual Aid:

Blackstone River Corridor Commission	$350,000
Columbia River Bicentennial Commission	250,000
Delaware and Lehigh Navigation Canal	350,000
Horseshoe Curve NHL	300,000
Hot Springs, AR	500,000
Ice Age National Scientific Reserve	570,000
Johnstown Area Heritage Association	380,000
Lowell Historic Preservation Canal Commission	716,000
Maine Acadian Cultural Preservation Commission	25,000
Martin Luther King, Jr. Center	547,000
Mary McLeod Bethune NHS	298,000
National Constitution Center, PA	250,000
National Folk Festival	100,000
Native Hawaiian culture and arts program	2,000,000
Roosevelt Campobello International Park Commission	566,000
Sloss Furnace NHL, AL	250,000
Southwestern Pennsylvania Heritage Preservation Commission	380,000
Steel Industry Heritage Task Force	1,250,000
Susan LaFelsche Picotte Center, NB	65,000
Vancouver Historical Management Planning Commission	200,000
Wheeling Park Commission	1,950,000
William O. Douglas Outdoor Center	250,000

In General Administration, there is an increase over the House position of $2,100,000 for D.C. water payments.

The managers agree to the following;

1. $300,000 is provided for a handicapped accessibility study. The study is to be conducted in association with Indiana University.

2. of the $250,000 increase provided Lake Meade NRA under resources management, $50,000 is for burro management. In addition, $250,000 within available funds is for visitor protection at Lake Mead NRA.

3. $150,000 is included for National Park Service activities associated with preparation of an EIS related to reintroduction of wolves in Yellowstone and other related wolf activities.

4. the National Park Service may establish a cave research institute in connection with Lechuguilla Cave.

5. $100,000 is provided within available funds to allow the National Park Service to provide assistance to the City of Tacoma, WA.

6. based on the report submitted to the Appropriations Committees there is no objection to moving the Williamsport Preservation and Training Center to Monocacy NB, MD.

The managers understand that the Superintendent of Olympic National Park and the city of Tacoma, Washington have reached an agreement on the matter of the Lake Cushman Reservoir boundary dispute. The managers are pleased to learn that the Park and the City have identified a three-way land exchange involving the lands of the Washington Department of Natural Resources as a mutually acceptable means of resolving this dispute. After completion of a land exchange between the City and the Department of Natural Resources, the City will convey the former Department of Natural Resources lands to Olympic National Park in exchange for title to the disputed Cushman project lands. The Park has agreed to support legislation which will direct the Secretary of the Interior to adjust the boundary of the Park contingent upon completion of the property exchange. The managers urge the National Park Service, in an expeditious manner, to submit to Congress the following:

(a) an agreement pursuant to which Olympic National Park and the City will proceed expeditiously to take all necessary actions to facilitate the contemplated land exchange between the Department of Natural Resources and the City, and to complete the land exchange between the City and the Park; and

(b) legislative language which authorizes an adjustment to the boundary of Olympic National Park to exclude newly-titled city lands, effective upon completion of the Tacoma-Olympic National Park land exchange set forth in subsection (a) above.

Amendment No. 31: Restores House language stricken by the Senate which provides $700,000 for the National Institute for Conservation of Cultural Property as proposed by the House.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: Restore the matter stricken, amended to read as follows: *: Provided further, That hereafter appropriations for maintenance and improvement of roads within the boundary of the Cuyahoga Valley National Recreation Area shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: Provided further, That notwithstanding any other provision of law, hereafter the National Park Service may make road improvements for the purpose of public safety on Route 25 in New River Gorge National River between the towns of Glen Jean and Thurmond*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment allows the National Park Service to maintain or improve certain roads within New River Gorge NR, WV and Cuyahoga Valley NRA, OH.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted, insert the following: *: Provided further, That of the funds provided herein, $65,000 is available for a cooperative agreement with the Susan LaFlesche Picotte Center*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides $65,000 for a cooperative agreement with the Susan LaFlesche Picotte Center.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the number "fifteen" in said amendment insert: *ten*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to cap any increase in the rates charged for employee quarters at ten percent. The Senate had proposed a ceiling of fifteen percent.

Amendment No. 35: Deletes Senate amendment which earmarked $205,000 for the Santa Fe National Historic Trail for brochures, signing and a film. The managers agree that within available funds up to $205,000 should be made available for this project.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes $500,000 available to Hot Springs, AR for a flood study as part of the non-Federal share for the purpose of title I of Public Law 99-662.

NATIONAL RECREATION AND PRESERVATION

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $23,090,000 for National recreation and preservation instead of $23,420,000 as proposed by the House and $25,269,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The changes to the House position include increases of $150,000 for the Lake Champlain management plan, $125,000 for the Connecticut River, and $300,000 for the New Jersey Coastal Heritage Trail; and decreases of $125,000 in recreation programs. $730,000 in the rivers and trails assistance program, and $50,000 for the Quinebaug-Shetucket River.

The managers agree that:

1. the only role for the National Park Service in the Lake Champlain area is to provide technical assistance,

2. up to $270,000 is available to continue studies on the Merrimack, Pemigewasset and Lamprey Rivers, and

3. the Service is to give consideration to moving forward with wild and scenic designations for the Niobrara and Missouri Rivers in Nebraska and South Dakota.

The managers remain concerned about the growth in the Washington office for the

State and local Rivers and Trails program, both in project work and staff. The managers, therefore, urge the National Park Service to allocate a greater percentage of Rivers and Trails funds and positions to the regional offices to more effectively and efficiently respond to project requests.

The managers encourage the National Park Service to continue to use its projects and services to promote more comprehensive objective decision making and conflict avoidance between competing river uses.

The managers direct the NPS to provide the Appropriations Committees a written formal policy and guidelines for NPS river protection activities related to existing and potential energy projects. The policy and guidelines should be prepared in open public consultation with a range of public and private river conservation, recreation and energy interests. The policy and guidelines should be made available to the Appropriations Committees by March 31, 1992.

Included is $500,000 to continue the Institute for the History of Technology and Industrial Archaeology, with substantial contributions to come from West Virginia.

The Secretary of the Interior is encouraged to give consideration to providing assistance to Oakview, on the Rust College campus. Oakview was listed on the National Register of Historic Places on June 18, 1982.

Amendment No. 38: Deletes Senate amendment which made $7,500,000 for the American Battlefield Initiative available until expended. The House had no such provision.

CONSTRUCTION

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $275,801,000 for construction instead of $237,506,000 as proposed by the House and $202,097,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to the following distribution:

	Planning	Construction
Acadia National Park, ME (carriage roads)		1,200,000
Alaska National Parks:		
Cabins		500,000
Employee housing	300,000	1,638,000
America's Industrial Heritage	1,325,000	11,775,000
Andersonville National Historic Site, GA	573,000	
Appalachian National Scenic Trail, NY (dam safety modification)		629,000
Assateague National Seashore, MD		2,000,000
Bandelier National Monument, NM (maintenance facility)	200,000	
Big Bend National Park, TX	200,000	1,057,000
Big South Fork National River and Recreation Area, KY		500,000
Biscayne National Park, FL	805,000	3,590,000
Blackstone River Corridor		2,000,000
Blue Ridge Parkway, NC:		
Fisher Peak	360,000	
Dam safety modifications		432,000
Boston National Historic Park, MA:		
Old South/rehab planning	100,000	
Dorchester Heights		3,123,000
Faneuil Hall/Old State House		750,000
U.S.S. Constitution/planning	266,000	
Buffalo National River, AR (fire and rescue)		313,000
Canyonlands National Park, UT	200,000	2,457,000
Cape Cod National Seashore, MA		100,000
Capital area parks, DC (bicycle trails)		600,000
Chattahoochee National River, GA		885,000
Chicago Public Library, IL		2,000,000
Chickamauga/Chattanooga (road relocation)		1,000,000
Coulee Dam, National Recreation Area, WA:		
Lake fluctuation retrofits		431,000
Boat launch ramps/parking		400,000
Council Bluffs National Trail Center, IA	1,684,000	
Crater Lake National Park, OR		13,773,000
Cuyahoga National Recreation Area, OH:		
Oak Hill environmental education		2,493,000
Boston Company Store		300,000
Krejci waste site		1,218,000
Ohio and Erie Towpath Canal (Gateway Park)		2,298,000
Virginia Kendall Sewers	235,000	
Historic structure restoration		200,000
Frazee House restorationn	100,000	
Jaite Paper Mill		1,800,000
Track restoration		300,000
Darwin Martin House, Buffalo, NY		500,000
Delaware Water Gap National Recreation Area		
Dam safety modifications		747,000
Route 209		400,000
Denali National Park and Preserve, AK:		
Hotel	335,000	7,000,000
Talkeetna Rescue Station	75,000	
Everglades National Park, FL		8,440,000
Fisk University, TN		2,000,000
Foothills Parkway		3,000,000
Fort McHenry National Monument, MD		1,500,000
Fort Sumter National Monument, SC		100,000
FDR Memorial, DC		6,000,000
Gateway National Recreation Area, NJ/NY:		
Sandy Hook Beach Centers		1,700,000
Jacob Riis Park		3,000,000
George Washington Memorial Parkway, MD		1,032,000
Gettysburg National Military Park, PA	50,000	
Grand Canyon National Park, AZ (transportation system)	25,000	1,579,000
Great Basin National Park, NV (parking area)		525,000
Haleakala National Park, HI		300,000
Hamilton Grange National Mounment, NY		750,000
Harpers Ferry National Historical Park, WV	898,000	2,840,000
Hawaii Volcanoes National Park, HI:		
Fencing		300,000
Water storage tanks	100,000	786,000
Hot Springs National Park, AR	350,000	1,100,000
Illinois and Michigan Canal (Gateway)		3,650,000
Independence Hall NHS, PA (replace sprinkler system)		1,000,000
Indiana Dunes National Lakeshore, IN	210,000	890,000
International Peace Garden, ND, Canada		2,500,000
James A. Garfield National Historic Site, OH		2,777,000
Jean Lafitte National Historic Park and Preserve:		
Barataria unit (amphitheatre)		130,000
Decatur House		590,000
John Day Fossil Beds, OR	809,000	
John D. Rockefeller, Jr. Memorial Parkway	300,000	1,966,000
Kenilworth Aquatic Gardens		275,000
Kennicott, AK (emergency stabilization)		376,000
Klondike Gold Rush National Historic Park, AK:		
Peniel Mission	100,000	
Kennedy-Lynch Store		656,000
Lackawanna Heritage Valley	375,000	
Lackawanna Rails to Trail	100,000	
Lake Mead NRA, NV	250,000	
Lane College, TN		1,000,000
Lewis and Clark NHT Center, NB		1,674,000
Lincoln Center:		
Planning	1,300,000	
Site preparation and land acquisition		1,400,000
Lincoln Home National Historic Site, IL:		
Arnold House		537,000
Julia Sprigg House (planning)	207,000	
Lincoln and Jefferson Memorials, DC, stabilization	200,000	1,278,000
Lowell National Historic Park, MA:		
Boott Mill Museum completion		1,945,000
Commission reauthorization projects	400,000	1,769,000
Lyndon B. Johnson, National Historic Park, TX		3,000,000
Martin Luther King, Jr. National Historic Site, GA:		
Service owned houses (stabilization)		400,000
Headquarters and related facilities	645,000	
Mesa Verde National Park, CO	200,000	
Minuteman National Historic Park, MA:		
Job Brooks House rehab		300,000
Burke House rehab		60,000
Alarm systems		45,000
Landscape management plan	60,000	
Monocacy NB, MD (training center)	450,000	
Montpelier, VA		1,000,000
Natchez National Historic Park, MS		260,000
Natchez Trace Parkway	200,000	12,800,000
National Park Service conservation lab and regional warehouse, WV	1,220,000	
New Jersey urban history initiative:		
Perth Amboy		1,808,000
Trenton		1,892,000
Paterson		4,200,000
New River Gorge National River	2,930,000	2,650,000
Penn Center, SC		1,000,000
Perry's Victory, OH		2,859,000
President's Park, DC:		
Ellipse comfort station	300,000	
White House utilities	300,000	1,966,000
White House Visitor Center	600,000	
Saguaro National Monument, AZ (Red Hills facilities)	380,000	2,700,000
Salem Martime National Historic Site, MA:		
Advance project planning	1,500,000	
Visitor center		1,950,000
Historic wharves rehab		2,000,000
San Antonio Missions National Historic Park, TX:		
Mission San Jose		3,971,000
San Juan National Historic Site, PR (El Morro)	400,000	8,354,000
Sequoia National Park, CA:		
General's Highway	200,000	
Clover Creek visitor facilities	900,000	5,756,000
Sleeping Bear Dunes National Lakeshore, MI:		
Platte River campground	300,000	1,966,000
North Manitou Island Dock		1,000,000
Steamtown National Historic Site, PA	1,000,000	12,000,000
Stones River National Battlefield, TN:		
Trail	25,000	145,000
Brannon Redoubt	75,000	250,000
Ted Gormley Stadium, LA		1,000,000
Thomas Stone National Historic Site, MD		1,300,000
Vicksburg NMP, MS (Gunship Cairo)	400,000	
Washington Tennis Center		400,000
Weir Farm National Historic Site, CT	100,000	150,000
Yellowstone National Park (winter operations)		850,000
Yosemite National Park, CA:		
Electrical utilities	100,000	4,613,000
El Portal employee housing	300,000	2,123,000
El Portal warehouse and maintenance facility	2,000,000	6,850,000
Balance, planning requests	13,203,000	
Emergency projects		2,000,000
Employee housing		8,000,000
Subtotal	40,220,000	229,392,000
General management plans	6,189,000	
Grant total construction appropriations		275,801,000

Changes to the House position for general management plans include increases of $100,000 for Saguaro NM (Tucson Mtn. Unit), AZ, $150,000 for O'opu hi'u Kole and Opai, HI, $75,000 for Jean Lafitte NHPP, LA, $50,000 for the Chisholm, Ellsworth and Western Cattle Drive Trail, KS, and $100,000 for a coal heritage study and a decrease of $200,000 for the Springfield Armory, MA.

The managers agree to the following:

1. there is $50,000 within available general management funds to develop an improvement plan for the campground areas at the Chickasaw NRA, OK.

2. the National Park Service is to provide only technical assistance in the Maumee River area of Ohio.

3. the Assateague appropriation is for the visitor center and associated utilities.

4. if additional money is needed for the Chickamauga-Chattanooga road relocation in fiscal year 1992, it should be taken from savings and slippages.

5. the amount provided for the International Peace Garden is the final Federal payment.

6. the amount for Natchez NHP, MS is for the highest priority work.

7. the Service may transfer sums appropriated for Fortress Rosecrans and Brannan Redoubt at Stones River NB between the two projects to prevent any project delays due to funding shortfalls and to provide flexibility. The Service may also use construction funds to acquire a small plot of land and pave it to provide parking for Brannan Redoubt.

8. the additional $1,950,000 for the Salem NHS, MA visitor center is the final construction appropriation for this facility.

The managers are concerned about the increased costs and the scope of the Crater Lake project in Oregon. No funds have been provided for planning the Activity Center/Hotel until current plans and additional Crater Lake alternatives are reviewed with the House and Senate Appropriatons Committees.

The managers have not included construction funding of $5,964,000 requested for the President's Park. While the managers agree that improved visitors facilities are needed for the White House and the surrounding area, questions were raised about the proposed location, including safety aspects, its proximity to the White House, and how the

current plans fit into an overall long-term development plan for the Ellipse area. The managers believe that the proposed plans need more consideration and that further planning is necessary before construction funding should be provided. Planning funds of $600,000 are included to develop a comprehensive long term plan for the construction of facilities to serve both White House visitors and the users of the Ellipse area.

For Hot Springs National Park, the managers have included a total of $350,000 for planning and $1,100,000 for construction. These planning funds are to be used solely for activities related to emergency stabilization of park facilities on Bathhouse Row including roof repairs and air handling systems and related utilities necessary for dehumidification to prevent further internal decay of historic structures. Within the amount for construction, $700,000 has been included for roof stabilization and $400,000 is for regarding of landscapes in the vicinity of Bathhouse Row to inhibit surface water drainage into historic structures. In the Operations account, $300,000 has been added to enable the park to hire day labor to make such ongoing repairs as may be necessary including external painting, reglazing and water runoff interceptor systems.

The managers have agreed to include $645,000 for Martin Luther King NHS for planning of a headquarters and all related facilities in construction package 102 except the rehabilitation of historic homes. The Service is expected to complete these aspects of package 102 well ahead of the 1996 Summer Olympics which are planned for Atlanta. The managers have also recommended $400,000 for emergency stabilization of Park Service-owned buildings at this historic site. These funds are not to be used for renovation purposes. Rather, the Service is expected to review with the Committees on Appropriations in advance of the fiscal year 1993 appropriations hearings the feasibility and cost of maintaining the integrity of the Martin Luther King National Historic Site through historic leasing or other mechanisms. The Service should be prepared to discuss the long-term impacts of each alternative. The Committees will review the relevant material thoroughly prior to consideration of the fiscal year 1993 Interior Appropriations Bill.

The $1,000,000 provided for Montpelier, James Madison's home in Virginia, is the Federal contribution to the $3,000,000 necessary to complete rehabilitation of this historic home. The $1,000,000 is to be drawn down only to the extent it is matched on a two to one basis with non-Federal funds.

The managers agree that the $1,674,000 provided for the Lewis & Clark National Historic Trail Interpretive Center is for a Nebraska City, Nebraska site located on the south side of U.S. Highway 2 overlooking the Missouri River.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides $8,440,000 for Everglades National Park instead of $11,200,000 as proposed by the House and $9,340,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Restore the matter stricken, amended to read as follows: *: Provided further, That of the funds provided under this heading, $1,400,000 shall be available for site acquisition and site preparation for the Lincoln Center in Springfield, Illinois: Provided further, That up to $376,000 of the funds provided under this head, to be derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), shall be available until expended for emergency stabilization of the Kennicott, Alaska copper mine, such funds to be transferred to the Alaska State Historic Preservation Office*

The managers on the part of the Senate will move to concur in the amendments of the House to the amendment of the Senate.

The managers agree that $1,400,000 shall be available for site acquisition and site preparation for the Lincoln Center. The House had provided $1,500,000 for land acquisition and $650,000 for site preparation.

The amendment also provides $376,000 in the form of a cooperative agreement for emergency stabilization of the Kennicott, Alaska copper mine. The work is to be carried out by the State Historic Preservation Officer. No other Federal contribution will be made available for this site.

Amendment No. 42: Provides $2,000,000 for the Chicago Public Library as proposed by the House.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $1,000,000 to rehabilitate Tad Gormley Stadium.

Amendment No. 44: Provides $3,650,000 for a Gateway Park associated with the Illinois and Michigan Canal National Heritage Corridor as proposed by the House.

Amendment No. 45: Retains House language "until March 1, 1992," regarding the date when funds under the head "Construction" may be released if Steamtown NHS, PA has not been specifically authorized. The Senate had deleted the date.

Amendment No. 46: Retains the word "head" as proposed by the House instead of "Act or any subsequent Act" as proposed by the Senate. This amendment is related to Amendment No. 45 above.

URBAN PARK AND RECREATION

Amendment No. 47: Appropriates $5,000,000 for the Urban Park and Recreation program instead of $10,000,000 as proposed by the House and nothing as proposed by the Senate.

LAND ACQUISITION AND STATE ASSISTANCE

Amendment No. 48: Appropriates $106,570,000 for land acquisition and State assistance instead of $108,365,000 as proposed by the House and $84,450,000 as proposed by the Senate. The managers agree to the following distribution:

Assistance to States:	
Matching grants	$20,000,000
Administrative expenses	3,500,000
Subtotal	23,500,000
Antietam NB, MD	800,000
Appalachian Trail	7,000,000
Aztec Ruins NM, NM	500,000
Big Cypress NP, FL	3,000,000
Big South Fork NR, KY	2,000,000
Chattahoochee NRA, GA	500,000
Congaree Swamp NM, SC	2,000,000
Cuyahoga Valley NRA, OH	3,000,000
Delaware Water Gap NRA, PA	500,000
Denali NP&P, AK	3,100,000
Everglades NP, FL	6,000,000
Fort Frederica NM, GA	2,500,000
Fort Raleigh NHS, NC	5,600,000
Fort Sumter NM, SC	55,000
Fredericksburg and Spotsylvania NMP, VA	2,000,000
Gettysburg NMP, PA	800,000
Golden Gate NRA, CA	2,100,000
Minuteman NHP, MA	920,000
Natchez NHP, MS	400,000
National Park of Samoa	300,000
Pecos NHS, NM	400,000
Petroglyphs NM, NM	6,000,000
Pinelands, NJ	3,000,000
Rocky Mountain NP, CO	695,000
Saint Croix NSR NM/WI	2,700,000
Santa Monica Mtns NRA, CA	14,000,000
Stones River NB, TN	200,000
Timucuan Ecological & Historical Preserve	1,000,000
Weir Farm NHS, CT	1,500,000
Acquisition Mgt	8,500,000
Inholdings	2,000,000
Subtotal, NPS	83,070,000
Total	106,570,000

The managers agree to consider additional funds, as necessary, for Fort Frederica NM in fiscal year 1993.

While no funds were provided for land acquisition at Channel Islands NP, CA, during the coming year, the Committees will explore options for protection of this property, including fee acquisition.

Amendment No. 49: Provides $23,500,000 for the State assistance program as proposed by the House instead of $15,500,000 as proposed by the Senate.

Amendment No. 50: Deletes Senate amendment earmarking $850,000 within available funds for the acquisition of the Shipley and Grandview Schools for use by the National Park Service's interpretive design center in Harpers Ferry, WV. The managers agree that up to $850,000 shall be made available for this purpose from unobligated balances remaining in completed projects.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows acquisition of property by condemnation at Santa Monica Mountains National Recreation Area under the condition that zoning permits or variances for such property shall not have changed since those in place on September 19, 1991.

ADMINISTRATIVE PROVISIONS

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That section 323 of Public Law 101-512 is amended by striking out "B½NW¼ section 9" and inserting in lieu thereof "E½NW¼ section 9": Provided further, That Federal funds available to the National Park Service may be used for improvements to the National Park Service rail excursion line between milepost 132.7 and 100.5 located in Northeastern Pennsylvania*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment changes the description of public lands to be withdrawn for an administrative site contained in Public Law 101-512 for Great Basin NP, NV. The amendment also allows the National Park Service to make improvements to a rail excursion line associated with Steamtown NHS, PA.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the National Park Service to enter into a cooperative agreement with the William O. Douglas Outdoor Classroom.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which directs the Superintendent of Olympic NP, WA to issue a ten-year special use permit for the continued operation of Kamp Kiwanis.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that appropriates $590,054,000 for surveys, investigations, and research instead of $589,499,000 as proposed by the House and $569,457,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House consists of increases of $3,000,000 for earthquake hazards reduction; $800,000 for Louisiana wetlands, $1,000,000 for western Louisiana/eastern Texas coastal erosion, and $300,000 for South Carolina coastal erosion, all in the coastal studies program; and $500,000 to continue the Upper Mississippi River study, and $250,000 for toxic studies of Lake Champlain and upgrading of the monitoring station at Lake Memphremagog in Vermont, both in the Federal water program; and decreases of $750,000 for side-looking airborne radar (SLAR); $2,000,000 for advanced cartographic systems; $350,000 for Southern Lake Michigan, $250,000 for Massachusetts Bay, and $800,000 for Alabama/Mississippi, all in the coastal studies program; $645,000 for offshore geologic surveys, and $500,000 for National Water Clearinghouse activity.

The managers agree that any studies on the Kualopu'u aquifer in Hawaii should be funded within the Federal-State cooperative water program if proposed by the State as a priority in its program with the Survey.

The managers agree that the Survey should continue to participate in the cooperative research project in the Federal-State cooperative water program which involves the Oregon Graduate Institute, if proposed by the State and local cooperators as a priority within the ongoing program.

The managers agree that the USGS should pay particular attention to those regional networks that received favorable ratings from the Review Panel on regional Seismograph Networks.

ADMINISTRATIVE PROVISIONS

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which redesignates the Geological survey as the United States Geological Survey. The House had no such provision.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

Amendment No. 57: Appropriates $207,070,000 for leasing and royalty management instead of $208,090,000 as proposed by the House and $199,614,000 as proposed by the Senate.

The net decrease to the amount by the House includes increases in resource evaluation of $500,000 for activities in the Gulf of Mexico region and $2,000,000 in the regulatory program for the oil spill response initiative; and decreases of $2,000,000 for environmental studies, $1,000,000 for leasing and environmental assessment activities in areas not included in the next 5-year OCS leasing program, $320,000 for late disbursement interest payments.

The managers note that the decrease of $2,000,000 in environmental studies in actuality represents an increase of $2,000,000 over the budget. At the end of fiscal year 1991 the Appropriations Committees approved the reprogramming or roughly $4,000,000, originally appropriated for the West Delta OCS oil and gas drainage claim, to the environmental studies program, thereby offsetting some fiscal year 1992 requirements.

The managers agree that:

1. Funds provided for leasing and environmental and resource evaluation programs, including environmental studies, are to be limited to areas with active leases or which are under consideration for leasing in the 5-year OCS plan;

2. Funds provided for the oil spill response initiative include the budgeted amounts for operations and research at the Oil and Hazardous Materials Simulated Environmental Test Tank;

3. The MMS should initiate the Technical Information Management System as a pilot project in the Gulf of Mexico region and include, in its fiscal year 1993 budget request, a detailed description, an implementation schedule and cost estimates by year for that pilot project;

4. The National Academy of Sciences study of Alaska OCS sale areas should be conducted consistent with the intent expressed in the statement of the managers accompanying the fiscal year 1991 appropriation, considering information available from the nationwide OCS assessment conducted by the NAS; the managers did not intend this evaluation to be a multi-year, high cost study and are dismayed that this project has not yet commenced;

5. The MMS, in cooperation with the Bureau of Land Management and the Forest Service, should report in its fiscal year 1993 budget request recommendations for revising the methodology used to assess mineral leasing royalty collection and distribution costs by State; and

6. The MMS, in coordination with the Bureau of Land Management, the Forest Service and the States, should report by February 1, 1992 on the extent to which mineral leasing royalty collection and distribution functions could be performed by State agencies more efficiently and at lower costs.

Amendment No. 58: Earmarks $66,584,000 for royalty management instead of $66,784,000 as proposed by the House and $66,574,000 as proposed by the Senate. The $200,000 decrease to the amount proposed by the House is for late disbursement interest. The managers expect the MMS to provide for interest payments within available funds as in the past.

Amendment No. 59: Restores House language providing for refunds on Indian allotted lease overpayments.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for the deduction of 50 percent of program administrative costs prior to the distribution of mineral leasing receipts to the States and the Federal Treasury. The House had no such provision.

Amendment No. 61: Deletes language proposed by the Senate providing $21,000,000 to the State of Louisiana and its lessees for the West Delta oil and gas drainage claim concerning certain offshore oil and gas leases.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for cooperative audits to be conducted by States and Indian tribes for coal, geothermal and other Federal lease royalties. The house had no such provision.

BUREAU OF MINES

MINES AND MINERALS

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer motion to recede and concur in the amendment of the Senate with an amendment which appropriates $176,690,000 for mines and minerals instead of $175,890,000 as proposed by the House and $172,849,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers expect the Bureau, to the maximum extent within the funds provided, to continue on schedule the programs, projects and activities at its research centers, and agree to the following changes to the budget request.

Information and Analysis.—The managers agree to a decrease of $5,148,000 for information and analysis activities which will allow continuation of the program at the same level as in fiscal year 1991.

Health Safety and Mining Technology.—In the health safety and mining technology activity, increases include $4,035,000 for advanced mining systems, of which $950,000 is for the Casa Grande in-situ copper leaching project, contingent on a 25 percent industry cost share, $500,000 is for in-house laboratory support for the Casa Grande project and $1,400,000 is for computer assisted mining; $5,750,000 for occupational health research; $3,000,000 for ground control research; $860,000 for human factors research; $300,000 for mine safety systems research; and $3,290,000 for mine disaster prevention, of which $1,000,000 is for fire technology testing and equipment recovery at the Mathies mine in Pennsylvania, contingent on a dollar-for-dollar industry cost share.

Minerals and Materials Science.—In the minerals and materials science activity the managers agree to an increase of $1,115,000, of which $615,000 is for ongoing research at the Idaho National Engineering Laboratory, and $500,000 is for the third and final year funding of the Oregon Metals Initiative which is to be matched on a dollar-for-dollar basis with non-Federal funds.

Environmental Technology.—In the environmental technology activity the managers agree to an increase of $5,104,000 including $1,500,000 for the National Mine Land Reclamation Center; $530,000 for an assessment of the sediments in the Chicago River; $250,000 for the fifth and final year funding on soil revegetation in Arkansas; $75,000 each for site characterization of subsidence from abandoned iron ore mines in High Bridge and Oxford Township, New Jersey, contingent on matching funds from non-Federal sources; and $2,674,000 for ongoing research on the control of mine drainage and liquid waste, of which $150,000 is for an examination of the hydrology impacts of subsidence and $1,292,000 is for water contamination research.

Mineral Institutes.—The managers agree to an increase of $1,700,000 for the mineral institutes program including $1,200,000 to continue the Marine Minerals Technology Center at the same level as in fiscal year 1991 and $500,000 for allotment grants to the 30 institutes.

General Administration.—The managers agree to a decrease of $921,000 for General

Administration as described in House Report 102-116 ad Senate Report 102-122.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which earmarks $101,682,000 to remain available until expended for research programs instead of $101,382,000 as proposed by the House and $99,523,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $111,100,000 for regulation and technology instead of $110,250,000 as proposed by the House and $110,065,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The change to the House recommended level consists of an increase of $850,000 to fund implementation of the Applicant Violator System by the States.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for full funding of the States' costs for implementation of the Applicant Violator System. The House had no such provision.

ABANDONED MINE RECLAMATION FUND

Amendment No. 67: Appropriates $190,200,000 for the abandoned mine reclamation fund as proposed by the House instead of $188,404,000 as proposed by the Senate. The amount agreed to by the managers includes two changes to the House recommended funding levels. First, State reclamation program grants are funded at $137,000,000 which is an increase of $7,000,000 to fund State-run emergency reclamation programs. Second, there is a decrease of $7,000,000 for the emergency program under the Federal reclamation program to offset that portion of the emergency program funded under the State AML grants account.

The managers have agreed to statutory language in amendment No. 68 which limits the amounts that may be obligated on emergency reclamation projects, including the amount that may be spent in any one State. Specifically, $22,000,000 is provided for State and Federal programs, of which no State may receive more than 20 percent and no more than $15,000,000 may be used for Federal emergency programs. The OSM may reprogram funds from the Federal emergency program account to the State AML grant account as needed for State-administered emergency programs as long as the 20 percent limit per State is not exceeded.

The emergency program exists to provide immediate abatement at reclamation sites that pose imminent threats to public health and safety. This program should not be used by States as a secondary delivery mechanism that parallels the States' AML grant program.

The managers continue to be concerned as OSM Federal emergency program costs have escalated out of control over the past three years with no apparent rationale, and seem likely to continue to escalate without some strict controls. The Senate's proposed solution to this problem has merit. It would establish a single delivery mechanism for State AML reclamation projects including emergencies in primacy States. Indeed several States effectively manage their own emergency programs now. The managers have elected not to make State takeovers of emergencies mandatory in fiscal year 1992 due to the concern that some of the States that currently rely on OSM for quick response to emergency reclamation needs may require some time to establish the needed procedures to take over their emergency programs.

The managers have agreed to continue emergency program funding in fiscal year 1992 subject to the restrictions explained below.

The managers expect to see reforms in the Federal emergency program. Preliminary results of an OSM evaluation of the program have indicated that a large number of high cost projects involving full reclamation are being funded with Federal emergency funding. Some of these projects are not begun until 4 to 6 months after the declaration of an emergency. This practice must stop.

The managers believe that an emergency should involve a situation that needs to be addressed in a matter of days not months and that the OSM, using Federal emergency funds, should do the minimum necessary to effect emergency abatement. The OSM should work with the States to establish cooperative agreements on the use of State AML grant funds to conduct the balance of work required for full reclamation if such an action is cost effective at the time of emergency abatement.

Each outstanding emergency project awaiting funding at the beginning of fiscal year 1992 should be reevaluated and recertified, including an assessment of the cost required for minimum emergency abatement. The OSM, as part of its State AML grant award criteria, should consider first projects identified through the emergency program as having potential for deterioration of emergency conditions.

The managers expect the OSM to report, no later than two weeks before its first fiscal year 1993 budget hearing, on the status of the State and Federal emergency programs; on recommendations for the takeover by the States of the emergency programs currently conducted by OSM and on schedules for such takeovers.

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment insert: *Provided, That of the funds herein provided up to $22,000,000 may be used for the emergency program authorized by Section 410 of Public Law 95-87, as amended, of which no more than 20 percent shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $15,000,000: provided further, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office*

And on page 26 beginning on line 9 of the House engrossed bill H.R. 2686, strike: "of which, notwithstanding any other provision of law, the following amounts shall be available to carry out the various provisions of section 402(g) of Public Law 95-87, as amended (30 U.S.C. 1232(g))"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment specifies the distribution of emergency funding and the staffing level for the Wilkes-Barre Field Office and strikes language referring to section 402(g) of Public Law 95-87, as amended.

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

After the word "Provided" in said amendment insert: *further*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment allows the Department of the Interior to use up to 20 percent of delinquent debt recoveries, pursuant to Public Law 97-365, to pay for contracts to collect these debts. The House had no such provision.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limit administrative expresses of the rural abandoned mine program to 15 percent of the funds available for that program. The House had no such provision.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the Secretary of the Interior to any 50 percent of a State's AML grant if the State is systematically failing to administer its approved regulatory program. The House had no such provision.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Amendment No. 72: Restores language proposed by the House and stricken by the Senate making funds available for education.

Amendment No. 73: Restores language proposed by the House and stricken by the Senate making funds available for schools.

Amendment No. 74: Appropriates $1,236,078,000 for operation of Indian programs instead of $1,283,630,000 as proposed by the House and $803,489,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of the following: decreases of $47,437,000 for education, $4,000,000 for self-determination services; $5,000,000 for community and economic development grants, $50,000 for agriculture, $200,000 for water resources; $197,000 for wildlife and parks, $50,000 for minerals and mining, $500,000 for rights protection, and $2,500,000 for essential tribal services; and increases of $1,330,000 for tribal government services; $400,000, for social services; $1,857,000 for Indian services, tribe/agency; $2,621,000 for natural resources, tribe/agency; $50,000 for trust responsibilities, tribe/agency to restore the 1991 add-on for Flathead realty; $400,000 for facilities operations and maintenance (transferred from school operations); and $5,724,000 for general administration.

The decrease in education consists of a decrease of $6,274,000 to school operations, which includes increases of $1,000,000 for the ISEP formula and $100,000 for the Navajo child sexual abuse project, to be spent consistent with the comprehensive plan formulated to address this problem, and decreases of $2,000,000 for Education 2000 grants, $1,400,000 to facilities operations and maintenance, and $3,974,000 to transfer facilities area offices staffing to the facilities operations and maintenance (non-education) line item; an increase of $532,000 for continuing education, including a decrease of $118,000 for

SIPI and increases of $500,000 for Title I tribally-controlled colleges and $150,000 for the Navajo Community College; an increase of $1,000,000 for tribe/agency operations, to restore FY 1991 scholarship funding, as allocated by the Senate; and a decrease of $42,695,000 for putting the balance of the education programs on a forward-funded basis. The managers hope to be able to address this issue in the next fiscal year.

The increase of $1,330,000 for tribal government services includes an increase of $80,000 under new tribes funding for the Coquille tribe, and a decrease of $250,000 for the Yurok Interim Council. This will provide continued funding of $250,000, since the Council will not be organized and able to use these funds until November, 1992. There is also an increase of $1,500,000 for child protection and family violence protection. The increase of $400,000 for social services includes an increase of $5,000,000 due to the increased rate of general assistance payments in Arizona, and decreases of $1,600,000 for Kalispell retroactive payments, since these payments were made in fiscal year 1991, and $3,000,000 for Indian Child Welfare Act grants, leaving an increase of $7,550,000 over the fiscal year 1991 level. Within Indian services, tribe/agency, there is $298,000 to continue the Navajo child sexual abuse program and $100,000, which was included in the budget request, for the Hopi child sexual abuse program. Within the general assistance program, up to $2,000,000 may be made available, as needed, for administrative costs related to the Alaska general assistance program.

The managers understand that some tribes have expressed concern about the lack of meaningful consultation in the BIA's current efforts to revise its social service regulations. The managers want to ensure that the annual appropriation for BIA social services provides for programs that are responsive to the needs of the tribes. Therefore, the managers strongly urge the BIA to give the tribes additional opportunities to consult on the future of these vital programs prior to publication of proposed regulations.

The managers have agreed to provide a $2,000,000 increase over the budget request for the self-governance demonstration project for shortfalls experienced by the tribes in negotiation and implementation. The education initiative associated with the project should be continued, with $150,000 to be provided to the Lummi tribe. Shortfall monies are to be available only to tribal annual funding agreements, and to the extent possible stable tribal base funding should be maintained for those tribes entering their second year of project implementation. The managers are aware that various Bureau officials are questioning the discretionary authority of self-governance tribes in expending BIA funds according to tribal budget priorities pursuant to tribal compacts and annual funding agreements. The managers agree that the Bureau should not encroach on tribal decision-making authority regarding self-governance funds management, when such decision-making is pursuant to the compacts and funding agreements. Within the funds provided for self-governance activities, the Bureau shall consider the needs of the Makah tribe for its self-governance demonstration project.

The managers have agreed to provide $200,000 each for the Intertribal Agricultural Council and the Council of Energy Resource Tribes. It is expected that an increasing portion of the costs for these organizations will be provided from member tribes.

The decrease of $200,000 to water resources is for a transfer of funds from tribal water resource planning in Washington State (leaving a balance of $550,000) to the Fish and Wildlife Service for shellfish negotiations.

The decrease of $197,000 to wildlife and parks consists of decreases of $500,000 to the timber-fish-wildlife initiative, $110,000 for the Quinault tribe since these funds are included in the tribe's self-governance compact funding, $100,000 for the Chippewa-Ottawa Treaty Fishery Management Authority, $300,000 for the Circle of Flight wetlands initiative, $86,000 for Minneapolis Area conservation officers training, $25,000 for the Native American Fish and Wildlife Society, and $100,000 for the bison project; and increases of $174,000 for the Navajo natural heritage program, $175,000 for Wisconsin fisheries, $175,000 for the Skokomish Delta recovery plan, and $500,000 for Pyramid Lake fisheries.

The increase of $2,621,000 for natural resources-tribe/agency consists of restoration of the fiscal year 1991 add-ons, with the exception of $174,000 for the Navajo natural heritage program which has been included under tribal management and development. The total amount provided includes $100,000 to restore timber administration. The decrease of $500,000 under rights protection is for water rights negotiation. The managers expect a total of $1,800,000 to be made available for the Little Colorado River litigation, including funding for the Navajo, Hopi, Zuni and San Juan Southern Paiute tribes.

The managers have agreed to provide $12,500,000 for essential tribal services. Of this amount, $500,000 is available to begin to address historic funding inequities at the Michigan agency. Additional efforts for this purpose, as well as to address historic inequities at other locations, should be reviewed and included in the recommendations of the Reorganization Task Force. No earmark is included for the Taos Blue Lake wilderness program, for which the managers understand $111,000 is included in the base for fiscal year 1992. The Taos Pueblo may use additional funds available under this program, as well as the expanded reprogramming authority discussed below, to increase this program if necessary in fiscal year 1992.

With regard to the essential tribal services funding, the managers agree that the funds are to be allocated under the Indian Priority System, but only for tribal priorities. None of the funds are available for Area office field operations, or for Agency office administrative or executive direction costs, unless the tribe or tribes involved establish such costs as a priority. For fiscal year 1992, the funds are not available for tribes receiving $100,000 or more in restorations of fiscal year 1991 add-ons. At the beginning of fiscal year 1992, all tribe/agency funds included in the 1992 budget plus these additional funds may be reprogrammed by the tribes if they determine there are higher priorities than those for which the funds were initially provided, or as provided under the IPS process; thereafter, for the balance of the year, the regular reprogramming guidelines should be followed. The resulting revised distribution should be used as the basis for the table showing tribe/agency allocations included with fiscal year 1993 budget request, and the funds should be retained in the base.

The increase of $5,724,000 in general administration includes $1,000,000 for the Federal Financial System, $250,000 for education program management, to be used only for education positions, not administrative positions, $500,000 for construction program management, and $3,974,000 for the transfer of the Area Office staffing from the school operations line item.

The managers agree that funding for the 1854 Authority includes the Fond du Lac tribe. Within water resources funds, the Miccosukee and Seminole water management programs are to be continued at current levels. At least $300,000 is available for participation of the Lower Elwha Klallam tribe in FERC proceedings related to dam removal. The Bureau is directed to complete the strategic plan for trust fund management, continue to work with the General Accounting Office and the Intertribal Monitoring Association and report quarterly to the Committees on progress made in the program, including the reconciliation effort. In cooperation with the Reorganization Task force, the managers expect the Bureau to consider alternative methods of presenting the natural resources budget. Within litigation support, there is $150,000 for the Arkansas Riverbed Authority. Under attorneys' fees, the Bureau should provide sufficient funds for the Hopi and Navajo tribes for the 1882 litigation, and for the Hopi, Navajo and San Juan Southern Paiute tribes for the 1934 litigation.

Based on materials provided by Sealaska Corporation, the Tlingit and Haida Central Council, the Alaska Federation of Natives, and other readily available documents including court decisions, the Secretary is directed to prepare a report detailing the historical evidence, if any, which may indicate whether the villages of Tenakee Springs, Haines, Wrangell, Ketchikan, and Petersburg were inadvertently denied village or urban corporation status under the Alaska Native Claims Settlement Act.

The managers are aware of a difficult situation in the community of White Swan, WA, and request the Department to work with the Yakima Tribe and the Mount Adams School District to investigate alternates to respond to the pressing needs of this community.

Amendment No. 75: Restores House language stricken by the Senate, amended to provide the sum of $248,152,000 in advance funding for school operation costs, instead of $302,025,000 as provided by the House. The differences are decreases of $42,695,000 which the House had proposed to provide for forward funding of all education programs in fiscal year 1992, $2,000,000 for Education 2000 grants, $3,000,000 for institutionalized handicapped, and $7,278,000 for technical support, and an increase of $1,100,000 for the Indian school equalization program.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides $75,912,000 for scholarships, vocational training and assistance to public schools instead of $74,912,000 as proposed by the House and $18,392,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase of $1,000,000 over the House is to restore scholarship funding (tribe/agency) to the 1991 level.

Amendment No. 77: Restores language proposed by the House and stricken by the Senate which provides funds for higher education scholarships and assistance to public schools.

Amendment No. 78: Restores language proposed by the House and stricken by the Senate providing that grants authorized by the Indian Education Amendments of 1988 shall remain available until expended.

Amendment No. 79: Provides that $2,021,000 for litigation support shall remain available

until expended as proposed by the House instead of $3,021,000 as proposed by the Senate.

Amendment No. 80: Provides that $5,000,000 shall be made available for self-governance tribal compacts as proposed by the House instead of $3,000,000 as proposed by the Senate.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language providing that the accounting of trust funds furnished to tribes or individual Indians will allow the beneficiary to determine whether there has been a loss.

Amendment No. 82: Restores House language stricken by the Senate which provides $300,000 for a grant to the Close Up Foundation.

Amendment No. 83: Deletes House language which would have limited spending for the Federal Financial System in fiscal year 1992, as proposed by the Senate. The managers have agreed to provide $4,218,000 for this purpose, and expect reprogramming procedures to be followed if this amount is to be exceeded.

Amendment No. 84: Deletes House language prohibiting the use of funds to prepare a reprogramming proposal to reorganize the Bureau of Indian Affairs until a task force has reported to the Committees on Appropriations, and prohibiting a reorganization under provisions of law, as proposed by the Senate. This issue is discussed further under Amendment No. 87.

Amendment No. 85: Deletes House language providing for deductions from timber sale receipts to remain available until expended.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That until such time as legislation is enacted to the contrary, none of the funds appropriated in this or any other Act for the benefit of Indians residing within the jurisdictional service area of the Cherokee Nation of Oklahoma shall be expended by other than the Cherokee Nation, nor shall any funds be used to take land into trust within the boundaries of the original Cherokee territory in Oklahoma without the consent of the Cherokee Nation*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to delete funding for the United Keetoowah Band of Cherokees in Oklahoma, and have included language providing that until such time as Congress enacts contrary legislation, Federal funds should not be provided to any group other than the Cherokee Nation, within the jurisdictional area of the Cherokee Nation.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That the Task Force on Bureau of Indian Affairs Reorganization shall continue activities under its charter as adopted and amended on April 17, 1991: Provided further, That any reorganization proposal shall not be implemented until the Task Force has reviewed it and recommended its implementation to the Secretary and such proposal has been submitted to and approved by the Committees on Appropriations, except that the Bureau may submit a reorganization proposal related only to management improvements, along with Task Force comments or recommendations to the Committees on Appropriations for review and disposition by the Committees*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have included language that will allow the Task Force on Bureau of Indian Affairs Reorganization to continue its activities during fiscal year 1992, and to submit any reorganization proposals recommended by the Task Force after its review of such proposals to the Appropriations Committees for disposition. If the Bureau chooses to propose a reorganization that is related only to management improvements, such as in the areas of procurement, financial management, or data processing, the language will allow the Bureau to submit such a proposal to the Task Force for review and comment, and then to submit the proposal, along with the Task Force comments or recommendations to the Appropriations Committees for review and disposition.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that any funds provided in this Act that are to be included under a self-governance compact, with availability for more than one year, may be reprogrammed to one year availability but shall remain available within the compact until expended.

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That within available funds $100,000 is available to lease space in a facility to be constructed by the Nez Perce Tribe in Lapwai, Idaho: Provided further, That the Bureau of Indian Affairs will incorporate General Services Administration Market Survey findings into the final lease agreement: Provided further, That notwithstanding any other provision of law, $150,000 shall be provided to the Blackfeet Tribe for a model trust department pilot program*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to make available $100,000 to lease space in a facility to be constructed by the Nez Perce Tribe in Idaho, subject to GSA market survey findings, and to provide $150,000 to the Blackfeet Tribe for a model trust department pilot program.

INDIAN EDUCATION PROGRAMS

Amendment No. 90: Deletes language proposed by the Senate which would have established a separate account for Indian education programs. These programs are continued within the Operation of Indian programs account.

CONSTRUCTION

Amendment No. 91: Appropriates $213,163,000 for construction instead of $219,856,000 as proposed by the House and $106,735,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $667,000 for two juvenile detention facilities (Ute Mountain Ute and Chinle), $300,000 from facilities improvement and repair, for a transfer to construction program management, $2,500,000 for Ute Mountain Ute farm development, $2,500,000 for the Navajo Indian Irrigation Project, $500,000 to employee housing, and $3,000,000 to road sealing; and increases of $500,000 for the Tamgass Creek hatcher, $1,000,000 for the Wind River irrigation project, $500,000 for road maintenance, and $774,000 for land acquisition, including $716,000 for the Swinomish Tribe (McGlinn Island) and $58,000 for San Carlos mineral strip acquisitions.

The additional funds for road maintenance are for areas identified by the Bureau as high priority needs, including the Tohono O'odham. The Papago Agency base for fiscal years 1992 will be $423,000 for road maintenance and $380,000 for road sealing, as included in the BIA capability statement. Within the funds provided for employee housing, the Bureau should work with the Rough Rock and Black Mesa schools and Ramah Navajo tribe to meet their employee housing needs to the extent possible. The Bureau should work with the Chickasaw Nation to complete planning for a cultural resources center. The managers understand that other sources of funds will be sought for construction of such a center.

Funds have been provided to acquire in trust the property known as "McGlinn Island" located in Skagit County, WA for the Swinomish Tribal Community under the construction that it shall be preserved in its natural condition.

The managers have included funding, as discussed above, for planning and design of new schools, and funding for construction of new schools. In addition, a significant increase is provided over the funding requested in the President's Budget for facilities improvement and repair. With respect to these funds, the managers agree:

1. Planning and design funding will be available for the top ten schools contained on the fiscal year priority list, to the extent that funds are available;

2. Schools on the fiscal year 1992 priority list not funded for planning and design in fiscal year 1992 will be funded for these purposes in fiscal year 1993;

3. The Department shall review applications and prepare a new school construction priority list for fiscal year 1993, with these schools eligible for planning and design and construction funding, subject to budget constraints, in fiscal year 1993 and beyond in addition to any remaining fiscal year 1992 schools;

4. The Department should continue efforts currently underway to revise the new school construction priority setting process, with an emphasis on tribal consultation, improving the objectivity of the selection process, instilling some continuity into the program and addressing how emergency needs will be handled;

5. New school construction funding is not earmarked for specific projects, but is to be made available upon completion of the necessary validations and planning and design, starting at the top of the fiscal year 1992 list and including Pyramid Lake;

6. To the extent the construction funds are insufficient to address the total costs associated with the projects directed by the managers, additional funds to complete these projects will be provided in fiscal year 1993 and the outyears;

7. At least $250,000 is available to begin planning and design of the replacement school at Pyramid Lake, with construction funds to be consistent with items 5 and 6 above; and

8. Within funds provided for facilities improvement and repair, $835,000 is available for interim safety improvements at the existing facility at Pyramid Lake, and $310,000

is available for health and safety needs at the Navajo Academy.

The managers are aware of the apparent need for additional space at the Four Winds School on the Fort Totten reservation, and expect the school will participate in the revised priority setting process. The managers expect that the emergency replacement needs of the Second Mesa School will be reviewed as part of the priority-setting process discussed earlier.

The managers have not recommended any transfer at this time of the Old Tuba City Boarding School Building No. 78 pending the resolution of outstanding issues associated with the condition of the facility.

The managers expect the Department to submit expeditiously a reprogramming request to address the adequacy of space requirements for 300 students at Laguna Middle School.

Amendment No. 92: Rescinds $7,000,000 as proposed by the House instead of $3,000,000 as proposed by the Senate.

Amendment No. 93: Deletes language proposed by the Senate which would have made funds appropriated for the Wind River Irrigation Project in fiscal years 1990, 1991 and hereafter available on a non-reimbursable basis. The managers understand that there are questions as to whether the costs of the Wind River Irrigation Project should be non-reimbursable, and request that a report on the legal history of the project and its status be provided to the Committees by April 1, 1992.

EDUCATION CONSTRUCTION

Amendment No. 94: Deletes language proposed by the Senate which would have established a separate education construction account. The managers have included funding for education construction within the construction account.

MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 95: Restores House language stricken by the Senate with an amendment providing that $5,000,000 shall be made available under Public Law 101-602 on September 30, 1992, instead of $12,000,000 as proposed by the House. The language provides that certain amounts of three authorized Indian settlements will be made available on September 30, 1992. As discussed under amendment number 222, funds appropriated under this head will not be subject to any across-the-board reduction affecting this Act.

MISCELLANEOUS PERMANENT APPROPRIATIONS

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that beginning on October 1, 1991 and thereafter, amounts collected in connection with the Alaska Resupply Program shall be deposited in a special fund in the Treasury and shall remain available until expended, and that unobligated amounts previously collected shall be transferred to this account.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

Amendment No. 97: Appropriates $93,477,000 for administration of territories instead of $103,177,000 as proposed by the House and $74,150,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $200,000 for American Samoa operations, $2,000,000 for American Samoa power improvements, $8,000,000 for Virgin Islands hurricane recovery for schools, and $1,000,000 for Compact impact on Guam and the Northern Mariana Islands; and increases of $500,000 for the Northern Mariana Islands airport control tower, and $1,000,000 under technical assistance for studies on Rongelap Atoll. Any additional funds needed to complete the Northern Mariana Islands airport control tower should come from local sources.

The balance of $1,000,000 remaining for Compact impact assistance on Guam and the Northern Marianas Islands should be moved to the technical assistance line item and specifically earmarked for this purpose. The funds should be provided to these governments based on information provided as to how the funds will be used to offset the increased impacts on education and social services as a result of increased immigration from the Freely Associated States. The provision of these funds is not intended to preclude additional technical assistance related to Compact impact, where appropriate. The Department is to report by April 1, 1992 on options to institutionalize future Compact impact assistance.

Within the $500,000 provided for the brown tree snake program, $100,000 is to be provided for training of beagles on Hawaii. The balance of the funding is for additional research and control activities, as included in the brown tree snake program plan.

The managers expect the American Samoa government to submit a plan for improving its financial management and accountability, which will be considered along with future requests for increased operations funding.

The managers have included $1,000,000 for additional studies on Rongelap Atoll, to be provided through the technical assistance line item. These studies are to be carried out in accordance with the plan recently agreed to by the Republic of the Marshall Islands, the Rongelap Atoll local government, the Department of Energy and the Department of the Interior. Additional funding needs for the studies will be reviewed in the future.

Amendment No. 98: Provides $89,447,000 for technical assistance, maintenance assistance and grants instead of $99,194,000 as proposed by the House and $69,847,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of the same items discussed under Amendment No. 97.

Amendment No. 99: Restores language proposed by the House and stricken by the Senate making funds available for brown tree snake control and research.

Amendment No. 100: Provides $4,030,000 for the Office of Territorial and International Affairs rather than $3,983,000 as proposed by the House and $4,303,000 as proposed by the Senate. The increase over the amount proposed by the House is $47,000 to restore funds for pay costs and administrative efficiencies.

The reprogramming proposal to establish a Pacific Operations center, dated August 23, 1991, is not agreed to.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Amendment No. 101: Appropriates $24,451,000 for the Trust Territory instead of $27,951,000 as proposed by the House and $22,451,000 as proposed by the Senate. The increase over the amount proposed by the Senate is $2,000,000 for additional high priority water and sewer projects in the Republic of Palau.

Amendment No. 102: Deletes House language which would have provided for Palau operations a grant funds to the expended as determined by the Government of Palau, as proposed by the Senate.

In order to provide for an open and timely consideration by all interested parties in the matter of the financial program of the Palau government, the managers expect the following: For fiscal year 1992, as soon as possible upon enactment of appropriations for the Department of the Interior and Related Agencies, Palau should adopt and submit to the Department a unified national budget with separate delineation of Federal and local funds. Within 20 days, the Department will notify Palau and the authorizing and appropriating committees of the U.S. Congress of any concerns regarding that budget, and clearly identify why any portions are inconsistent with the Secretary's trusteeship responsibilities. If concerns are raised and resolution not reached within thirty days of the initial notification, the Secretary shall submit Palau's proposal as a reprogramming without change by the Administration. In addition, the Department should include with any such transmittal an identification of those concerns which relate significantly to the trusteeship responsibility. The managers wish to reiterate that self-government for Palau means local decision-making. The Department should not second-guess decisions primarily local in nature. Decisions regarding operations of the Government of Palau are not to be decided by the Department. The principal point of the Secretary's review should be to ensure that the trusteeship responsibility is fulfilled.

The Appropriations Committees of the House and Senate will review Palau's reprogramming consistent with the reprogramming guidelines established by the committees. If no action is taken within thirty days and an extension not requested, Palau's proposal will take effect. If the Department fails to abide by this procedural framework in the coming fiscal year, restrictive language will be included in the fiscal year 1993 Appropriations Act.

With respect to the Palau operations grant in fiscal year 1993, Palau should submit its proposed expenditure of Federal funds and allow for Department of the Interior review. The Palau proposal and any Interior comments thereto should be forwarded to the Appropriations Committees within thirty days of the President's budget submission. Palau will then have an opportunity to review the Department's comments, and submit an official response in the context of the hearings on the fiscal year 1993 budget. Congress will then be able to make any decisions it believes appropriate, and include specific direction to be followed, if any, in the appropriations Act or accompanying report.

COMPACT OF FREE ASSOCIATION

Amendment No. 103: Appropriates $25,010,000 for the Compact of Free Association as proposed by the Senate instead of $26,010,000 as proposed by the House. The decrease of $1,000,000 from the amount proposed by the House is for studies on Rongelap Atoll, which have been provided under the Administration of territories account, as discussed under Amendment No. 97.

Amendment No. 104: Strikes House language providing funding for the relocation and resettlement of the people of Rongelap as proposed by the Senate.

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That $2,000,000 shall be available on an ex gratia basis for the relocation and resettlement of the people of Rongelap on Rongelap Atoll: Provided further, That such funds shall*

remain available for deposit into a Rongelap Resettlement Trust Fund to be used by the people of Rongelap under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Rongelap Local Government Council subject only to the disapproval of the Secretary of the Interior: Provided further, That the Government of the Republic of the Marshall Islands and the Rongelap Local Government Council shall provide for the creation of the Rongelap Resettlement Trust Fund to assist in the resettlement of Rongelap Atoll by the people of Rongelap, and the employment of the manager of the Rongelap fund established pursuant to the Section 177 Agreement (pursuant to Section 717 of Public Law 99-239) as trustee and manager of the Rongelap Resettlement Trust Fund, or, should the manager of the Rongelap fund not be acceptable to the people of Rongelap, another United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of $250,000,000, subject only to the disapproval of the Secretary of the Interior: Provided further, That such funds shall be available only for costs directly associated with the resettlement of Rongelap by the people of Rongelap and for projects on Mejatto: Provided further, That the Secretary may approve expenditures of up to $500,000 in fiscal year 1992 for projects of Mejatto benefiting the people of Rongelap presently residing on the island of Mejatto: Provided further, That after fiscal year 1992, such projects on Mejatto benefiting the people of Rongelap may be funded only from the interest and earnings generated by the trust fund corpus: Provided further, That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State or local taxation: Provided further, That the Governments of the United States and the trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have revised the language included in the House and Senate bills, to clarify the provision of $2,000,000 for the relocation and resettlement of the people of Rongelap on Rongelap Atoll. Of the amount provided, up to $500,000 may be made available in fiscal year 1992 for projects on Mejatto island.

OFFICE OF THE SECRETARY

Amendment No. 106: Appropriates $64,445,000 for the Office of the Secretary instead of $66,414,000 as proposed by the House and $58,428,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Departmental Direction:	
Secretary's immediate office	2,756,000
Executive Secretariat	660,000
Congressional and legislative affairs	1,273,000
Equal opportunity	1,647,000
Public affairs	888,000
Small and disadvantaged business utilization	523,000
Quality assurance	298,000
Subtotal	8,045,000
Program Direction and Coordination:	
A/S Water and science	810,000
A/S Land and minerals management	931,000
A/S Fish and wildlife and parks	831,000
A/S Indian affairs	819,000
American Indian trust	650,000
Office of self-governance	682,000
Audit and evaluation	1,150,000
A/S Territorial and international affairs	642,000
A/S Policy, management and budget	1,103,000
Subtotal, Program Direction and Coordination	7,618,000
Administration:	
Environmental affairs	3,761,000
Acquisition and property management	1,998,000
Office of personnel	2,095,000
Administrative services	1,265,000
Library services	1,218,000
Information resources management	2,845,000
Management improvement	1,537,000
Program analysis	2,340,000
Office of budget	2,240,000
Financial management	1,580,000
Security and drug enforcement	705,000
Subtotal, Administration	21,584,000
Hearings and appeals	6,875,000
Aircraft services	2,247,000
Central services	18,709,000
Federal Financial System	−633,000
Total, Office of the Secretary	64,445,000

OFFICE OF THE SOLICITOR

Amendment No. 107: Appropriates $31,525,000 for the Office of the Solicitor instead of $30,525,000 as proposed by the House and $31,902,000 as proposed by the Senate. The increase over the House reflects a general reduction of $2,951,000 instead of $3,951,000 as proposed by the House. The managers agree that within the amount available there is a $300,000 increase for Alaska operations.

OFFICE OF INSPECTOR GENERAL

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $24,044,000 for the Office of Inspector General instead of $24,244,000 as proposed by the House and $25,518,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The change to the House position increases the general reduction from $705,000 to $905,000.

NATIONAL INDIAN GAMING COMMISSION

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$2,190,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment appropriates $2,190,000 for the National Indian Gaming Commission instead of $1,890,000, subject to authorization, as proposed by the House and $2,490,000, as proposed by the Senate. The managers understand that a one-year extension of authorization will be enacted into law in the near future.

OIL SPILL EMERGENCY FUND

Amendment No. 110: Appropriates $3,900,000 for the Oil Spill Emergency Fund as proposed by the House instead of deleting the account as proposed by the Senate.

The managers agree that not less than $1,065,000 is for the National Park Service.

ADMINISTRATIVE PROVISIONS

OFFICE OF AIRCRAFT SERVICES

The managers direct the Office of Aircraft Services to evaluate the feasibility of allowing the Ohio Department of Natural Resources (ODNR), Division of Wildlife aircraft to participate in the Department of the Interior's Office of Aircraft Services Aviation Management System. The specific concerns that should be addressed cover many operational areas, including but not limited to: a) aircraft operations standards; b) ability of Ohio to bill DOI for maintenance work performed in the Ohio aircraft maintenance facility; c) ability of Ohio to pay DOI for all aircraft operations costs; and d) liability issues involved when DOI is scheduling and accomplishing routine maintenance on ODNR aircraft. If it is determined that both parties are committed to the arrangement, the managers request the Department to report on the appropriate implementing mechanism.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which designates all funds used by the Secretary for emergency purposes under this general authority as "emergency requirements" pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. The House had no such provision.

Amendment No. 112: Restores House language stricken by the Senate which limits the Secretary of the Interior's use of emergency authorities with regard to emergency rehabilitation and wildfire suppression activities.

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which designates all funds used by the Secretary for emergency purposes under this general authority as "emergency requirements" pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. The House had no such provision.

Amendment No. 114: Deletes House proposed language prohibiting use of funds in the Act to rename Mount McKinley.

Amendment Nos. 115–120: Change section numbers as proposed by the Senate.

Amendment No. 121: Restores House language stricken by the Senate which pertains to the management of Matagorda Island, Texas, amended to change the section numbers.

Amendment Nos. 122–123: Change House and Senate proposed section numbers.

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 117. Section 105 of Public Law 100-675 is hereby amended by adding the following new subsection:

"(c) AUTHORITY TO DISBURSE INTEREST INCOME FROM THE SAN LUIS REY TRIBAL DEVELOPMENT FUND.—Until the final settlement agreement is completed, the Secretary is authorized and directed, pursuant to such terms and conditions deemed appropriate by the Secretary, to disburse to the San Luis Rey Indian Water Au-

thority, hereinafter referred to as the 'Authority', funds from the interest income which has accrued to the San Luis Rey Tribal Development Fund, hereinafter referred to as the 'Fund'. The funds shall be used only to assist the Authority in its professional development to administer the San Luis Rey Indian Water Settlement, and in the Authority's participation and facilitation of the final water rights settlement agreement of the five mission bands, subject to the terms of the Memorandum of Understanding Between the Band and the Department dated August 17, 1991.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment amends Public Law 100-675 to provide authority for disbursing interest income from the San Luis Rey tribal development fund established by that law and changes the section number proposed by the Senate. The funds will be used only to assist the San Luis Rey Indian Water Authority in administering the settlement, and no funds will be distributed to bands or members of bands not directly associated with the Authority.

Amendment No. 125: Deletes Senate proposed bill language requesting a report on restoration of certain Native American murals in the Department of the Interior building. The managers agree that within 60 days of enactment of this Act, a report from the Secretary of the Interior in consultation with the Administrator of General Services on actions to restore and protect the murals mentioned in the Senate amendment is still required.

Amendment No. 126: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment insert: *118*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment extends the time available for the Secretary of the Interior to approve the extension of the Blackstone Commission and changes the section number proposed by the Senate.

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 119. None of the funds appropriated in the Energy and Water Development Appropriations Act, 1992 (Public Law 102-104) shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR Part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.

SEC. 120. (a) The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (H.R. 2608), is amended as follows:

(1) The third paragraph in title I (under the headings "Justice Assistance" and "Office of Justice Programs" within amounts for the Department of Justice) is amended by striking out the period at the end and inserting in lieu thereof ": Provided, That of the $76,000,000 appropriated herein, $4,000,000 shall be derived from deobligated funds previously awarded under part B and subparts I and II of part C of title II of said Act.".

(2) The paragraph in title I under the heading "Salaries and Expenses" under the heading "Federal Communications Commission" is amended by striking out "For total obligations" and inserting in lieu thereof "For necessary expenses".

(3) The paragraph in title IV under the heading "Payment to the Legal Services Corporation" under the heading "Legal Services Corporation" is amended by inserting ", coordinated through the national Legal Services Corporation," in the proviso after "such Institutes".

(b) The amendments made by subsection (a) shall take effect as if included in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992, on the date of the enactment of such Act.

And on page 91, line 7 of the House engrossed bill, H.R. 2686, strike "22" and insert "15".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment prohibits funds in the Energy and Water Appropriations Act from being used to implement an Army Corps of Engineers proposed rule on ability to pay and changes the section number proposed by the Senate.

The amendment also adds new language, not included in either the House or Senate bills, which makes technical corrections to H.R. 2608, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992, as approved by the House and Senate, as follows:

First, a provision agreed to by the conferees to H.R. 2608 was included in the conference agreement but inadvertently left out of the final bill. Exclusion of this provision results in the bill being scored $833,000 in outlays above the amounts assumed in the conference agreement. Inclusion of this provision in this amendment will bring H.R. 2608 back within its 602(b) allocations.

Second, corrects language in H.R. 2608, under the Federal Communications Commission (FCC), which inadvertently provides an overall obligation limitation on the FCC. This change should have been made when the conferees on H.R. 2608 decided not to accept the Administration's FCC fee proposal.

Third, clarifies the intent of the conferees on H.R. 2608 concerning the awarding of a grant for a National Resource and Training Center under the Legal Services Corporation (LSC). The language clarifies that preference should be given to a university which has hosted National Trial Advocacy Institutes coordinated through the national Legal Services Corporation office.

Finally, the amendment changes the allowable percentage of increase for Forest Service and Bureau of Land Management communication site fees to not more than 15 percent in fiscal year 1992 instead of 22 percent in the House engrossed bill.

The managers have agreed to change the maximum per centum amount by which communication site fees may be increased in final year 1992, which is contained in Sec. 314, from 22 percent included in the House bill, to 15 percent.

The managers are concerned that previous agency efforts to establish an acceptable methodology for communication site reappraisals have been unsuccessful. The managers therefore direct the Forest Service and the Bureau of Land Management to jointly establish a broad-based advisory group comprised of representatives from the broadcast industry (users of both private and public communication sites) and the two agencies to review recommendations on acceptable criteria for determining fair market values and next best alternative use. The advisory group shall review the methodology used in the study previously mandated and reach concurrence on such methodology. The advisory group shall also assess the validity of the results of such studies, taking into account all reasonable options for the establishment of fair market values and next best alternative use. Finally, the advisory group shall take into account appropriate fee waivers or reductions for public service by communication site users who provide for the public convenience, interest, and necessity as required for licensing under the Communications Act of 1934.

The advisory group shall report its findings to the Senate and House Committees on Appropriations no later than May 1, 1992.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE—FOREST SERVICE

FOREST RESEARCH

Amendment No. 128: Appropriates $182,812,000 for forest research instead of $183,572,000 as proposed by the House and $176,850,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $380,000 for forest protection research and $1,375,000 for forest environment research; and increases of $357,000 for resource analysis research, $283,000 for forest management research and $355,000 for forest products and harvesting research.

In forest protection research, there are increases of $350,000 for Lincoln, NE, which is to be used for the highest priority research activities, which could include initiation of the Center for Semiarid Agroforestry; $100,000 for Moscow, ID; and $50,000 for Juneau, AK; and decreases of $200,000 for Corvallis, OR (new perspectives), $80,000 for Athens, GA (tree health), $140,000 for Macon, GA, $100,000 for Berkeley, CA, $160,000 for Honolulu, $100,000 for Hamden, CT, and $100,000 for the Blue Mountain Institute, OR.

The managers agree that the $1,000,000 provided for bark beetle research is not earmarked but is to be directed where the impacts are the most severe throughout the West.

For resource analysis research, the increase of $357,000 consists of decreases of $100,000 for Riverside, CA, $100,000 for Syracuse (recreation research), $50,000 for Fort Collins, and $100,000 for Davis, CA; and increases of $50,000 for St. Paul, including an increase of $200,000 for inventory and a decrease of $150,000 for the Lake States regional analysis, $157,000 for Albuquerque and $200,000 for Anchorage. There is also an increase of $300,000 for Fort Collins for a southwestern forestry study, which had been included by the Senate under forest management research.

Under forest management research, there are decreases of $40,000 for Burlington, $300,000 for Pacific Yew research at Corvallis/Olympia, leaving $300,000, $75,000 for Grand Rapids, MN, $200,000 for Gainesville, FL, and $450,000 for new perspectives research; and increases of $400,000 for Monticello, AR, $50,000 for Morgantown, $273,000 for Moscow, $350,000 for New Orleans, $75,000 for Parsons, WV, and $200,000 for Research Triangle Park, NC. A total of $2,950,000 is provided for new perspectives research, as follows:

Olympia, WA	$100,000
Olympic Natural Resources Center	1,250,000
H.J. Andrews	450,000
Macon, GA	50,000

Charleston, SC	100,000
Unallocated	1,000,000
Total	2,950,000

With regard to the funds provided for the Olympic Natural Resources Center, the Center is to select the projects for which the funds will be used, but in coordination with the balance of the new perspectives program. The Forest Service should provide a proposed distribution of the unallocated funds within 90 days of enactment.

The decrease of $1,375,000 for forest environment research includes decreases of $100,000 to Corvallis (steelhead and salmon), $250,000 to Clemson, including $50,000 to threatened and endangered plants and $200,000 to neotropical migratory birds, $200,000 to Tempe, including $100,000 each for habitat research and neotropical migratory birds, $50,000 to Logan, UT, $225,000 to Rio Piedras, including $125,000 for tropical research and $100,000 for neotropical migratory birds, $100,000 to Missoula/Boise (salmon and grizzly bear), $150,000 to new perspectives, including $100,000 at Olympia and $50,000 at Seattle, $100,000 to Rapid City, $300,000 to Raleigh, NC; and an increase of $100,000 at Laramie, WY for neotropical migratory birds.

The increase of $355,000 for forest products and harvesting research includes decreases of $150,000 at Houghton for pallet recycling, $200,000 at Portland for new perspectives, $45,000 at Asheville for pallet recycling; and increases of $150,000 at Juneau, AK, $100,000 at Princeton, and a net increase of $500,000 at Madison, as follows: increases of $500,000 for timber bridge research and $450,000 for recycling, and decreases of $50,000 for Pacific Yew and $400,000 to research work units with budgeted increases. Within the timber bridge funds, at least $250,000 shall be made available to West Virginia University.

STATE AND PRIVATE FORESTRY

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $184,107,000 for State and private forestry instead of $205,041,000 as proposed by the House and $199,332,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The decrease from the amount proposed by the House includes increases of $8,000,000 for Appalachian integrated pest management, $300,000 under fire protection for field management, training and technical assistance in South Carolina, and $7,050,000 for special projects; and decreases of $8,484,000 to transfer cooperative law enforcement back to the National forest system account, and $27,800,000 for forest management and utilization, which includes decreases of $300,000 for forest resource management, $6,500,000 for forest stewardship, $15,000,000 for stewardship incentives/tree planting, $8,000,000 for urban forestry, and $5,000,000 for economic recovery; and increases of $3,000,000 for reforestation in South Carolina and $4,000,000 for rural development in the Northeast and Midwest. The increase of $7,050,000 for special projects includes increases of $1,250,000 for northern forest lands, $4,500,000 for the Hardwoods Training and Flexible Manufacturing Center, WV, $5,000,000 for the Forest Legacy program, and $550,000 for a grant to Berkeley County, SC, and decreases of $250,000 for the Gifford Pinchot Center and $4,000,000 for tropical forestry.

The $500,000 included in forest pest management for the bark beetle initiative is not earmarked to any specific region, but is to be directed to where the need is greatest. Within urban forestry, the following amounts are earmarked: $1,000,000 for Chicago, $500,000 for the Ohio Arbor program, $100,000 for Tacoma, WA, $50,000 for Bremerton, WA, $50,000 for Port Orchard, WA, $500,000 for the cooperative demonstration project in northern New Jersey, $500,000 for Atlanta, and $250,000 for Grand Forks, ND. There is also an earmark of $500,000 for the Ohio Arbor program within the stewardship incentives/tree planting program. Within forest resource management, there is $200,000 for the Chesapeake Bay program. Under special projects, $2,000,000 is provided for grants to the Washington State Office of Trade and Economic Development and the Oregon Economic Development Department for projects to diversify western Oregon and Washington timber dependent communities. The funds are to be matched on a 50/50 basis by each State. In considering its use of the funds provided herein to encourage economic diversification, the Oregon Economic Development Department should give consideration to various proposals for improved utilization of red alder and demonstration projects regarding value-added wood products manufacturing. Within the tropical forestry initiative, the composition of the funding should be adjusted to continue providing historic proportional shares to Africa, Asia, and other parts of the world, as well as Latin America and the Caribbean. The Forest Service is expected to allocate $175,000 from within forest resource management funds for coordination and liaison work with the Northern Forest Lands Council and to continue funding for this effort in the base program. Of the funds provided for the northern forest lands project, $450,000 is for support of the Council, including $250,000 for the council and $50,000 for each State, and the balance is to begin research, inventory and resource identification.

With regard to plans under the forest stewardship program, existing plans may be used if they meet the requirements of the stewardship program or can be modified to do so.

Within the funds provided for economic diversification studies, there is $30,250 for the Trico housing panel project, and $30,000 for a tourboat/train diversification project, both in the State of Washington.

The Forest Service should report on the need for and feasibility of establishing greenhouse and seed orchard capacity in interior and southcentral Alaska for reforestation and forest enhancement. The Forest Service should look at requirements for Federal lands in Alaska, and how such a program would meet their requirements. As part of its feasibility assessment, the Forest Service should work with other agencies in considering the requirements of a development plan for such facilities. The capabilities of the other agencies should be integrated into any such comprehensive plan. It is the managers' understanding that such facilities would service Federal lands only.

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available a grant of $4,500,000 to Mercer County, West Virginia for a hardwood training and flexible manufacturing center.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That a grant of $550,000 shall be available to Berkeley County, South Carolina*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment deletes language proposed by the Senate which would have provided $250,000 for a Snow Science Center at Alta, UT, and adds language which provides a one-time grant to Berkeley County, SC to assist in an orderly transition due to reduce timber receipt payments as a result of timber blowdown by Hurricane Hugo. Payments to this county are declining as a result of a significantly reduced timber program, and the county should plan accordingly for this situation, which will likely last for many years.

Amendment No. 132: Deletes language proposed by the Senate which would have made $5,000,000 available for the Morris K. Udall Foundation, subject to authorization. Funding for the Udall Foundation has been included under the Indian Health Service. The managers agree that funding will be considered for a Silvio O. Conte Foundation, when such a foundation has been authorized.

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That $5,000,000 shall be available for necessary expenses of the Forest Legacy Program, as authorized by section 1217 of Public Law 101-624, the Food, Agriculture, Conservation and Trade Act of 1990: Provided further, That the Forest Service shall not, under authority provided by this section, enter into any commitment to fund the purchase of interests in lands, the purchase of which would exceed the level of appropriations provided by this section*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have provided $5,000,000 in initial funding for the Forest Legacy program, with language prohibiting commitments beyond the $5,000,000 provided. In New York State, any political subdivision must agree to include itself, in order to participate in the Forest Legacy program. A subdivision is defined as a village, city, town or county.

Upon completion of a needs assessment study and approval by the Secretary of Agriculture, Massachusetts shall be eligible to receive funding provided for the Forest Legacy program in fiscal year 1992.

NATIONAL FOREST SYSTEM

Amendment No. 134: Appropriates $1,359,662,000 for the national forest system instead of $1,280,947,000 as proposed by the House and $1,379,605,000 as proposed by the Senate. The net increase from the amount proposed by the House consists of increases of $8,484,000 for cooperative law enforcement to restore funds proposed to be transferred to State and private forestry; $86,987,000 for road maintenance, to restore funds proposed to be transferred to the construction account, and to restore the budget request level; $5,184,000 for timber sales, including $184,000 for inventory and $5,000,000 for harvest administration; and $1,625,000 for general administration, including $1,375,000 for Tongass and $250,000 for public affairs; and decreases of $1,098,000 for minerals; $1,163,000 for real estate management; $601,000 for landline location, partially related to the timber program; $200,000 for national forest

system drug control; $1,000,000 for trail maintenance, leaving a general increase of $4,000,000 and an increase of $500,000 for Washington flood recovery; $1,000,000 for reforestation and stand improvement; $14,961,000 for recreation use; $300,000 for wildlife and fish habitat; $1,600,000 for range management; and $1,642,000 for soil, water and air management.

The managers agree that the reductions for minerals and real estate management are to apply to all of the expanded budget line items for these categories. Within minerals, the reduction is to be applied in such a manner as to limit the increase over the base amount to roughly half that requested in the budget. For real estate management, the total reduction of $2,163,000 is to be spread as follows: $825,000 for land exchanges, $500,000 for special uses, and $838,000 for geometronics.

The funding decrease for reforestation includes a reduction of $600,000 for the joint Forest Service/National Cancer Institute study, and a decrease of $400,000 for timber stand improvement. The net change to the budget request for timber stand improvement is to be applied nationally, since the managers agree that no specific reductions in any budget activity will be directed at the Tongass National Forest. Funding for the Tongass National Forest is to be treated as any other national forest. General increases will go the Tongass, and so will general decreases. With respect to the Pacific Yew, the Forest Service should designate at least one person in each National Forest where the Pacific Yew is found to coordinate Pacific Yew issues. The Regional Forester in each region where the Pacific Yew is a significant resource should be responsible for ensuring the Pacific Yew is raised as a critical issue when timber sales are planned, and to ensure full utilization of the Pacific Yew, with little or no waste. The Forest Service should develop a strategy for ensuring a sustainable supply of Pacific Yew for the medical community with the least possible environment impact, and should publish the strategy as soon as possible for implementation during fiscal year 1992.

The decrease in recreation use includes reductions of $321,000 below the House level for timber support; $10,000,000 for recreation management, with no earmarks, other than those identified below; $4,000,000 for wilderness management; and $640,000 for cultural resources management. Within wildlife and fish habitat, the net change from the House recommendation includes decreases of $2,000,000 for neotropical migratory birds, $750,000 for Eyes on Wildlife, and $2,000,000 for threatened and endangered species, and increases of $1,750,000 as a general increase for the wildlife management program, to be allocated to all wildlife programs, including Eyes on Wildlife; $200,000 for timber support; and $2,500,000 for anadromous fish. The decrease below the House within the soil, water and air program includes reductions of $642,000 for operations and $1,200,000 for improvements, which leaves an increase of $1,500,000 for Washington flood repair, and an increase of $200,000 for inventories. The funds for threatened and endangered species are not earmarked for specific programs, but the Forest Service should address needs in the areas of new listings, plants, fish, and the Rocky Mountain wolf.

The managers agree that within the funding recommended, the following amounts shall be available: $400,000 in road maintenance for the Monongahela National Forest; $100,000 within trail maintenance for the Shawnee National Forest; in recreation management, $500,000 for Wild and scenic rivers planning in Oregon, $150,000 for the Shawnee National Forest, $200,000 for Skagit River management, $500,000 for the Columbia River Gorge National Scenic Area management plan, and $150,000 for a feasibility study regarding a reservoir on the Homochitto National Forest; in wildlife management, $100,000 for the black bear study on the Green Mountain National Forest and $90,000 for a wolverine study on the Sawtooth National Recreation Area; $150,000 in inland fish management for the Monongahela National Forest; $5,000,000 within anadromous fish for "Salmon Summit" related activities in regions 1, 4, and 6; $150,000 within wildlife and fish habitat for the Shawnee National Forest; and $250,000 for soil, water and air on the Monongahela National Forest. Within the funds provided for timber sales, the Forest Service should allocate additional funds needed to replace fiscal year 1991 timber preparation funds on the Tongass that were expended to rework existing sales into conformance with the new authorizing legislation. Also within timber, $250,000 is available to begin an assessment by the National Research Council of the status of the biological and hydrological resources of the forests in the Pacific Northwest and the relationship of those forests to supply and demand for forest products in other regions of the country. No specific funds are earmarked beyond the items identified in the statement of the managers. The managers have provided funding for "Salmon Summit" activities under the anadromous fish category, but if higher priority needs related to accomplishing the Columbia Basin salmon plan exist in other line-items, the Forest Service should reprogram, consistent with the guidelines.

The managers agree that the timber sale program is facing a great deal of uncertainty in fiscal year 1992. The Chief's letter of October 1, 1991 regarding fiscal year 1992 capabilities reiterated that the Forest Service is ". . . committed to implementing the forest plans, making sure that all projects are implemented consistent with the Forest plan standards and guidelines." The managers agree and expect standards and guidelines to be followed in carrying out the programs funded in this bill. The proposed structuring of the timber sales program allows for flexibility in conducting the program. Specific sales offer volumes are not specified by region in the bill. A range for sales preparation is provided in this statement, with the understanding that as sales preparation activities are completed, timber is expected to be offered for sale. The funding recommended by the managers is consistent with the high range for levels. The estimated program capability is to be determined by on the ground conditions, and may result in actual outputs different from those included in this statement. The managers agree, however, that the need for flexibility is accompanied by an equally strong need for accountability in the conduct of the program and the expenditure of funds.

As requested by the House, the Forest Service is to report monthly on the regional and national status of the timber sales preparation and offer program. This report shall include, at a minimum, information about volume prepared and offered for sale, both new and salvage sales; pipeline accomplishments through Gates 2 and 3, with clear identification of the changes from month to month; information on timber program staffing and costs (including support costs); information on any downsizing of the organization and associated costs; and details on program activities funded out of the salvage fund. In addition, any changes to the scope of the program during the year should be reported to the Committees.

Based on information provided by the Forest Service regarding timber sale preparation capability, the following distribution for the timber program in fiscal year 1992 is assumed:

[In million board feet]

Region:	*Volume*
1	664–750
2	335
3	307–375
4	345
5	1,000–1,300
6	2,200–3,000
8	1,100
9	756
10	420
Total	7,127–8,381

The volume in the fiscal year 1992 President's budget for Region 1 was 940 million board feet. Recently, the Forest Service indicated that less than this amount was likely to be prepared due to appeals and litigation in the region, and other factors. In the event that appeals and litigation and other issues are resolved, additional volume may be prepared, subject to the availability of funds. This volume of timber does not include the timber in the fiscal year 1991 timber sale progrm that was funded to be offered, but was not offered in fiscal year 1991. It is the expectation of the managers that this volume will be made available for sale in fiscal year 1992, to the extent possible.

The managers direct the Forest Service to submit a reprogramming to make available all funds in fiscal year 1992 not utilized for sales preparation activities in Region 6, for the purpose of expanding employment opportunities in that Region, particularly in those areas which have been adversely affected by the reduction of the timber sales program due to the Spotted Owl and other impacts. Activities supported by these funds shall include trail maintenance, timber stand improvement campground improvement, and recreation site improvement.

In addition to the current year timber program, the managers have continued the pipeline initiative begun in previous years. Recognizing that some regions and forests have a greater degree of stability and certainty in their timber sales program, the managers recommend $20,000,000 for the pipeline. By December 1, 1991, the Forest Service should report to the Committees regarding the proposed distribution of funds and anticipated accomplishment through gates 2 and 3 for the pipeline initiative, by region. In reaching these decisions, the managers expect the Forest Service to take into account the prospects for clearing sales through the various gates in the timber sales preparation process, so that the pipeline may begin to fill up. The proposed distribution should consider existing pipeline levels, relative certainty of the timber base, market demand, meeting all legal requirements, and the need for advance work, such as road construction. For example, if greater certainty exists in Region 10 due to the passage of the Tongass Timber Reform Act and the completion of a new land management plan for the Tongass, then funds should be allocated accordingly. The managers also agree that if the Forest Service believes it has additional capacity to complete pipeline activities in fiscal year 1992 after the $20,000,000 is spent, the Forest Service should notify the Committees.

Given the lengthy drought in the West and increases in the amount of dead and dying timber, the managers are concerned that the Forest Service has not placed as much emphasis on the salvage of this timber as is needed. The managers urge the Forest Service to pursue a timber salvage program which will allow for the removal of maximum salvage volumes while protecting the full range of environmental values. The Forest Service is directed to develop a report which will assess volumes and locations of dead and dying timber in Oregon, Washington, and California and a 5 year timber salvage plan to accelerate timber salvage operations. The Forest Service shall submit the accelerated timber salvage report to the House and Senate Committees on Appropriations for consideration along with the President's fiscal year 1993 budget submission.

The managers further direct the Forest Service to proceed with implementation of the "Blue Mountains Forest Health Report Summary and Recommendations" for Region 6, to the fullest extent possible, in conjunction with the accelerated timber salvage program.

The managers expect the Forest Service to continue efforts underway to reduce below-cost sales. The Forest Service should work with the GAO on the feasibility and associated costs of developing an exceptions policy for significant below-cost sales on forests that would otherwise be above cost, and report by March 1, 1992. In considering various alternatives or proposed changes to the proposed below-cost policy, the Forest Service should include an analysis of the associated costs. In addition, prior to the fiscal year 1993 hearing, the Forest Service should analyze the possibility of including information regarding desired future condition and the cost alternatives to achieve it as a part of TSPIRS, and report on the cost of including such information. The Forest Service should continue the efforts underway to identify the basis for any proposed minimum bid rate. The managers do not direct implementation of such a rate at this time since the Forest Service anticipates having a plan and timetable for development of a minimum bid rate by February 1, 1992. The plan and timetable should then be submitted to the Committees, and be made available for public notice and comment at that time.

The managers expect the Forest Service to submit the requested reports regarding changes to timber sale contracts designed to improve the government's financial security. Changes to the downpayment provisions are not recommended herein pending completion of the ongoing public notice and comment period. The managers will expect the Forest Service to continue its efforts to complete this process, and will expect a progress report prior to the fiscal year 1993 appropriations hearings. The Committees may revisit this issue next year if an impasse prevents any proposed changes from proceeding.

As requested by the House, as soon as the formal documentation called for by the Mitre study on the geographic information system is completed, the Forest Service should submit all such documentation to the Committees and to GAO, for review and comment prior to releasing the request for proposals for the GIS system.

Specific funding for the implementation of new perspectives demonstration projects is not identified, since the Forest Service estimated that it planned more activity than identified by the Senate. Within the new perspectives program, however, the managers expect the Forest Service to distribute funds in a manner consistent with the Chief's intention to include some forests such as the Ouachita National Forest as demonstration sites.

The managers direct the Forest Service to conduct a feasibility study on the establishment of a Supervisor's Office for the Wayne National Forest, Ohio. The Wayne has grown from 178,000 acres to more than 200,000 acres in the past several years and continues to grow. The current Forest Plan projects that the Wayne will exceed 322,000 acres.

National forest management is more complex today due to changed societal values and demands than when the management structure for the Wayne National Forest was established. The political and economic climate, social culture, historical and current land use patterns, and public demands are significantly different than those associated with management of the Hoosier National Forest. A Supervisor's office may better serve the public and enhance management of the Wayne National Forest in a cost efficient manner.

Establishing a fully staffed Supervisor's office may not be necessary. Some shared staff functions may best continue to be centralized at one location to avoid duplication of skills and expertise and to save costs. The study should include an analysis of the projected costs and benefits and recommendations on procedures for establishing a Supervisor's office for the Wayne NF.

The managers have restored part of the reduction proposed by the House for public affairs. The reduction is associated with the need to bring the size of the public affairs organization of the Forest Service more in line with the size of the public affairs function of other agencies funded in the bill.

The managers are aware of serious maintenance problems at a number of water storage reservoirs within wilderness areas in Montana, such as the Big Creek Dam and reservoir on the Selway-Bitterroot Wilderness. The managers expect the Forest Service to proceed with maintenance and repair of these reservoirs as expeditiously as possible, and understand that the Forest Service may use the authorities contained in section 1133(d)(4) of the Wilderness Act if it determines them to be necessary.

Amendment No. 135: Modifies House language, stricken by the Senate, to reduce the earmark for wilderness management to $26,968,000, instead of $30,968,000 as proposed by the House.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which extends the availability of funds in the National Forest System account until September 30, 1993.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *Provided further, That timber volume authorized or scheduled for sale during fiscal year 1991, but which remains unsold at the end of fiscal year 1991 shall be offered for sale during fiscal year 1992 in addition to the fiscal year 1992 timber sale volume to the extent possible: Provided further, That within available funds, up to $238,000 shall be available for a cooperative agreement with Alabama A&M University*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The language provides that unsold fiscal year 1991 timber volume shall be offered for sale during fiscal year 1992 to the extent possible, and allows the use of $238,000 for a cooperative agreement with Alabama A&M University.

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that up to $5,000,000 of the funds provided for road maintenance may be used for the planned obliteration of roads that are no longer needed.

Amendment No. 139: Deletes language proposed by the Senate which would have prohibited the Forest Service from establishing a timber sale offer volume different from that stated by the Committee without advance approval of the Committee.

FOREST SERVICE FIREFIGHTING

Amendment No. 140: Appropriates $189,803,000 as proposed by the House instead of $302,203,000 as proposed by the Senate. Additional funding for firefighting is addressed under Amendment No. 142.

The managers have not earmarked any specific funds within the firefighting accounts. Beetle outbreaks plague the western United States, from California north to Alaska. The managers expect the Forest Service to conduct presuppression activities commensurate with the potential threats caused by this outbreak, including the need for fuels treatment in the Kenai Peninsula, Chugach National Forest.

Amendment No. 141: Deletes language proposed by the Senate which would have provided that funds needed for emergency firefighting in excess of $112,000,000 shall be designated as "emergency requirements."

Amendment No. 142: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

EMERGENCY FOREST SERVICE FIREFIGHTING FUND

For the purpose of establishing an "Emergency Forest Service Firefighting Fund" in the Treasury of the United States to be available only for emergency rehabilitation and wildfire suppression activities of the Forest Service, $112,000,000 to remain available until expended: Provided, That all funds available under this head are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That hereafter, beginning in fiscal year 1993, and in each year thereafter, only amounts for emergency rehabilitation and wildfire suppression activities that are in excess of the average of such costs for the previous ten years shall be considered "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment restores the House proposed appropriation of $112,000,000 for emergency firefighting and includes a Congressional designation of an emergency under the Balanced Budget and Emergency Deficit Control Act of 1985. The amendment deletes language requiring a similar Presidential designation in order to spend the funds. Language is also included specifying that in future years any amounts in excess of a ten-year average for emergency firefighting costs will be considered "emergency requirements" under the Act.

CONSTRUCTION

Amendment No. 143: Appropriates $275,178,000 for construction rather than $350,420,000 as proposed by the House and $265,545,000 as proposed by the Senate. The net decrease from the level recommended by the House consists of an increase of $3,482,000 for facilities construction, and decreases of $1,537,000 for road construction, $76,987,000 for road maintenance, which is funded out of the National Forest System account, and $200,000 for trail construction of the Pinhoti trail on the Talladega National Forest.

The increase for facilities construction consists of increases of $1,240,000 for the Monongahela National Forest, $295,000 for the Kisatchie NF, $436,000 for Trout Pond in the George Washington National Forest, $1,095,000 for the Winding Stair National Recreation Area, $300,000 for Hilltop campground, Toiyabe NF, $100,000 for Arizona recreation facilities, $1,500,000 for the Ketchikan visitors center, $140,000 for White River access, Vermont, $250,000 for rehabilitation of Snow Bunny Lodge, Mount Hood NF, and $2,612,000 for Mount St. Helens; and decreases of $1,068,000 for the H.J. Andrews Experimental Forest, $400,000 for the Hells Canyon National Recreation Area, $185,000 for Clear Creek, $278,000 for the Jefferson National Forest (Cascades), $500,000 for the Tahoe Tallac site, $225,000 for Big Cottonwood Canyon, $830,000 for Badin Lake, Uwharrie National Forest, and $1,000,000 for Region 8 hurricane recovery projects.

Within the regionwide recreation initiative funds included in the budget request for Region 8, to improve accessibility, $400,000 is earmarked for the Badin Lake project, Uwharrie NF.

Because of budget constraints, the managers are unable to provide the entire balance of funding to complete the Ketchikan visitors center this year. These funds will be addressed in future years. The managers do not expect the scope of the project to be redrawn. Within the funds included in the budget request for survey and design of new projects in Region 6, the Forest Service is to provide $400,000 to begin the rewiring of the historic Timberline Lodge.

Budgetary constraints preclude concurrence with the Senate recommendation of $600,000 for Las Huertas Canyon in New Mexico. If this project is of high priority to the Southwestern Region, the Forest Service should prepare a reprogramming of funds from other New Mexico Forest Service projects to continue this initiative in fiscal year 1992. The managers supported this project with the inclusion of $392,000 in fiscal year 1991.

The net decrease in road construction from the House level consists of increases of $250,000 for the Ketchikan visitors center, $1,000,000 for the Hells Canyon NRA, and $715,000 for the Salmon River Road, and decreases of $890,000 for the Wayne National Forest and $2,612,000 for Mount St. Helens, which is transferred to recreation facilities.

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$82,089,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides $82,089,000 for construction and acquisition of buildings and other facilities instead of $78,607,000 as proposed by the House and $78,272,000 as proposed by the Senate. The increases over the amount proposed by the House are discussed in the preceding amendment.

Amendment No. 145: Provides $193,089,000 for road and trail construction rather than $271,813,000 as proposed by the House and $187,273,000 as proposed by the Senate. The difference from the amount proposed by the House is discussed in Amendment No. 143.

Amendment No. 146: Provides a ceiling of $113,000,000 in new authority for construction of forest roads by timber purchasers as proposed by the House, rather than the Senate proposed ceiling of $120,000,000.

Amendment No. 147: Deletes language proposed by the House providing for the use of up to $5,000,000 in road repair funds for the planned obliteration of roads which are no longer needed. The language is provided under the National Forest System account along with the road maintenance funds.

LAND ACQUISITION

Amendment No. 148: Appropriates $89,433,000 for Forest Service land acquisition instead of $90,735,000 as proposed by the House and $78,270,000 as proposed by the Senate.

The managers agree to the following distribution of funds.

Allegheny NF, PA	$320,000
Appalachian Trail	3,000,000
Brasstown Wilderness, GA	268,000
Cascade Head SRA, OR	250,000
Chattanooga W&SR, GA/NC	2,200,000
Chequamegon NF, WI	815,000
Chippewa NF, MN	1,000,000
Clearwater NF, ID	150,000
Cleveland NF, CA	1,500,000
Columbia Gorge NSA/WA/OR	3,578,000
Croatan NF, NC	2,600,000
Daniel Boone NF, KY	2,000,000
Flathead NF, MT	1,186,000
Flathead NF, MT (Plum Creek)	1,200,000
Florida NST, FL	120,000
Gallatin NF, MT	2,000,000
Galt, Crazy Mountains, MT	3,000,000
Green Mountain NF, VT	2,000,000
Hells Canyon NRA, ID	1,500,000
Hoosier NF, IN	1,042,000
Kootenai NF, MT	1,200,000
Lake Tahoe Basin	5,000,000
Lincoln NF, NM	4,000,000
Los Padres NF, CA	1,988,000
Manistee, NF, MI	200,000
Monongahela NF, WV	1,200,000
Ocala NF, FL	118,000
Oregon Dunes NRA, OR	3,000,000
Osceola NF, FL	2,000,000
Ottawa NF, MI	5,184,000
Ouachita NF, AR/OK	6,000,000
Ozark NF, AR	2,700,000
Pacific Crest Trail, CA	1,320,000
San Juan NF, CO (Hidden Valley)	800,000
Santa Fe NF, NM	1,000,000
Sawtooth NRA, ID	676,000
Shawnee NF, IL	1,000,000
Siuslaw NF, OR	1,560,000
Sumter NF, SC	484,000
Superior NF, MN	1,525,000
Toiyabe NF, CA	2,499,000
Uwharrie NF, NC	750,000
Wayne NF, OH	2,000,000
Wenatchee NF, WA (Alpine Lakes)	1,000,000
Acquisition Management	8,500,000
Emergencies	2,000,000
Cash Equalization	1,000,000
Total	89,433,000

The managers direct the Forest Service to purchase the Big Creek property located in the Siuslaw National Forest for an amount up to and including the previously appropriated amount of $1,500,000.

Included within the allowance for Toiyabe NF are funds for Hope Valley and the Fibre Board property.

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides authority to make a grant of $633,000 to the City of Missoula, Montana for direct acquisition of property known as Rattlesnake Greenway.

ADMINISTRATIVE PROVISIONS

Amendment No. 150: Restores House language stricken by the Senate which provides that no funds shall be advanced for firefighting until the emergency firefighting funds have been exhausted.

Amendment No. 151: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which continues the availability of the timber salvage sale fund under the same authorities as provided in prior years. The managers have not specified a funding level from the salvage sale fund because of uncertainty about the level of salvage opportunity that may exist during fiscal year 1992. As discussed previously, the Forest Service should include information about the use of salvage sale funds in the monthly timber program report requested by the managers.

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which changes the reference regarding reprogramming procedures to House Report 102-116 rather than House Report 99-714.

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes permanent language providing authority for the Forest Service to negotiate and enter into cooperative arrangements with other agencies, organizations, and individuals.

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the Forest Service to enter into cooperative arrangements for the printing of educational materials related to its programs.

Amendment No. 155: Deletes House language on the timber sales program on the Shawnee National Forest, as proposed by the Senate. This matter is discussed under Amendment No. 164.

Amendment No. 156: Restores House language stricken by the Senate providing for certain types of timber management on the Wayne National Forest.

Amendment No. 157: Reported in technical disagreement.

The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of administering a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Rock Creek, Maderia County,

California, until a study has been completed and submitted to the Congress by the Forest Service in consultation with the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the California State Water Resources Control Board, the California Department of Fish and Game and other interested public parties regarding the project's potential cumulative impacts on the environment, together with a finding that there will be no substantial adverse impact on the environment. Findings from the study must be presented at no less than three public meetings.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have included language prohibiting the use of funds to administer a special use authorization on Rock Creek, Maderia County, CA, until an environmental study has been completed and a finding made that there will be no adverse impact on the environment. The managers believe this study is necessary because an extended five-year drought has changed conditions such that some of the earlier information may need to be updated.

Amendment No. 158: Deletes House language requiring a below cost timber sales test on the Shawnee National Forest, as proposed by the Senate. This matter is discussed under Amendment No. 164.

Amendment No. 159: Deletes language proposed by the Senate that directed the Forest Service to offer specific volumes of timber for sale during fiscal year 1992.

Amendment No. 160: Deletes language proposed by the Senate that directed the Forest Service to prepare timber for sale in future years through specific gates in the timber sales preparation process.

Amendment No. 161: Deletes language proposed by the Senate that would have provided increased funding to national forests achieving timber sale offer and pipeline preparation volume.

Amendment No. 162: Deletes language proposed by the Senate which would have provided that the payment from fiscal year 1992 receipts to South Carolina for the Francis Marion NF shall be not less than 90% of the average annual payment to the State based on the 1986–1989 baseline period. A related grant to the State is discussed under Amendment No. 131.

Amendment No. 163: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed in said amendment, insert the following:

As a pilot effort, for the purpose of achieving ecologically defensible management practices, the Kaibab and Dixie National Forests are authorized to apply the value or a reasonable portion of the value of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected projects. Timber removed shall count toward meeting the Congressional expectations for the annual timber harvest.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have included language authorizing the Forest Service in two national forests to apply the value of timber removed under a stewardship end result contract as an offset against the cost of various stewardship services, such as reforestation, recreation, wildlife habitat, etc. This is intended to be a pilot effort, and the Forest Service should document in detail all such contracts entered into during fiscal year 1992, including the calculations used in determining the value of timber removed and the value of services received, and include this information in a report to be submitted to the authorizing committees and the Appropriations Committees as soon as possible after the end of the fiscal year.

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

The Forest Service shall conduct a below-cost timber sales study on the Shawnee National Forest, Illinois, in fiscal year 1992.

The Forest Service shall work with the purchasers of sales already under contract on the Shawnee National Forest to achieve mutually acceptable modifications to said contracts so that the harvest of timber under such contracts may occur consistent with the expected management prescriptions and/or practices envisioned in the Draft Amendment to the Forest Plan for the Shawnee National Forest issued in 1991.

To the greatest extent possible, and pending final approval of the Draft Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have included Senate proposed language regarding conducting a below cost study on the Shawnee NF, IL, and working with timber purchasers to achieve mutually acceptable modifications to existing timber contracts, in line with the practices and procedures envisioned in the draft amendment to the Shawnee NF management plan released in 1991. The managers have also added language which prohibits the use of funds to the greatest extent possible, pending final approval of the draft amendment to the Shawnee forest plan, to prepare timber sales using clearcutting or other forms of even aged management in hardwood stands.

It is not the intention of the managers to take a position with regard to the overall merit of the draft plan for the Shawnee and this language is not intended as a an endorsement. The plan is referenced only to provide a range of timber management alternatives for the Shawnee. It is the understanding of the managers that the draft plan cited in the language calls for virtually no clearcutting on the Shawnee and instead, relies heavily on a practice known as "gap phase dynamics" which simulates natural tree fall patterns. Under the plan, uneven aged management is to be the predominant silvicultural practice on the Shawnee. Given the strong concern for the decline in neotropical migratory bird species and the role of dwindling forest resources such as those on the Shawnee in this process, the managers encourage this shift towards low-impact timber management practices for this forest such as those included in its 1991 draft amendment to the plan.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert:

Notwithstanding the issuance date for the fifth general request for proposals under this head in Public Law 101–512, such request for proposals shall be issued not later than July 6, 1992, and notwithstanding the proviso under this head in Public Law 101–512 regarding the time interval for selection of proposals resulting from such solicitation, project proposals resulting from the fifth general request for proposals shall be selected not later than ten months after the issuance date of the fifth general request for proposals: Provided, That hereafter the fifth general request for proposals

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment changes the issuance date for the fifth general request for proposals to July 6, 1992 instead of March 1, 1992 as proposed by the House and August 10, 1992 as proposed by the Senate and changes the allowable length of time from issuance of the request for proposals to selection of projects to ten months. The amendment also deletes Senate proposed bill language pertaining to a sixth general request for proposals as discussed below.

The managers agree that the additional two months in the procurement process for the fifth round of proposals should include an additional month to allow for the preparation of proposals by the private sector, and up to an additional month for Department of Energy review and evaluation of proposals when compared to the process for the fourth round.

The managers have agreed to delete bill language regarding a sixth round of proposals, but agree that funding will be provided for a sixth round based on unobligated and unneeded amounts that may become available from the first five rounds. The report from the Secretary on available funds, which was originally in the Senate amendment, is still a requirement and such report should be submitted to the House and Senate Committees on Appropriations not later than May 1, 1994. Based on that report, the funding, dates and conditions for the sixth round will be included in the fiscal year 1995 appropriation.

The managers expect that the fifth solicitation will be conducted under the same general types of criteria as the fourth solicitation principally modified only (1) to include the wider range of eligible technologies or applications; (2) to adjust technical criteria to consider allowable development activities, to strengthen criteria for non-utility demonstrations, and to adjust commercial performance criteria for additional facilities and technologies with regard to aspects of general energy efficiency and environmental performance; and (3) to clarify and strengthen cost and finance criteria, particularly with regard to development activities.

Amendment No. 166: Restores House language deleted by the Senate which refers to a fifth general request for proposals. The Senate proposed language dealing with both a fifth and a sixth round.

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which directs the Secretary of Energy to reobligate up to $44,000,000 from the fourth round of Clean Coal Technology proposals to a proposal ranked highest in its specific technology category by the Source Evalua-

tion Board if other than the highest ranking project in that category was selected originally by the Secretary, and if such funds become unobligated and are sufficient to fund such project. This amendment would earmark such funds, if they become available, to a specific project not chosen in the Department of Energy selection process for the fourth round of Clean Coal Technology.

Amendment No. 168: Technical amendment which deletes House proposed punctuation and numbering as proposed by the Senate.

Amendment No. 169: Deletes House proposed language which made unobligated funds available for procurements for which requests for proposals have not yet been issued.

Amendment No. 170: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds "not less than" to employment floor language for PETC as proposed by the Senate. The House had no such language.

Amendment No. 171: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds "not less than" to employment floor language for METC as proposed by the Senate. The House had no such language.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 172: Appropriates $458,104,000 for fossil energy research and development instead of $453,989,000 as proposed by the House and $462,015,000 as proposed by the Senate. The net increase above the amount proposed by the House consists of increases of $500,000 for work at Ames Laboratory (IA) in coal preparation; $260,000 for PFBC filter development, $800,000 for two-stage desulfurization in gasification, $150,000 for bench-scale testing of sorbents in gasification concepts, and $350,000 for direct coal-fired turbine research, all in gas stream cleanup; $750,000 for the final year of the Hawaii energy study and $175,000 for the IEA coal service, both in advanced research and technology development; $250,000 for AFBC special applications projects in AFB combustion; $4,000,000 for a pilot scale facility for second generation PFB technology in PFB combustion; $2,300,000 for indirect cycle critical components work and $500,000 for conceptual design activities for a generic heat exchanger, indirect cycle test facility, both in advanced combustion technology; $1,500,000 for two contracts in molten carbonate fuel cell stack development, and $400,000 for research studies, both in molten carbonate fuel cells; $1,000,000 for alternative concepts and $350,000 for solid oxide seal work at Argonne National Laboratory, both in fuel cell advanced concepts; $800,000 for low-Btu combustion work, $200,000 for in-house r&d, and $750,000 for a cooperative advanced turbine program, all in the turbine heat engine program; $800,000 to continue one systems contractor and terminate another, and $500,000 to close out work on novel concepts, both in diesel heat engines; $250,000 for IGCC byproduct studies and $400,000 for trace contaminant studies, both in gasification for power production; $650,000 for the NIPER thermodynamics program, and $400,000 for technology transfer, both in advanced extraction and process technology; $700,000 (for a total of $2,500,000 in all oil programs) for the Oil Recovery Technology Partnership; $800,000 (for a total of $800,000) to complete METC CO_2 oil contracts, and $900,000 for the overall program, all in light oil enhanced recovery; $750,000 for tar sands; $750,000 for a competitive procurement in value-added product research in oil shale; $1,500,000 for the UNDEERC facility; $2,000,000 for the National Research Center for Coal and Energy; and $3,500,000 for METC and PETC "tiger team" environmental, health and safety deficiencies; and decreases of $750,000 for PETC in-house and Hi-bay r&d, $900,000 for premium fuels, and $150,000 for trace element removal, all in coal preparation; $550,000 for in-house r&d, and $620,000 for coolside technology, both in flue gas cleanup; $50,000 for in-house research in waste management; $750,000 for coal exports, and $500,000 for molecular sciences, both in advanced research and technology development; $1,000,000 for advanced research in coal liquefaction; $500,000 for ongoing contracts and $750,000 for advanced concepts, both in direct coal liquefaction; $750,000 for ongoing contracts in indirect coal liquefaction; $300,000 for support studies in liquefaction; $400,000 to reduce the number of contracts to two for the PETC high efficiency combustion program in advanced combustion; $500,000 in alternative fuels utilization; $50,000 for in-house research in molten carbonate fuel cells; $1,300,000 for indirect turbine cycle work and $1,300,000 to continue one turbine systems contractor and phase out others, both in turbine heat engines; $4,700,000 for the 5-foot diameter fixed bed gasifier facility in gasification for power production; $200,000 for in-house research in co-products gasification; $300,000 ($190,000 from PETC; $110,000 from METC) in gas-to-liquids work in advanced extraction process technology; $300,000 in eastern oil shale; $500,000 in headquarters program direction; $2,000,000 in ETC program direction, split evenly between PETC and METC; $3,000,000 for capital equipment; $600,000 in general plant projects; $1,000,000 for UNDEERC and WRI, split evenly, in cooperative research; $1,000,000 as an offset by using prior year deobligations; and $100,000 for the Federal Inspector, Alaska Natural Gas Transportation System.

The managers agree that:

1. continued support for larger scale activities in the coal preparation program is dependent on firm indications from industry of the need for the program as well as a financial commitment by industry to the activities. The managers expect the Department to meet with industry and develop a plan for such activities as soon as possible during fiscal year 1992, and report the results to the House and Senate Appropriations Committees by June 1, 1992.

2. funding in coal preparation, high efficiency processes includes up to $250,000 for the Liccado process.

3. with regard to the Calderon project, $1 million is to be released by the Department of Energy (DOE) upon delivery to and approval by DOE of a detailed project plan including a description of the engineering changes to be made to overcome the present technical (plugging) problems and providing for adequate instrumentation for heat/material balances. The changes shall include fixes for safe and continuous operation only. The managers are concerned with the previous cost overruns, schedule slips, and lack of successful operation of the Calderon process development unit (PDU). The DOE is directed to review closely the project plan to ensure that adequate engineering analysis has been done to support the recommended fixes to the plugging problem and that the recommended changes in hardware and operating procedures are adequate and suitable prior to release of funds. The project plan shall also include a detailed description of startup/operation test procedures and a test plan to include a description of all planned tests. The DOE shall release the remaining $400,000 only upon satisfactory installation of the engineering changes and satisfactory operation of the complete and integrated system as approved by DOE. Prior to release of the $400,000, the PDU shall be shown to operate without plugging for 48 hours continuous operation. All DOE funding is contingent upon a minimum of 20 percent cost share from non-Federal sources. The DOE shall not release any funds until Calderon has provided documentation showing the ability to meet the 20 percent non-Federal cost share. Such support shall include letters of commitment from any third-party sources.

4. the liquefaction pilot plant program at Wilsonville, Alabama should be terminated in an orderly fashion, and an alternate arrangement should be sought as quickly as possible for a cooperative program with private sources to continue such "proof-of-concept" level development work in the future. Such a program should include significantly increased cost-sharing.

5. future development work at the LaPorte, Texas, liquefaction pilot plant is expected to include significantly increased cost-sharing. This requirement should be applied to facility modifications and experimental operations, but not to the maintenance of the facility in standby conditions between runs.

6. the $4,000,000 provided for continued design and construction of a facility to test pilot plant scale components for second generation pressurized fluidized bed combustion technology should be expended in conjunction with gas stream clean-up particle test facilities being supported at Wilsonville, Alabama. No construction funds for the combined project may be expended without assurance of at least 20% cost-sharing from other sources, or prior to receipt by the House and Senate Appropriations Committees of a definitive cost estimate for construction and operation of the facility. Any design and site planning for this facility should allow for possible additions for heat exchanger, turbine, or overall indirect turbine testing facilities which may result from the heat exchanger, indirect turbine study, or the planned indirect cycle Phase II procurement.

7. no commitment is made to and no funding is provided for a generic heat exchanger facility and the December 1, 1990 report required by Senate Report 102-122 is still required. Conceptual design funds ($500,000) have been included contingent on the results of the study.

8. funding has been provided to continue current scale development of critical indirect turbine cycle components at METC and for two or three competitively selected projects in PETC's high efficiency indirect cycle program. Funding of one or more concepts for further testing and scale-up of facilities arising from this work, or from other potential competitors outside this program, should be determined in the open competition contemplated as Phase II of the PETC program.

9. funds provided for molten carbonate fuel cells are for scheduled work, including optional stacks, with the two stack developers, and orderly termination of the third contractor. In addition, the $5,000,000 provided for 50-50 cost-shared support of demonstration stacks is for support of two contractors.

10. funds available from previous years for the five-foot diameter fixed-bed gasifier facility, approximately $5.4 million, continue to be subject to a 20 percent cost-sharing re-

quirement. The managers expect prior notification to the House and Senate Appropriations Committees if the Department alters the concept for this facility in any significant manner.

11. within funds for competitive procurements in light oil enhanced oil recovery, NIPER and Metairie offices through the Bartlesville project offices are expected to manage at least $1,400,000 of the contracts.

12. for eastern oil shale research, $1,600,000 available from fiscal year 1991 because of lack of industry cost-sharing may be applied, without the 40 percent cost-sharing requirement, to ongoing research at the current scale.

13. for unconventional gas recovery the recommended $12,900,000 consists of $6,400,000 for resources, $5,500,000 for extraction, and $1,000,000 for utilization. In resources, the amount consists of $1,000,000 for deep gas and gas hydrates, $1,400,000 for natural fracture diagnostics, $3,000,000 for modeling and resource assessment consisting of METC in-house activities, continuation of reserve estimates for the Greater Green River Basin, and resource assessment in the Uinta Basin, and $1,000,000 for data bases, interpretive models and atlases in conjunction with GRI. No resource assessment wells in the Greater Green River Basin are to be initiated. In extraction the amount consists of $2,000,000 for a cost-shared fluids laboratory with GRI, $2,000,000 to complete stimulation of the already-drilled Western well, $500,000 to complete Eastern well tests, and $1,000,000 to continue research on air drilling technology for horizontal wells. In utilization the $1,000,000 is to continue research on upgrading low quality gas in conjunction with GRI.

14. the $3,500,000 provided in environmental restoration to correct construction, maintenance, and operating deficiencies identified at PETC and METC by "tiger team" inspections is for the highest priority items at both Centers based on environmental, health, and safety considerations. The managers expect a prompt report to the House and Senate Appropriations Committees on the proposed manner and timing of the use of these funds.

15. the statements regarding cost-sharing in House Report 102-116 reflect the managers' view. The managers are concerned particularly with attempts to obtain 50 percent cost-sharing for facilities and technologies in development stages well short of commercial demonstrations like clean coal technology which require similar cost-sharing.

16. Small Business Innovative Research (SBIR) requirements are to be met from funds becoming available in 1991 and 1992 from contract deobligations.

17. up to 5 percent of internal (non-contract) research and development funds for METC, PETC, WRI, UNDEERC, and the National Institute for Petroleum and Energy Research (NIPER) may be used for equipment, and such use should continue to be reported on a quarterly basis. Of the funds provided to National Laboratories a like percentage may be used for equipment, and reported on the same basis.

18. more funds from the total may be placed in the cost-shared program at the request of either WRI or UNDEERC.

19. within fuel cell advanced research up to $500,000 may be used for ongoing materials research through the Pacific Northwest Laboratory.

20. within light oil enhanced oil recovery, $800,000 is for technology transfer activities at the NIPER and Metairie offices through the Bartlesville project office.

21. funding for Argonne National Laboratory shall be at levels equivalent to fiscal year 1991 with maximum emphasis on its core r&d program.

22. within light oil enhanced oil recovery, $500,000 is for the University of Kansas for technology transfer activities expanding the Kansas Tertiary Oil Recovery Program (TORP) concept to transfer of near term priority reservoir class activities to independent operators nationwide.

23. language in House report 102-116 pertaining to a plan for long range applied oil and gas research reflects the managers' view.

24. the $750,000 added for a cooperative advanced turbine program, is to initiate planning for a comprehensive effort with DOE's conservation program, turbine manufacturers, the Gas Research Institute (GRI), the Electric Power Research Institute (EPRI), and others. Funding for future work will depend on an overall rationale and program plan for government participation.

Amendment No. 173: Earmarks $338,000 for the Office of the Federal Inspector for the Alaska Natural Gas Transportation System instead of $438,000 as proposed by the House and $278,000 as proposed by the Senate.

Amendment No. 174: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the individuals that can manage fossil energy research and development funds.

Amendment No. 175: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert: *: Provided further, That the funds provided under this head in fiscal year 1991 for the purchase of supercomputer time needed for Fossil Energy programmatic purposes shall be provided as a grant to the University of Nevada-Las Vegas: Provided further, That disbursements pursuant to such a grant shall be made only upon the actual use of such supercomputer time upon request by Fossil Energy and receipt by Fossil Energy of the products therefrom*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment earmarks a grant as proposed by the Senate, modified to specify the terms of payment. The House had no similar provision.

Amendment No. 176: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks $2,000,000 for the National Research Center for Coal and Energy and $1,500,000 on a matching basis for the University of North Dakota Energy and Environmental Research Center.

Amendment No. 177: Restores House earmark of $40,800,000 for magnetohydrodynamics stricken by the Senate.

Amendment No. 178: Provides for a 35 percent private sector cost-share for the magnetohydrodynamics program as proposed by the House instead of 40 percent as proposed by the Senate. This continues the current level of cost-sharing.

ALTERNATIVE FUELS

Amendment No. 179: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert:

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1991, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury: Provided, That the Department of Energy shall not agree to modifications to the Great Plains Project Trust Agreement, dated October 31, 1988, that are not consistent with the following criteria: (1) for the purpose of financing a sulfur control technology project using Government contributions from the Trust, the cost of such project shall not include costs of plant downtime or outages; (2) upon modification of the Trust Agreement the Department shall immediately transfer $20,000,000 from the Reserve Account to the Environmental Account, both established pursuant to section 2(b) of the Trust Agreement, and shall provide a loan from the Reserve Account for 40 per cent of the remaining project costs after the disbursement of funds from the Environmental Account in an amount not to exceed $30,000,000 and at the rate of interest specified in sections 1 and 7(b) of the Trust Agreement; (3) no disbursements for construction shall be made from either the Reserve Account or from funds which have been transferred to the Environmental Account from the Reserve Account prior to receipt by Dakota Gasification Company of an amended Permit to Construct from the North Dakota State Department of Health; (4) the Government contribution from the Reserve Account shall be disbursed on a concurrent and proportional basis with the contribution from the Dakota Gasification Company; (5) repayment of any loan shall be from revenues not already due the Government as part of the Asset Purchase Agreement, dated October 7, 1988, and at least in proportion to the Government contribution to the costs of the project net of the disbursement from the Environmental Account, for any increased revenues or profits realized as a result of the sulfur control project; and (6) such contributions from the Reserve Account, including funds to be transferred to the Environmental Account, shall be made available contingent upon a finding by the Secretary, in the form of a report to Congress submitted not later than March 1, 1992, that such planned project modifications are cost effective and are expected to meet such environmental emissions requirements as may exist.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment establishes conditions for disbursing up to $50,000,000, consisting of $20,000,000 as a grant and up to $30,000,000 as a loan, from a reserve account in trust agreement, for the construction of a sulfur control project at the Great Plains Gasification Plant. The Senate amendment concerned a $50,000,000 grant and the House amendment concerned a $30,000,000 loan.

Should the agreement be modified, the amendment specifies the manner of payment of loan and grant funds; limits the Government contribution to eligible costs; prohibits release of funds without a construction permit; specifies the loan interest rate; specifies some revenue sources for loan repayment; and makes contributions contingent on a report to Congress by the Secretary of Energy on the efficacy of the project.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Amendment No. 180: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$235,300,000 to remain available until expended: Provided, That notwithstanding any other provision of law, revenues received from use and operation of Naval Petroleum Reserves Numbered 1, 2, and 3 and the Naval Oil Shale Reserves and estimated to total $523,000,000 for fiscal year 1992 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in carrying out naval petroleum and oil shale reserve activities: Provided further, That the sum herein appropriated shall be reduced as such revenues are received so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.*

And on page 64, lines 22 and 23 of the House engrossed bill, H.R. 2686, strike: ", to remain available until expended".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment appropriates $235,300,000 for Naval Petroleum and Oil Shale Reserves instead of $238,200,000 as proposed by the House and $222,300,000 as proposed by the Senate. The increase of $13,000,000 over the amount proposed by the Senate is for the highest priority production enhancement and environmental compliance projects.

The amendment also provides for offsetting the appropriations with receipts from operation of the Reserves. This arrangement is similar to the current practice with regard to Department of Energy uranium enrichment operations. It has no direct effect on the operation of the Reserves or on legislation pertaining to it. The managers expect this procedure to be followed by the Department in submitting future budget requests to provide a more complete picture of the profitability of Reserve operations.

ENERGY CONSERVATION

Amendment No. 181: Appropriates $543,166,000 for energy conservation instead of $559,661,000 as proposed by the House and $526,084,000 as proposed by the Senate. The net increase above the amount proposed by the Senate consists of increases of $400,000 for windows in the materials and structures activity in buildings; $150,000 for lighting and appliance standards in the lighting and appliances activity in buildings; $250,000 for an industrialized housing program in the Northeast, and $350,000 for NAHB research, both in building systems; $1,000,000 for cost-shared ferrosilicon research and $700,000 for ongoing programs in waste utilization, both in industrial wastes; $615,000 for existing combustion research contracts in municipal solid wastes; $500,000 for metals casting research in industrial materials processing; $939,000 for management in industrial conservation; $1,500,000 for existing light duty engine contracts in heat engines in transportation; $300,000 for National Laboratory fuel cell support research in electric and hybrid vehicles; $1,000,000 for the urban Consortium in municipal energy in technical and financial assistance; and $23,283,000 for State and local grant programs; and decreases of $900,000 for appliance research in lighting and appliances in buildings; $700,000 for capital equipment in buildings; $2,000,000 in waste minimization in industrial wastes; $500,000 in data collection and analysis in municipal solid wastes; $2,000,000 for the steel information system project; $500,000 for electric devices; $500,000 in implementation and deployment in industrial conservation; $100,000 for capital equipment in industrial conservation; $500,000 for natural gas vehicles research on nontechnical factors in alternative fuels; $1,000,000 in heavy duty engines in heat engines in transportation; $500,000 for student programs and $500,000 for fellowship programs at the HTML, both in implementation and deployment in transportation; $1,000,000 for district heating and cooling joint ventures and $1,000,000 in integrated resource planning, both in the utility sector; $1,000,000 for the budgeted municipal energy program; $330,000 for SERI capital equipment in information and communications in technical and financial assistance; and $875,000 for SBIR allocations in policy and management.

The managers agree that:

1. the EADC program in industrial conservation implementation and deployment should support 22 centers.

2. the $2,300,000 reduction from the budget request in transportation implementation and deployment is to delete Alternative Fuels Centers of Excellence.

3. rather than establishing a separate municipal grant program the Department should work with States to require more assistance to municipalities through the State conservation grant program.

4. Small Business Innovative Research (SBIR) funds should be made available from amounts becoming available in 1991 and 1992 from contract deobligations.

5. within overall transportation funding up to $500,000 may be made available for services provided to the United States Alternative Fuels Council which are consistent with the responsibilities of the Council under the Alternative Motor Fuels Act of 1988 if deemed appropriate by members of the Council.

6. up to 5 percent of funds provided to National Laboratories for research and development may be used for equipment, and such use should be reported to the House and Senate Appropriations Committees on a quarterly basis.

7. in order to facilitate program management, transfers of funds for personnel costs or personnel between program direction activities do not require advance reprogramming approval, but should be reflected in quarterly updates of the Department's "Base Table" submitted to the Appropriations Committees.

8. within alternative fuels funds, $105,000 is for a Northwest Missouri State University ethanol fuels study for small engines.

9. total State and local grant funding of $243,433,000 includes $196,400,000 for low income weatherization, $30,632,000 for institutional conservation, and $16,401,000 for State conservation grants, including the Energy Extension Service.

Amendment No. 182: Earmarks $243,433,000 for certain State and local grant programs instead of $247,893,000 as proposed by the House and $220,150,000 as proposed by the Senate.

Amendment No. 183: Earmarks $2,000,000 for metal casting research instead of $3,000,000 as proposed by the House and $1,500,000 as proposed by the Senate.

Amendment No. 184: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks $1,500,000 for a grant to the National Center for Alternate Transportation Fuels.

Amendment No. 185: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment insert: *$3,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment earmarks $3,000,000 for an ongoing steel industry contract instead of $5,000,000 as proposed by the Senate. The House had no such earmark.

Amendment No. 186: Earmarks $17,968,000 for the metals initiative as proposed by the House instead of $17,967,000 as proposed by the Senate.

Amendment No. 187: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts the words "up to" with regard to an earmark for battery research as proposed by the Senate.

ECONOMIC REGULATION

Amendment No. 188: Appropriates $14,771,000 for economic regulation instead of $15,114,000 as proposed by the House and $14,428,000 as proposed by the Senate. The increase above the amount proposed by the Senate is for Office of Hearings and Appeals staffing.

STRATEGIC PETROLEUM RESERVE

Amendment No. 189: Prohibits leasing of storage facilities for the Strategic Petroleum Reserve until oil stored in or committed to government-owned facilities is 700,000,000 barrels as proposed by the Senate instead of 750,000,000 barrels as proposed by the House. The amendment applies only to funds appropriated in this Act. The managers reiterate that leasing of facilities, if proposed, is subject to Congressional review procedures contained in sections 173 and 174, Part C, title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) as contained in section 6 of Public Law 101-383.

SPR PETROLEUM ACCOUNT

Amendment No. 190: Reported in technical disagreement. The manager on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $274,100,000 for the acquisition of petroleum for the Strategic Petroleum Reserve, instead of $203,000,000 as proposed by the House and $178,100,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. Funds included in this appropriation and previously available amounts total approximately $1 billion for oil acquisition.

Amendment No. 191: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restrore the matter stricken by said amendment, amended to read as follows: *Provided further, That no funds available in fiscal year 1992 in this, or any previous or subsequent appropriations Act, or made available in this account pursuant to 42 U.S.C. 6247(b) as a result of any test drawdown or drawdown and distribution of the Reserve under the provisions of 42 U.S.C. 6241 may be used in fiscal year 1992 for leasing, exchanging, or otherwise acquiring except by direct purchase crude oil from a foreign government, a foreign State-owned oil company, or an agent of either: Provided further, That the Secretary of Energy may negotiate contracts pursuant to the provisions of part C, title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.), as contained in section 6 of Public Law 101-383: Provided further, That restrictions on leasing, exchanging, or otherwise acquiring except by direct purchase crude oil from a foreign government, a foreign State-owned oil company, or an agent of either which are contained under this head in Public Law 101-512 are hereby repealed*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The Senate amendment struck House proposed language that made contracts for leasing of foreign-owned crude oil subject to legislative approval by Congress. The amendment agreed to allows the Secretary of Energy to negotiate leases or contracts for other than direct purchases with foreign entities under existing law but prohibits the use of any available funds during fiscal year 1992. The amendment also repeals the mandatory approval process contained in the fiscal year 1991 Department of the Interior and Related Agencies Appropriations Act (Public Law 101-512), and is effective for fiscal year 1992 only.

Amendment No. 192: Deletes language proposed by the Senate which would have permitted the Secretary of Energy to contract for foreign-owned crude oil for the Strategic Petroleum Reserve without regard to current procedures for Congressional review of contracts. Congressional review of such contracts is included in Amendment No. 191.

Amendment No. 193: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment that sets an outlay cap of $137,000,000 for oil acquisition instead of $139,000,000 as proposed by the House and $141,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ENERGY INFORMATION ADMINISTRATION

Amendment No. 194: Appropriates $77,233,000 for the Energy Information Administration instead of $77,908,000 as proposed by the House and $77,073,000 as proposed by the Senate. The decrease below the amount recommended by the House consists of $100,000 for the cost-shared State heating oil and propane data program, $75,000 for the State energy price and expenditure report, and $500,000 for end use surveys. The managers agree that the State energy price and expenditure report should be accommodated within available funds.

The managers expect the Department to continue the seven positions at the Dallas, Texas Field Office which support the oil and gas reserves reports, oil and gas cost studies, and foreign energy supply assessments for which both the House and Senate restored funding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

Amendment No. 195: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: *$1,449,871,000, of which $5,000,000 shall be available on September 30, 1992 and shall remain available until expended for the Morris K. Udall Scholarship Foundation subject to the passage of authorizing legislation.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment appropriates $1,449,871,000 for Indian health services instead of $1,432,712,000 as proposed by the House and $1,487,091,000 as proposed by the Senate, and makes $5,000,000 available until expended for the Morris K. Udall Scholarship Foundation subject to authorization.

The net increase to the amount proposed by the House includes increases for population growth of $9,900,000 in hospitals and clinics, $214,000 in dental health, $240,000 in mental health, $911,000 in alcohol and substance abuse, $6,760,000 in contract health services, $180,000 in public health nursing and $880,000 in community health representatives; for unmet needs of $1,000,000 in dental health, $2,000,000 in alcohol and substance abuse and $5,535,000 in Indian health manpower, of which $5,000,000 is for the Morris K. Udall Scholarship Foundation; and for child abuse prevention $500,000 in mental health; and decreases in hospitals and clinics of $5,938,000 for inflation and $4,237,000 to be transferred to the facilities appropriation; $200,000 in urban health to be divided equally between health promotion/disease prevention and immunization services; and $586,000 in direct operations to be transferred to the facilities appropriation.

The managers agree that:

1. Individual projects not specifically referenced in the IHS budget are to be continued at the same funding level as in fiscal year 1991 plus inflation unless directed otherwise herein or in the reports accompanying the fiscal year 1992 appropriation;

2. Alcoholism programs at urban Indian clinics, originally funded through National Institute on Alcoholism and Alcohol Abuse grants or through funds available pursuant to Public Law 100-690 should be continued at the same level as in fiscal year 1991 plus inflation; and the IHS, in future budget submissions, should identify these urban programs as a separate subactivity within the alcohol and substance abuse program;

3. Within the funds provided for the alcoholism account, $200,000 is for counselors in BIA detention facilities, $125,000 is for the University of Washington fetal alcohol syndrome project (an increase of $25,000 above the fiscal year 1991 level) and $100,000 is for an evaluation of the Winnebago drug dependency unit;

4. The IHS is to report to the Committees no later than December 1, 1991 on the proposed structure and format of the fiscal year 1993 budget request, including a description of the components of the social service program and how this program could be consolidated within the mental health account;

5. There is no earmark for a specific increase in the social services program; however, the social services program, which the managers understood is funded at $5,000,000 in the base, should receive a fair share of the funds provided for inflation and population growth and the IHS should include in future budget requests an estimate of the amount and level of need funded for this program for the prior, current, and budget years;

6. At least $1,800,000 is available in the mental health program for payments to State hospitals in North and South Dakota for indigent Indians involuntarily committed for treatment;

7. The Navajo child sexual abuse prevention and treatment program is to be continued at $300,000;

8. The Navajo/Gallup alcoholism project is to be continued at a funding level of $1,226,000 which includes at least $200,000 for continuing cooperative efforts at the Rehobeth McKinley facility;

9. With respect to the Navajo alcoholism project, the managers agreed to increased funding for this very needed program in fiscal year 1991 with the understanding that it would be a cooperative effort with the Tribe, local governments and private health care providers; the program is being continued in fiscal year 1992 with the same expectation and the IHS should keep the Committees fully apprised of how these funds are being used.

10. There is no specific earmark for increased funds for patient travel in Alaska; however, the managers understand that the Alaska region will receive approximately $1 million of the $10 million total increase for unmet need in contract health services and will receive its fair share of the funds provided for inflationary costs and population growth in the hospitals and clinics and contract health services activities;

11. There is no specific earmark for an assessment of village built clinics in Alaska; however, the managers expect the IHS to work with the Alaska Native organizations on a plan to address the deficiencies identified in annual reviews by the IHS environmental health staff;

12. $535,000 of the increase above the amount provided by the House for the manpower program is to aid in recruitment and retention of personnel at IHS locations, such as those in South Dakota, which are experiencing severe problems in maintaining adequate staffing; and the managers expect that these funds will be awarded on a competitive basis for the most meritorious proposals for addressing these problems and that the proposals that are funded do not duplicate existing IHS programs in the manpower, health education or community health representatives areas;

13. The IHS should review on an area-by-area basis the historical and prospective situation with respect to physician and other health professional recruitment and retention as compared with the current distribution of manpower funds for the program and present the results of this review at the fiscal year 1993 budget hearings;

14. The IHS should initiate planning activities with tribal governments with approved self-governance compacts for development of a Self-Governance Demonstration Project as authorized by Public Law 100-472;

15. Within the funds available to the IHS, $500,000 should be set aside to reimburse participating self-governance tribal governments for planning expenses; and

16. The IHS, in close coordination with participating self-governance tribes, should report to the Committees, no later than two weeks before its first fiscal year 1993 budget hearing, on the status of self-governance planning including budget requirements, the development of transfer models including experimental operations, and proposed monitoring and evaluation methodologies.

Amendment No. 196: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment that earmarks $301,311,000 to remain available until September 30, 1993, for contract medical care instead of $294,551,000 as proposed by the House and $296,311,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 197: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts the words "not less than" before the amount available for a loan repayment program.

INDIAN HEALTH FACILITIES

Amendment No. 198: Appropriates $277,852,000 for Indian health facilities instead of $295,211,000 as proposed by the House and $202,068,000 as proposed by the Senate.

The net decrease to the amount proposed by the House includes increases of $350,000 to complete construction of the Sallisaw, OK health center, $4,237,000 transferred from the hospitals and clinics activity and $586,000 transferred from the direct operations activity for facilities support; and decreases of $2,645,000 for the Crow, MT hospital, $10,000,000 for repair, improvement and maintenance, $2,111,000 for the Aberdeen area regional youth treatment center, $3,776,000 for the Portland area regional youth treatment center, and $4,000,000 for sanitation facilities to be divided equally between the newly constructed/renovated homes and existing homes subactivities.

The managers agree that:

1. The IHS may reprogram up to a total of $600,000 from the Rosebud hospital project and the Belcourt hospital to the Rosebud staff quarters project if needed for the completion of the 66 units now under construction;

2. The IHS should reprogram $1,130,000 from surplus funds available upon completion of the Belcourt hospital project to the Wagner outpatient project to complete construction of that health center;

3. The IHS reprogram up to $1,000,000 from the Belcourt hospital project for construction expenses for the Aberdeen area regional youth treatment center project;

4. The IHS may reprogram up to $500,000 from within available funds, if needed, for further design or site work for the Portland area regional youth treatment center;

5. For future hospital and clinic design, the IHS should project 10 years in its estimates of needed space for facilities on its construction priority list rather than the current 8 years;

6. The IHS, in consultation with the Tribes, needs to rework its methodology for hospital and clinic design to incorporate new concepts, such as low acuity beds in health centers, so as to provide cost-effective alternatives to a full service hospital or a facility strictly limited to outpatient services;

7. No funds are earmarked for the Winnebago project but the IHS is expected to continue to work with the tribe within available funds to reach agreement on the scope of the project and should report to the Committees during the fiscal year 1993 budget hearings on the status of the Winnebago project in particular and, in general, on recommendations for revising the facility design methodology;

8. There are no earmarks for specific water and sewer projects within the sanitation account; all funds to address the backlog of sanitation needs for existing homes should be spent in accordance with the sanitation priority system; and

9. The IHS should explore directly providing engineering services rather than funding the Public Health Service for construction engineering support and report in the fiscal year 1993 budget on the requirements for this program assuming IHS were to assume this function.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Amendment No. 199: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring a quarterly report on additional leased space requirements. The House had report language regarding quarterly reporting requirements on this subject.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

Amendment No. 200: Appropriates $77,547,000 for Indian Education as proposed by the House instead of $77,400,000 as proposed by the Senate. There is no specific earmark for a Hopi model education project using Subpart 2 funding. The managers understand that curriculum improvement is a high priority of the Hopi Tribe and expect the Office to work with the Hopi and all Tribes on improving their grant applications.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Amendment No. 201: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $26,172,000 for the Office of Navajo and Hopi Indian Relocation instead of $31,634,000 as proposed by the House and $30,572,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The decreases to the amount proposed by the House include $5,000,000 in housing funds due to the large unobligated balances remaining at the end of fiscal year 1991, $212,000 for road development on the New Lands and $250,000 in discretionary funds. Within the funds provided for housing the managers expect the Office to work with the Tribes and IHS on resolving the situation with respect to sanitation needs in the Cliff Springs area. The managers understand that approximately $325,000 is needed to remove a wall and tank from a sacred spring site as requested by the Hopis, to provide a haul fixture addition to an existing windmill to access a water system which is about a mile away from the sacred spring and which uses a different water source, and to provide bathroom and plumbing renovations for 73 existing homes.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE

CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

Amendment No. 202: Appropriates $6,612,000 for the Institute of American Indian Arts instead of $8,187,000 as proposed by the House and $6,087,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $75,000 to operations of the Institute and $1,500,000 the change to a calendar year basis.

Amendment No. 203: Provides $350,000 for Federal matching contributions to the endowment fund as proposed by the House instead of $300,000 as proposed by the Senate.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Amendment No. 204: Appropriates $283,961,000 for salaries and expenses instead of $286,269,000 as proposed by the House and $281,074,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of $778,000 for research, $1,380,000 for museums, and $150,000 in facilities.

The net decrease for research includes decreases from the House level of $100,000 for five new positions and related costs for the submillimeter array in the Astrophysical Observatory, $178,000 for two new positions and related costs in global change research at the Tropical Research Institute, and an increase of $50,000 for the crew (1.25 FTEs) of the new research vessel also at the Tropical Research Institute.

At the Environmental Research Center, decreases include $50,000 for two new positions and related costs in global change research and $300,000 for land acquisition. With regard to any future land acquisitions proposed by the Smithsonian, the managers agree that such proposals should be reviewed by the authorizing committees, including whether the use of non-Federal funds would be more appropriate.

Additional decreases in research from the House level include $125,000 in libraries related to the inflation costs for the purchase of journals and $75,000 in the international environmental science program for two positions and related costs in global change research and one position and support costs related to the establishment of the Mpala Research Station in north central Kenya.

The decrease in museums consists of $250,000 in the National Museum of Natural History for the establishment of a clearinghouse on biological diversity, and $25,000 related to the study of human ecological history. The managers have agreed to provide $315,000, on a one-time only basis, for a laboratory for the Amazon biological diversity project. In the National Museum of American History, there is a decrease of $250,000 for the Jazz Masterworks program, leaving an increase of $250,000 over 1991. With regard to the funding provided for the museum studies program in the National Museum of American History for the Duke Ellington School of Arts, the managers expect that this will be one-time only funding.

For the National Museum of the American Indian, a decrease of $225,000 is included for two new positions, media, and promotional costs in the National Campaign office. Additional decreases in museums include $30,000 for the National Portrait Gallery, $470,000 which is not needed in FY 1992 for exhibit reinstallation at the Freer Gallery, $30,000 for an archivist at the Archives of American Art, and $100,000 for the Cooper-Hewitt Museum.

In facilities, there is a decrease of $150,000 for protection services.

The managers expect the Smithsonian will not embark upon any costly new initiatives or any significant redirection of its staff or resources without providing the necessary justification required as a part of its annual budget submission.

If requested, the managers encourage the Smithsonian to provide technical assistance regarding collections management for an Indian culture center in Oklahoma. The managers expect, however, that the Smithsonian's role with the center will be limited to an advisory capacity only.

Amendment No. 205: Provides that $25,839,000 shall remain available until expended instead of $26,679,000 as proposed by the House and $25,229,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of $615,000 for exhibit reinstallation and $225,000 for the National Museum of the American Indian.

REPAIR AND RESTORATION OF BUILDINGS

Amendment No. 206: Appropriates $24,710,000 for repair and restoration of buildings instead of the $27,710,000 as proposed by the House and $24,700,000 as proposed by the Senate. The decrease from the amount proposed by the House is $3,000,000 for additional backlog projects. While the managers regret

that limitations on the overall budget require a reduction from the budget estimate in this account, they are confident that the funding provided will allow the Smithsonian to complete the most urgently needed projects in fiscal year 1992.

CONSTRUCTION

Amendment No. 207: Appropriates $19,400,000 instead of $20,100,000 as proposed by the House and $19,350,000 as proposed by the Senate. The decrease from the amount proposed by the House includes $250,000 for construction planning and $450,000 for auditorium renovation at the Freer Gallery.

The managers on the part of the House reaffirm their position regarding the use of planning funds for, and the site selection of, the proposed extension to the National Air and Space Museum. The managers on the part of the Senate reaffirm their position on these issues.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

Amendment No. 208: Appropriates $49,192,000 for salaries and expenses instead of $48,236,000 as proposed by the House and $49,900,000 as proposed by the Senate. The increase over the amount proposed by the House consists of increases of $512,000 for care and utilization of art collections, $350,000 for operations and maintenance, and $94,000 for general administration.

The increase over the House for care and utilization of art collections includes increases of $100,000 for payroll base deficiencies, $62,000 for the Gallery Senior Executive Service, $250,000 for special exhibitions, and $100,000 for data processing. In operations and maintenance, the increase over the House consists of a decrease of $85,000 for utilities, and an increase of $435,000 for water and sewer costs. In general administration, the increase includes $49,000 for transportation of things and $45,000 for rents and utilities.

Amendment No. 209: Provides $3,120,000 for the special exhibition program instead of $2,870,000 as proposed by the House and $3,370,000 as proposed by the Senate.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Amendment No. 210: Appropriates $3,600,000 for repair, restoration and renovation of buildings as proposed by the Senate instead of $6,850,000 as proposed by the House.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Amendment No. 211: Appropriates $5,744,000 for the Woodrow Wilson International Center for Scholars as proposed by the Senate instead of $5,819,000 as proposed by the House.

The managers commend the Center for its efforts in identifying private sources of funds for the planned Mozart bicentennial program. The managers expect that the appropriated funds provided for the "Wilson Quarterly" will be used to offset partially the postage costs associated with that publication.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

Amendment No. 212: Appropriates $147,700,000 for grants and administration as proposed by the House instead of $143,583,000 as proposed by the Senate and deletes Senate language regarding the use of funds to produce materials that depict or describe in a patently offensive way, sexual or excretory activities or organs.

The managers reaffirm the language of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(d)), for which terms are defined in section 3 of that Act (20 U.S.C. 952) which states as follows:

(1) "artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

(2) "that obscenity is without artistic merit, is not protected speech, and shall not be funded;"

and that:

"projects, productions, workshops and programs that are determined to be obscene are prohibited from receiving financial assistance under this Act from the National Endowment for the Arts."

"The term 'obscene,' means with respect to a project, production, workshop, or program that—

"(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

"(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

"(3) such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value."

The term "determined to be obscene", means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

The term "final judgment" means a judgment that is either—

"(1) not reviewed by any other court that has authority to review such judgment; or

"(2) is not reviewable by any other court."

This language is included by reference in bill language.

NATIONAL ENDOWMENT FO THE HUMANITIES

GRANTS AND ADMINISTRATION

Amendment No. 213: Appropriates $152,650,000 for National Endowment for the Humanities, Grants and Administration instead of $153,150,000 as proposed by the House and $144,550,000 as proposed by the Senate.

The changes to the House position include increases of $90,000 for museums and historical organizations, $900,000 for fellowships and seminars, $410,000 for humanities projects in libraries, $600,000 for administration and a increase of $2,500,000 in the National Heritage Preservation program.

The reduction of $600,000 to the budget request for the education programs is not allocated to any specific activity. The managers expect that this reduction will be distributed across all of the activities in this category.

Within the amount provided is $1,000,000 to initiate a dissertation fellowship program in the humanities.

Amendment No. 214: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,000,000 for the dissertation fellowship program and $5,700,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment earmarks $5,700,000 for the Office of Preservation to remain available until September 30, 1993 instead of $8,200,000 as proposed by the House and $1,600,000 as proposed by the Senate. The amendment also makes the $1,000,000 provided for the dissertation fellowship program remain available until September 30, 1993.

MATCHING GRANTS

Amendment No. 215: Appropriates $25,550,000 for matching grants instead of $25,050,000 as proposed by the House and $30,450,000 as proposed by the Senate.

Amendment No. 216: Earmarks $12,550,000 for challenge grants instead of $12,050,000 as proposed by the House and $16,050,000 as proposed by the Senate.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

Amendment No. 217: Appropriates $4,775,000 for the National Capital Planning Commission instead of $4,500,000 as proposed by the House and $5,000,000 as proposed by the Senate. The $275,000 increase above the amount proposed by the House is to enable the Commission to develop its monumental core plan and vision 2050 study on a more timely schedule than that envisioned in the budget request. The managers expect this increase to remain in the Commission's base budget for fiscal year 1993 and subsequent years. Further, the Commission should identify in its fiscal year 1993 budget submission the schedules for these initiatives and any additional funds needed to ensure those schedules are met.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

The managers expect the Commission to begin a fundraising effort to help offset the Federal cost of the FDR Memorial. The Commission is to report to the House and Senate Committees on Appropriations, no later than April 15, 1992, on a plan to carry out such an effort.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

The managers expect the PADC to accommodate 28 FTEs within the amount provided for salaries and expenses.

PUBLIC DEVELOPMENT

Amendment No. 218: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $5,126,000 for public development instead of $4,491,000 as proposed by the House and $5,026,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase to the amount proposed by the House consists of $635,000 for administration of the International and Cultural Trade Center project.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

Amendment No. 219: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $11,005,000 for the Holocaust Memorial Council instead of $10,605,000 as proposed by the House and $7,300,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase above the House level provides $400,000 for operation and maintenance of Annex III. Within the funds provided the

managers agree that the Council should accommodate an increase of 5 FTEs above its budget request for the development and implementation of educational programs and for administrative support. The managers expect that the funds provided for fiscal year 1992 will remain in the base budget for fiscal year 1993 and beyond. Further, the Council should include in its fiscal year 1993 budget request a detailed description of the funds required for operation and maintenance of the museum itself and of programs within the museum.

TITLE III—GENERAL PROVISIONS

Amendment No. 220: Deletes House language which required the Secretary, in consultation with the U.S. Trade Representative, to determine whether a foreign country had violated a reciprocal trade agreement and prohibited the expenditure of Department of the Interior funds for the acquisition of products from such countries. The managers, however, agree that the Secretary, to the extent possible, should seek to purchase American made goods and services.

Amendment No. 221: Deletes House proposed language which provided for increased grazing fees on public lands, and provided certain grazing reforms.

The managers direct the Secretaries of Agriculture and the Interior to contract for an updating and review of the information contained in their joint 1986 report to Congress, "Grazing Fee Review and Evaluation." Such information shall include—but is not limited to—: information in Chapter 1 pertaining to (1) the significance of public lands grazing relative to the Western livestock industry and the red meat industry nationwide and (2) revenues and costs of rangeland management and permittee expenditures on improvements and maintenance; information in Chapter 2 pertaining to the appraised market value of public rangelands grazing as determined in the 1983–1984 "Appraisal Report Estimating Fair Market Rental Value of Grazing on Public Lands" prepared for the Forest Service and the Bureau of Land Management (special emphasis should be given to updating Westwide and pricing area market values and determining the utility of the information for use in developing appraised market values for local and USDA livestock marketing areas); indices, charts, and information in Chapter 3; Chapter 4 information on alternatives to the PRIA formula; Figures 5.1 through 5.10 in Chapter 5; and Figure 6.6 in Chapter 6. Appendix Figure B.9 of the 1986 Report (page 85) should be updated through indexing to derive a new base value. Appendix Figures B.5, B.6, B.7, and B.10 through B.15 shall also be updated. The Secretaries of Agriculture and the Interior shall involve the appropriate agencies, including the Forest Service, the Bureau of Land Management, the Economic Research Service, and the National Agricultural Statistics Service, and may contract through the National Academy of Sciences or use other means for the update and review of the above mentioned information. A report on the updating shall be provided to the Appropriations Committees of the House and Senate, the House Interior and Insular Affairs Committee and the Senate Committee on Energy and Natural Resources no later than April 30, 1992.

Amendment No. 222: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 318. With the exception of budget authority for "Miscellaneous payments to Indians", Bureau of Indian Affairs, Department of the Interior; "Salaries and expenses", National Indian Gaming Commission, Department of the Interior; "Payment to the Institute", Institute of American Indian and Alaska Native Culture and Arts Development; "Salaries and expenses", Woodrow Wilson International Center for Scholars; "Salaries and expenses" and "National capital arts and cultural affairs", Commission on Fine Arts; "Salaries and expenses", Advisory Council on Historic Preservation; "Salaries and expenses", National Capital Planning Commission; "Salaries and expenses", Franklin Delano Roosevelt Memorial Commission; and "Salaries and expenses" and "Public development", Pennsylvania Avenue Development Corporation, each amount of budget authority for the fiscal year ending September 30, 1992, provided in this Act, for payments not required by law is hereby reduced by 1.411 per centum: Provided, That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides for a 1.411 per cent reduction to all accounts in the Act with the exception of payments required by law, payments to certain Indian groups, and certain small independent agencies. The reduction is made to reduce amounts in the Act to a total that is within the budget allocation.

Amendment No. 223: Deletes language proposed by the Senate which directed the Forest Service to continue the preparation of environmental documents to implement land management plans in Region 6. Statutory language is not required for these activities to continue.

The managers urge the Recovery Team for the Northern Spotted Owl to prepare the recovery plan in a manner that recognizes the need to minimize the employment loss due to owl-related timber harvesting restrictions while providing for the recovery of the owl, and in all respects, adhering to requirements of the Endangered Species Act.

The managers strongly urge the U.S. Fish and Wildlife Service to promulgate, as promptly as possible, regulations to interpret the requirements of section 9 of the Endangered Species Act for the Northern Spotted Owl on nonfederal lands.

Amendment No. 224: Reported in technical disagreement. The managers on the part of the House will offer a motion to recode and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 319. LAND TRANSFER AND CONVEYANCE, PEASE AIR FORCE BASE, NEW HAMPSHIRE

(a) TRANSFER BY THE AIR FORCE.—Notwithstanding any other provision of law, the Secretary of the Air Force shall transfer to the Department of the Interior a parcel of real property located west of McIntyre Road at the site of former Pease Air Force Base, New Hampshire: Provided, That the Secretary of the Air Force shall retain responsibility for any hazardous substances which may be found on the property so transferred.

(b) Establishment of National Wildlife Refuge.—Except as provided in subsection (c), the Secretary of the Interior shall designate the parcel of land transferred under subsection (a) as an area in the National Wildlife Refuge System under the authority of section 4 of the Act of October 15, 1966 (16 U.S.C. 688dd).

(c) CONVEYANCE TO STATE OF NEW HAMPSHIRE.—

(1) (1) CONVEYANCE.—Subject to paragraphs (2) through (5), the Secretary of the Interior shall convey to the State of New Hampshire, without consideration, all right, title, and interest of the United States in and to a parcel of real property consisting of not more than 100 acres that is a part of the real property transferred to the Secretary under subsection (a) and that the Secretary determines to be suitable for use as a cemetery.

(2) CONDITION OF CONVEYANCE.—The conveyance under paragraph (1) shall be subject to the condition that the State of New Hampshire use the property conveyed under that paragraph only for the purpose of establishing and operating a state cemetery for veterans.

(3) REVERSION.—If the Secretary determines at any time that the State of New Hampshire is not complying with the condition specified in paragraph (2), all right, title, and interest in and to the property conveyed pursuant to paragraph (1), including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry thereon.

(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of real property to be conveyed under paragraph (1) shall be determined by a survey that is satisfactory to the Secretary.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms or conditions in connection with the conveyance under this subsection that the Secretary determines appropriate to protect the interests of the United States.

(d) The purposes for which this national wildlife refuge is established are—

(1) to encourage the natural diversity of plant, fish and wildlife species within the refuge, and to provide for their conservation and management;

(2) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(3) to preserve and enhance the water quality of aquatic habitat within the refuge; and

(4) to fulfill the international treaty obligations of the United States relating to fish and wildlife.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to transfer certain portions of Pease AFB, NH to the U.S. Fish and Wildlife Service. Purposes of the refuge have been added to the Senate amendment as well as a provision which requires the Secretary of the Air Force to retain responsibility for any hazardous substances which may be found on the property.

Amendment No. 225: Deletes a general provision proposed by the Senate allowing the Secretary of Energy to negotiate modifications to an existing oil shale contract currently administered by the Secretary of the Treasury.

Amendment No. 226: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 320. Amend section 12(d)(2) of Public Law 94–204 (The Act of January 2, 1976) as follows:

(a) In the second sentence of the first proviso, following the words "public purposes" insert a period. Following the period add the following: "An area encompassing approximately sixty-two acres and depicted on the map entitled 'Native Heritage Park Proposal' and on file with the Secretary shall be managed".

(b) At the end of this section, add a new proviso: ": Provided further, That to the extent necessary, any and all conveyance documents executed concerning the conveyance of the lands referred to in this proviso shall be deemed amended accordingly to conform to this proviso".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment releases 4,325 acres in the Campbell Tract in Anchorage, AK from the restrictions of a bicentennial park master development plan, and retains approximately 62 acres subject to the restrictions of the plan as proposed by the Senate. The Senate amendment also allowed the Bureau of Land Management (BLM) to dispose of unneeded land from another 1,000 acre parcel. The House had no like provisions.

The managers agree that:

1. the Native Heritage Park proposed for the 62 acres in the amendment may not be placed on the 4,325 acres of the tract released from the restrictions of the plan; and

2. the 4,325 acres released from the plan are still to be managed under provisions of law regarding non-Federal land management for recreation and public purposes and BLM is not to approve changes in use which alter significantly the nature of the current land uses of the area.

APPLICATION OF GENERAL REDUCTIONS

The level at which reductions shall be taken pursuant to the Deficit Reduction Act of 1985, if such reductions are required in fiscal year 1992, is defined by the managers as follows:

As provided for by section 256(1)(2) of Public Law 99-177, as amended, and for the purposes of a Presidential Order issued pursuant to section 254 of said Act, the term "program, project, and activity" for items under the jurisdiction of the Appropriations Subcommittees on the Department of the Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, or accompanying committee reports or the conference report and accompanying joint explanatory statement of the managers of the committee of conference; (2) any Government-owned or Government-operated facility; and (3) management units, such as national parks, national forest, fish hatcheries, wildlife refuge, research units, regional, State and other administrative units and the like, for which funds are provided in fiscal year 1992.

The managers emphasize that any item for which a specific dollar amount is mentioned in an accompanying report, including all increases over the budget estimate approved by the Committees, shall be subject to a percentage reduction no greater or less than the percentage reduction applied to all domestic discretionary accounts.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1992 recommended by the Committee of Conference, with comparisons to the fiscal year 1991 amount, the 1992 budget estimates, and the House and Senate bills for 1992 follow:

New budget (obligational) authority, fiscal year 1991	$11,747,550,000
Budget estimates of new (obligational) authority, fiscal year 1992	11,595,927,000
House bill, fiscal year 1992	12,717,527,000
Senate bill, fiscal year 1992	12,644,603,000
Conference agreement, fiscal year 1992	12,623,563,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1991	+876,013,000
Budget estimates of new (obligational) authority, fiscal year 1992	+1,027,636,000
House bill, fiscal year 1992	-93,964,000
Senate bill, fiscal year 1992	-21,040,000

SIDNEY R. YATES,
JOHN P. MURTHA,
NORMAN D. DICKS,
LES AUCOIN,
TOM BEVILL,
CHESTER G. ATKINS,
JAMIE L. WHITTEN (except amendment No. 212),
RALPH REGULA (except amendments Nos. 167, 212, and 221),
JOSEPH M. MCDADE (except amendment No. 167),
BILL LOWERY (except amendment No. 212),
JOE SKEEN,
Managers on the Part of the House.

ROBERT C. BYRD,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
DALE BUMPERS,
ERNEST F. HOLLINGS,
HARRY REID,
DON NICKLES (except amendment No. 212),
TED STEVENS,
JAKE GARN,
THAD COCHRAN,
WARREN B. RUDMAN,
PETE V. DOMENICI (except amendment No. 95),
SLADE GORTON,
MARK O. HATFIELD,
Managers on the Part of the Senate.

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. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. COLEMAN of Missouri, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. JONES of Georgia, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. BONIOR, for 60 minutes each day, on October 24 and 31 and November 7, 14, and 21.

Ms. KAPTUR, for 60 minutes each day, on October 22, 23, 24, and 25.

Mr. DORGAN of North Dakota, for 60 minutes each day, on October 18 and 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mrs. ROUKEMA.
Mr. SCHULZE.
Mr. PETRI.
Mr. COX of California.
Mr. MCMILLAN of North Carolina.
Mr. LAGOMARSINO.
Mr. WOLF.
Mr. PORTER.
Mr. BALLENGER.
Mr. LEWIS of California.
Mr. MICHEL.
Mr. PURSELL.
Mr. THOMAS of California.
Mr. SHUSTER.
Mr. SCHAEFER.
Mr. WELDON.
Mrs. BENTLEY.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. ATKINS.
Mr. LEHMAN of Florida.
Mr. AUCOIN.
Mr. MANTON in two instances.
Mr. FASCELL.
Mrs. KENNELLY.
Mr. CARDIN.
Mr. LANTOS.
Mr. DE LUGO.
Mr. MAZZOLI.
Mr. NEAL of Massachusetts.
Mr. ANDREWS of New Jersey.
Mr. TRAFICANT in three instances.
Mr. MILLER of California.
Mr. LEVINE of California.
Mr. MCCURDY.
Mr. FROST.
Mr. SWETT.
Mr. LAROCCO.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 544. An act to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes; to the Committee on Agriculture.

S. 772. An act to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes; to the Committees on Agriculture and Interior and Insular Affairs.

S. 870. An act to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California; to the Committee on Interior and Insular Affairs.

S. 1254. An act to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1358. An act to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans; to the Committee on Veterans' Affairs.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2426. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2698. An act making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1992, and for other purposes; and

H.R. 2942. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 10 minutes p.m.) under its previous order, the House adjourned until Monday, October 21, 1991, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2221. A letter from the Secretary, Department of Labor, transmitting the annual report of enforcement activities under the Fair Labor Standards Act for the period October 1, 1988 through September 30, 1989, pursuant to 29 U.S.C. 204(d)(1); to the Committee on Education and Labor.

2222. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on missile proliferation, pursuant to 22 U.S.C. 2797 note; to the Committee on Foreign Affairs.

2223. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations covering the period from June through July 1991, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2224. A letter from the Director, Arms Control and Disarmament Agency, transmitting the 1990 annual "Report to Congress on Arms Control and Disarmament Studies," pursuant to Public Law 100-213, section 4 (101 Stat. 1445); to the Committee on Foreign Affairs.

2225. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of S. 868, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2226. A letter from the Director, Office of Management and Budget, transmitting the eighth report on U.S. costs in the Persian Gulf Conflict and foreign contributions to offset such costs, pursuant to Public Law 102-25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

2227. A letter from the Secretary, Department of Labor, transmitting the ERISA annual report for 1990, describing the Department's administration of its responsibilities under ERISA during calendar year 1990, pursuant to 29 U.S.C. 1143(b); jointly, to the Committees on Education and Labor and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Education and Labor, H.R. 2837. A bill to amend the Agricultural Act of 1949 to improve the milk price support program and to establish a milk inventory management program to operate during calendar years in which purchases of milk and milk products by the Commodity Credit Corporation are estimated to exceed 5,000,000,000 pounds; with amendments (Rept. 102-173, Pt. 2). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 2837. A bill to amend the Agricultural Act of 1949 to improve the milk price support program and to establish a milk inventory management program to operate during calendar years in which purchases of milk and milk products by the Commodity Credit Corporation are estimated to exceed 5,000,000,000 pounds; with an amendment (Rept. 102-173, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: H.R. 3543. A bill making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes; with amendments (Rept. 102-255). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee of Conference. Conference report on H.R. 2686 (Rept. 102-256). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 534. Referral to the Committee on Ways and Means extended for period ending not later than October 22, 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. ROSTENKOWSKI (for himself and Mr. DOWNEY);

H.R. 3575. A bill to provide a program of Federal supplemental compensation, and for other purposes; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.R. 3576. A bill to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BARRETT:

H.R. 3577. A bill to amend the Internal Revenue Code of 1986 to provide that certain cash rents will not result in the recapture of the benefits of the special estate tax valuation rules for certain farm and other real property; to the Committee on Ways and Means.

By Mr. BROWN:

H.R. 3578. A bill to conduct a study of the environmental research basis for wetlands delineation; to the Committee on Science, Space, and Technology.

By Mr. COBLE:

H.R. 3579. A bill to suspend until January 1, 1995, the duty on unpackaged blank raw material baseballs; to the Committee on Ways and Means.

By Mr. DE LUGO:

H.R. 3580. A bill to provide that the rate of postage for any first-class mail sent to or from the U.S. Virgin Islands be 6 percent of the rate which would otherwise apply; to the Committee on Post Office and Civil Service.

By Mr. DELLUMS (for himself and Ms. NORTON)

H.R. 3581. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to eliminate congressional review of newly passed District laws, to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on the District of Columbia.

By Mr. MORAN:

H.R. 3582. A bill to prohibit the expansion of the I-95 sanitary landfill in Lorton, VA, unless an environmental impact statement on any such expansion is completed and approved by the Administrator of the Environmental Protection Agency, and for other purposes; jointly, to the Committees on Energy and Commerce and the District of Columbia.

By Mr. MRAZEK (for himself, Mr. POSHARD, Mr. DOWNEY, Mr. PENNY, Mr. MCCLOSKEY, Mr. SHAYS, Mr. GREEN of New York, Mr. MILLER of Washington, and Mr. MCHUGH):

H.R. 3583. A bill to extend the statute of limitation applicable to the filing of administrative complaints by Federal employees who allege employment discrimination in violation of title VII of the Civil Rights Act of 1964; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. MURTHA (for himself and Mr. REGULA):

H.R. 3584. A bill to amend chapter 11 of the Bankruptcy Act of 1978 to ensure the continuation of health and follow-on benefits of debtor pension plans; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. PETRI:

H.R. 3585. A bill to set aside tax revenues collected on recreational fuels not used on highways for the purposes of improving and

maintaining recreational trails; jointly, to the Committees on Ways and Means, Interior and Insular Affairs, and Public Works and Transportation.

By Mr. RINALDO:

H.R. 3586. A bill to improve supervision of Government sponsored enterprises; jointly, to the Committees on Banking, Finance and Urban Affairs, Agriculture, and Education and Labor.

By Mr. SCHULZE:

H.R. 3587. A bill to amend title XVIII of the Social Security Act to prevent telemarketing fraud against Medicare beneficiaries by suppliers of durable medical equipment and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TAYLOR of North Carolina:

H.R. 3588. A bill to provide emergency unemployment compensation on a pay-as-you-go basis; jointly, to the Committees on Ways and Means, Education and Labor, Energy and Commerce, Appropriations, House Administration, and Government Operations.

By Mr. YOUNG of Alaska:

H.R. 3589. A bill to amend title 39, United States Code, to revise the procedures under which any change in the nature of postal services, which will generally affect service on a nationwide or substantially nationwide basis, may be implemented; to the Committee on Post Office and Civil Service.

By Mr. BALLENGER (for himself, Mr. FAWELL, Mr. GOODLING, Mr. GUNDERSON, Mr. HENRY, Mr. JEFFERSON, Mr. KLUG, Mrs. LOWEY of New York, Mr. MARTINEZ, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mrs. ROUKEMA, Mr. SAWYER, Mr. SERRANO, and Mrs. UNSOELD):

H.J. Res. 353. Joint resolution designating January 4 through January 10, 1992, as "Braille Literacy Week"; to the Committee on Post Office and Civil Service.

By Mr. FISH:

H.J. Res. 354. Joint resolution designating the week of February 2 through February 8, 1992, as "Eating Disorders Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. TRAFICANT:

H.J. Res. 355. Joint resolution to guarantee the borrowing efforts of American States, municipalities, school districts, and other local tax levying entities, prior to guaranteeing loans of any foreign borrowing entity, especially foreign governments and foreign central banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ENGEL:

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress that the International Red Cross/Red Crescent Movement should include Magen David Adam as a legitimate national society of that movement.

By Mr. LEWIS of California:

H. Res. 249. Resolution electing Representative Gillmor of Ohio to the Committee on Public Works and Transportation; considered and agreed to.

By Mr. SENSENBRENNER:

H. Res. 250. Resolution to amend the Rules of the House of Representatives to require that all signatures on discharge petitions be made public immediately.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MOAKLEY introduced a bill (H.R. 3590) for the relief of Lloyd B. Gamble; 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. 12: Mr. MANTON and Mr. SOLARZ.

H.R. 43: Mr. HUGHES, Mrs. LLOYD, and Mr. ZELIFF.

H.R. 73: Mrs. JOHNSON of Connecticut, Mr. SMITH of New Jersey, Mr. JEFFERSON, Mr. TAYLOR of Mississippi, Mrs. UNSOELD, Mr. ANDREWS of Maine, Mr. BLILEY, Mr. SANGMEISTER, Mr. RAMSTAD, Mr. PETRI, Mr. GOSS, Mr. ESPY, Mr. SKEEN, Mr. YATES, Mr. SCHIFF, Mr. NUSSLE, Mr. DOWNEY, Mr. PAYNE of Virginia, Mr. BILBRAY, Mr. OLIN, and Mr. MARLENEE.

H.R. 123: Mr. YATRON and Mr. SHAYS.

H.R. 252: Mr. PETERSON of Florida.

H.R. 352: Mr. LEWIS of California.

H.R. 371: Mr. GINGRICH.

H.R. 413: Mr. NAGLE, Mr. DARDEN, Mr. YOUNG of Florida, Mr. SHAW, and Mr. NUSSLE.

H.R. 426: Mr. YOUNG of Florida, Mr. CAMP, and Mr. SCHAEFER.

H.R. 643: Mr. KLUG.

H.R. 700: Mr. SCHAEFER, Mr. RITTER, Mr. KYL, and Mr. JACOBS.

H.R. 862: Mr. SCHAEFER.

H.R. 870: Mr. MORAN.

H.R. 871: Mr. FAWELL and Mr. MORAN.

H.R. 872: Mr. FAWELL, Mr. MORAN, and Mr. WILSON.

H.R. 873: Mr. MORAN.

H.R. 911: Mr. PETERSON of Minnesota, Mr. HEFNER, Mr. ROYBAL, Mr. TAYLOR of Mississippi, and Mr. GORDON.

H.R. 1124: Mr. YOUNG of Florida.

H.R. 1218: Mr. COLEMAN of Texas.

H.R. 1240: Mr. WALSH and Mr. BROWN.

H.R. 1251: Mr. MACHTLEY.

H.R. 1385: Mr. WILSON, Mr. LANCASTER, Mr. SERRANO, and Mr. MANTON.

H.R. 1414: Ms. DELAURO.

H.R. 1473: Mr. OBERSTAR and Mr. ROGERS.

H.R. 1495: Mr. LANCASTER and Mr. PRICE.

H.R. 1516: Mr. ROGERS, Mr. SPENCE, Mr. HANSEN, and Mr. RAHALL.

H.R. 1527: Mr. LIVINGSTON and Mr. BENNETT.

H.R. 1559: Mr. ENGEL.

H.R. 1565: Ms. SNOWE.

H.R. 1574: Mr. DORNAN of California, Mrs. COLLINS of Illinois, Mr. TOWNS, Mr. JEFFERSON, and Mr. COX of California.

H.R. 1575: Mr. COX of California, Mr. DORNAN of California, Mrs. COLLINS of Illinois, Mr. TOWNS, Mr. JEFFERSON, and Mr. CAMP.

H.R. 1677: Mr. BLAZ.

H.R. 1733: Ms. OAKAR.

H.R. 1771: Mr. GEJDENSON, Ms. OAKAR, and Mr. WOLPE.

H.R. 1774: Mr. MACHTLEY.

H.R. 1777: Mr. SCHEUER.

H.R. 1960: Mr. OWENS of Utah, Mr. GILLMOR, Mrs. BOXER, Mr. STAGGERS, Mr. ROYBAL, Mr. BILBRAY, Mr. BORSKI, Mr. MILLER of Ohio, Mr. FALEOMAVAEGA, and Mr. PAYNE of New Jersey.

H.R. 2056: Mr. RIDGE and Mrs. BENTLEY.

H.R. 2092: Mr. GEJDENSON, Mrs. MEYERS of Kansas, and Mr. SCHEUER.

H.R. 2248: Mr. SMITH of Texas, Mr. SABO, Mr. JAMES, Mr. ANDREWS of Maine, Mr. CLEMENT, and Mr. CRAMER.

H.R. 2267: Mr. BONIOR and Mr. RAVENEL.

H.R. 2336: Mr. CAMP and Mr. MARLENEE.

H.R. 2355: Mr. ENGEL.

H.R. 2390: Mr. FASCELL, Mr. HUGHES, and Mr. LIPINSKI.

H.R. 2559: Mr. ENGEL.

H.R. 2566: Mr. MARTINEZ and Mr. SANDERS.

H.R. 2598: Mr. HUCKABY, Mr. OWENS of Utah, and Mr. ANTHONY.

H.R. 2663: Mr. HORTON, Mr. PETERSON of Minnesota, Mr. KOLTER, Mr. BEILENSON, Mr. LANCASTER, Mr. MARTINEZ, Mr. HUGHES, and Mr. ROYBAL.

H.R. 2755: Ms. SLAUGHTER of New York, Mr. LAFALCE, Mr. MFUME, and Mr. GUARINI.

H.R. 2812: Mr. FALEOMAVAEGA, Mrs. UNSOELD, and Mr. COUGHLIN.

H.R. 2832: Mr. CARDIN, Mr. CARPER, Mr. GILCHREST, Mr. HENRY, Mr. HOYER, Mr. TALLON, Mr. TAUZIN, Mr. LAGOMARSINO, Mr. INHOFE, and Mr. YOUNG of Alaska.

H.R. 2840: Ms. PELOSI, Mr. SERRANO, and Mr. MFUME.

H.R. 2860: Mrs. BOXER.

H.R. 2863: Mr. ZELIFF.

H.R. 2872: Mr. MACHTLEY and Mr. MILLER of Washington.

H.R. 2890: Mr. PETERSON of Florida and Mr. KLECZKA.

H.R. 2912: Mr. GORDON, Mr. FROST, Ms. KAPTUR, Mr. JONTZ, Mr. LAFALCE, and Mr. RANGEL.

H.R. 2936: Mr. HALL of Ohio.

H.R. 2958: Mr. ZELIFF and Mr. GOSS.

H.R. 3071: Mr. LIPINSKI.

H.R. 3130: Mr. COUGHLIN, Mr. SKEEN, Mr. CUNNINGHAM, Mr. OXLEY, Mr. DANNEMEYER, Mr. SCHAEFER, Mr. LENT, Mr. CAMP, Mr. GALLO, Mr. INHOFE, Mr. EMERSON, Mr. LIVINGSTON, Mr. MILLER of Washington, Mr. FAWELL, Mr. SHAYS, and Mr. BLILEY.

H.R. 3164: Mr. BOUCHER and Mr. THOMAS of Georgia.

H.R. 3211: Mr. DWYER of New Jersey, Mr. STENHOLM, Mr. DINGELL, and Mr. BONIOR.

H.R. 3212: Mr. PETRI.

H.R. 3311: Mr. LANCASTER.

H.R. 3313: Mr. HOYER.

H.R. 3373: Mr. WYDEN, Mr. CARDIN, Mr. MILLER of Washington, and Mr. GILCHREST.

H.R. 3376: Mr. SANTORUM and Mr. ZELIFF.

H.R. 3380: Mr. DANNEMEYER, Mr. SUNDQUIST, Mr. LANCASTER, Mr. DOOLEY, Mr. PETERSON of Minnesota, Mr. JEFFERSON, Mr. RAHALL, Mr. MCMILLEN of Maryland, Mr. ROBERTS, Mr. LIPINSKI, and Mr. WILLIAMS.

H.R. 3393: Ms. KAPTUR.

H.R. 3409: Mr. PAYNE of New Jersey.

H.R. 3419: Ms. SNOWE.

H.R. 3438: Mr. PETRI.

H.R. 3440: Mr. PETRI.

H.R. 3441: Mr. PETRI.

H.R. 3475: Mr. RAVENEL, Mr. HAYES of Illinois, Mr. LAFALCE, Mr. RANGEL, Mr. LIPINSKI, Ms. PELOSI, and Mr. JEFFERSON.

H.R. 3476: Mr. SERRANO, Mrs. UNSOELD, Mr. MCNULTY, Mr. RAVENEL, Mr. JONTZ, Mr. HORTON, Ms. PELOSI, and Mr. JEFFERSON.

H.R. 3511: Mrs. COLLINS of Illinois, Mr. PETERSON of Minnesota, Mr. HAYES of Illinois, Mr. JONTZ, Mr. LANTOS, Mr. LAROCCO, Mr. BERMAN, Mrs. UNSOELD, Mr. COLEMAN of Texas, Mr. WOLPE, Mr. TORRES, Mr. LIPINSKI, and Mr. JEFFERSON.

H.R. 3515: Mr. GINGRICH, Mr. LANTOS, Mr. WILSON, Mr. YOUNG of Alaska, Mr. GLICKMAN, and Mr. BREWSTER.

H.R. 3516: Mr. HERGER.

H.R. 3528: Mr. ANDREWS of Maine, Mr. LAFALCE and Mr. MORAN.

H.R. 3538: Mr. BRUCE, Mr. EVANS, Mr. COSTELLO and Mr. POSHARD.

H.R. 3553: Mr. MCCLOSKEY, Mr. MOODY and Mr. MCNULTY.

H.R. 3555: Mr. KOSTMAYER, Mr. AUCOIN, Mr. DUNCAN, Mr. WALSH, Mr. SHAYS, Mr. FAWELL, Mr. POSHARD and Mr. SANDERS.

H.J. Res. 14: Mr. VANDER JAGT.

H.J. Res. 22: Mr. BALLENGER.

H.J. Res. 177. Mr. SHAW, Mr. NAGLE and Mr. MOODY.

H.J. Res. 198: Mr. FUSTER, Mr. BAKER and Mr. MILLER of Ohio.

H.J. Res. 228: Mr. TOWNS, Mr. SOLARZ, Mr. HUTTO, Mr. JONES of North Carolina, Mr. SAWYER, Mr. BRUCE, Mr. MORAN, Mr. HENRY, Mr. SLAUGHTER of Virginia, Mr. NATCHER, Mr. WASHINGTON, Mr. NEAL of Massachusetts, Mr. BERMAN and Mr. SCHUMER.

H.J. Res. 261: Mr. ANTHONY, Mr. BILBRAY, Mr. CALLAHAN, Mr. CHAPMAN, Mr. BRUCE, Mr. COSTELLO, Mr. CRAMER, Mr. DARDEN, Mr. DWYER of New Jersey, Mr. FORD of Michigan, Mr. GEREN of Texas, Mr. GILCHREST, Mr. GORDON, Ms. HORN, Mr. KANJORSKI, Mr. LEHMAN of California, Mr. MANTON, Mrs. MINK, Ms. OAKAR, Mr. OLIN, Mr. SCHUMER, Mr. SIKORSKI, Mr. STARK, Mr. STENHOLM, Mr. VANDER JAGT, Mr. WISE, Mr. ANNUNZIO and Mr. SMITH of Iowa.

H.J. Res. 293: Mr. DE LA GARZA.

H.J. Res. 312: Mr. HAYES of Illinois, Mr. SANGMEISTER, Mr. RINALDO, Mr. BUNNING, Mr. CARDIN, Mr. HATCHER, Mr. SARPALIUS, Mr. SCHAEFER, Mr. YOUNG of Florida, Mr. MURPHY, Mr. CALLAHAN, Mr. HALL of Texas, Mr. COSTELLO, Mr. WILSON, Mr. ROE, and Mr. WASHINGTON.

H.J. Res. 321: Mr. ACKERMAN, Mr. APPLEGATE, Mr. DOWNEY, Mr. DAVIS, Mr. FORD of Tennessee, Mr. GILMAN, Mr. HAMILTON, Mr. HATCHER, Ms. HORN, Mr. HUNTER, Mr. HUTTO, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. JOHNSTON of Florida, Mr. KANJORSKI, Mr. KENNEDY, Mr. LEWIS of Florida, Mr. LOWERY of California, Mr. MATSUI, Mrs. MINK, Mr. MINETA, Mr. MFUME, Mr. MCGRATH, Mr. NEAL of Massachusetts, Mr. PAXON, Mr. POSHARD, Mr. RAVENEL, Mr. RIGGS, Mr. ROYBAL, Mr. SAVAGE, Mr. SAWYER, Mr. SPRATT, Mr. STOKES, Mr. TALLON, Mr. TRAXLER, Mr. SCHEUER, Mr. FISH, Mr. MCCOLLUM, Mr. WAXMAN, Mr. YATRON, Mr. MILLER of Washington, Mr. MACHTLEY, Ms. PELOSI, Mr. PAYNE of Virginia, Mr. HASTERT, Mr. MAVROULES, Mr. SAXTON, Mr. MORAN, Mr. MOORHEAD, Mr. YOUNG of Alaska, and Mr. MARKEY.

H.J. Res. 324: Mr. NEAL of Massachusetts, Mr. IRELAND, Ms. MOLINARI, Mr. PAXON, Mr. RAVENEL, Mr. DEFAZIO, and Mr. COUGHLIN.

H.J. Res. 335: Mr. RIGGS and Mr. RAMSTAD.

H.J. Res. 340: Mr. CLAY, Mrs. LOWEY of New York, Mr. SANDERS, Mr. WHEAT, Mr. KENNEDY, Mr. BEILENSON, Mrs. UNSOELD, Mr. FLAKE, Mr. MCCLOSKEY, Mr. GOODLING, Mr. ORTIZ, Mr. BILIRAKIS, Mr. KOSTMAYER, Mr. DE LA GARZA, Mr. SAWYER, Mr. KASICH, Mr. MORAN, Mr. SHAW, Mr. STEARNS, Mr. BATEMAN, Mr. FROST, Mr. DURBIN, Mr. GILLMOR, Ms. PELOSI, Ms. OAKAR, Mr. LEWIS of Florida, Mr. POSHARD, Mr. SWETT, Mr. ANDREWS of Maine, Mr. SHARP, Mr. DWYER of New Jersey, Mr. SCHUMER, Mr. BROWDER, Mr. BROWN, Mr. ASPIN, Ms. COLLINS of Michigan, Mr. AUCOIN, Mr. DIXON, Mr. MCNULTY, Mr. HORTON, Mr. LEWIS of Georgia, Mr. SMITH of New Jersey, Mr. EWING, Mr. CARR, Mr. CARDIN, Mr. DANNEMEYER, Mr. HOBSON, Mr. HAYES of Louisiana, Mr. DARDEN, Mr. SABO, Mr. WASHINGTON, Mr. ROHRABACHER, Mr. WAXMAN, Mr. BREWSTER, Mr. WEISS, Mr. MACHTLEY, Mr. PAYNE of Virginia, Mrs. MINK, Mr. PALLONE, Mr. ROEMER, Mr. DOOLEY, Mr. ABERCROMBIE, Mr. COX of Illinois, Mr. SANGMEISTER, Ms. SLAUGHTER of New York, Mr. ECKART, Mr. CHAPMAN, Mr. LUKEN, Ms. WATERS, Mrs. KENNELLY Mrs. MORELLA, Ms. DELAURO, Mr. PETERSON of Florida, Mr. MONTGOMERY, Mr. HOYER, Mr. JACOBS, Mr. SCHAEFER, Mr. VALENTINE, Mr. PORTER, and Mr. SMITH of Texas.

H. Con. Res. 188: Mr. ZELIFF and Mr. BATEMAN.

H. Con. Res. 212: Ms. OAKAR, Mr. JEFFERSON, Mr. LIPINSKI, Mr. BROOMFIELD, Mr. CUNNINGHAM, Ms. SLAUGHTER of New York, Mr. ROHRABACHER, and Mr. COX of California.

H. Con. Res. 215: Mr. SWETT and Mr. PETERSON of Florida.

H. Res. 116: Mr. SABO, Ms. MOLINARI, Mr. SKAGGS, and Mrs. KENNELLY.

H. Res. 234: Mr. YOUNG of Florida, Mr. ZELIFF, and Mr. BLILEY.

H. Res. 244: Mr. POSHARD, Mr. BEREUTER, Mr. LUKEN, Ms. NORTON, Mr. GILMAN, Mr. GUARINI, Mr. MCCLOSKEY, Mr. SANGMEISTER, Mrs. MEYERS of Kansas, and Mr. BATEMAN.

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. Res. 194: Mr. BENNETT.

EXTENSIONS OF REMARKS

WETLANDS PROTECTION

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. GILCHREST. Mr. Speaker, I am glad the two subcommittees are holding this hearing on this important and controversial issue.

Most of us support the President's goal of no net loss of the Nation's wetlands. Achieving the goal fairly and effectively is proving to be difficult, but it can and must be done. We can protect wetlands and still sustain economic growth and development.

Everyone agrees that the administration and enforcement of section 404 needs to be improved, a subject that the Congress is considering as part of the Clean Water Act reauthorization.

Wetlands of all kinds are vital to the achievement of the goals of the Clean Water Act. Wetlands provide our country with natural flood and erosion control, water purification, outdoor recreation, and fish and wildlife habitats.

I personally know the values of wetlands because my district, Maryland's first, surrounds the Chesapeake Bay. The bay's health and bounty depend on vital, functioning wetlands.

To have any success in a Federal wetlands program we must first establish the facts regarding what wetlands are and where they are located. Before any legislation can go forward, we have to be assured that these facts are as accurate and unbiased as possible. We must rely, primarily, on scientists and scientific data to define and delineate wetlands, how they function, and what functions and values they provide to our ecosystems.

Legislatively, Congress needs to articulate an effective wetlands program, building on what has already been done. The essence of such a program is to encourage and, in some instances, require land owners and developers to sit down with public officials to determine the best ways to reduce wetlands losses. Such a program must be based on sound scientific data. It must be administered efficiently and fairly without unnecessary and arbitrary delays.

I strongly support the general permit authority that allows States and localities to fashion wetlands programs that meet Federal guidelines. The diverse lands of this country require flexible practices to achieve common wetlands goals. Ideally, regulatory discretion should be allowed to take place on a regional basis through a partnership between the State and Federal Government.

The State of Maryland has streamlined the administration of the wetlands program to make it more predictable and expedited. Currently, Maryland serves as a nationwide example of an efficient wetlands management program.

In addition, the Army Corps must have adequate funding and staff. We should also expand the economic incentives to encourage protection of wetlands.

I have introduced H.R. 3492, the Wetlands Improvement Act of 1991, because I believe we must improve the administration of the wetlands program, codify certain other aspects of the program and obtain further scientific evaluation of the values and functions of prior converted croplands.

Regarding the revisions to the 1989 manual, I concur with the comments of the State of Maryland contained in its letter of October 7, 1991, offering its position on the proposed revisions. Maryland officials call for substantial refinement of the revisions. They base their lack of support for implementation of the revisions on the results of rigorous field testing of the revisions at 18 sites in 11 counties, occurring in all physiographic regions of the State of Maryland. They also had grave technical, administrative, and editorial concerns with the proposed revisions.

Maryland's findings and conclusions and other early scientific evaluation and field testing indicate that these revisions are more costly and time consuming to use than the current ones, are confusing, are difficult to use, substantially raise the complexity of the delineation process, contain technical inaccuracies and exclude much wetlands now covered by the section 404 regulatory program.

While I support some midcourse corrections to the 1989 manual, the proposed revisions go beyond sound science and policy. The criteria for hydrology and vegetation severely compromises the scientific integrity of Federal wetlands delineation procedures. The proposed manual's treatment of "exceptions" is an additional concern, for if these areas are excluded, many millions of acres of wetlands will be removed from Federal jurisdiction.

Temporary and seasonal wetlands—those not wet year-round—also function as wetlands performing vital ecological services. But under the proposed revisions, these systems would become available for unregulated development.

The proposed revisions are not consistent with the National Wetland Inventory [NWI] mapping effort conducted by the U.S. Fish and Wildlife Service since the late 1970's. The revised manual proposes a more cumbersome and costly method for delineating vegetation. It requires a "prevalence index" rather than the more commonly used methodology known as dominance. It takes much more time.

The scientific basis for the 1989 manual remains sound. Some changes may be necessary but they deal with application in the field, not the basic science. The 1989 manual should be improved by clarifying when and how certain indicators at the site can be used to demonstrate wetlands hydrology, soils, and vegetation. But rather than clarifying the determination, the proposed revisions eliminate the usefulness of the indicators.

In conclusion, we need further scientific evaluation and field testing of not only the revised manual but also other proposals before Congress such as classification of wetlands, mitigation banks, and prior converted croplands. This evaluation and testing should be done immediately, given top priority in its completion and be a cooperative effort of all interested parties with full opportunity for input. It should include, as its centerpiece, a review by the National Academy of Sciences before proposed revisions to the manual are adopted or major wetlands legislation is enacted.

There is one last point I would like to make. I read the book "Turning the Tide—Saving the Chesapeake Bay." by Tom Horton. It was just released. It contains some excellent research and analysis of the functions and values of wetlands and nontidal wetlands. I recommend it to Members and staff.

NATIVES' SURVIVAL ISN'T DISNEY FILM

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. YOUNG of Alaska. Mr. Speaker, I would like to submit for the RECORD, an article which appeared in the September 1 edition of the Alaska News Miner's, Heartland magazine. The article is titled "Natives' Survival Isn't Disney Film," written by Elise Sereni Patkotak.

The Senate is scheduled to take up energy legislation later this week. Oil exploration and development in ANWR is a primary provision of the legislation. At the center of the debate are the Inupiat people from the North Slope of Alaska, the area under consideration for exploration and development. The Inupiat people are stewards of the land and they know the land best. For centuries, they have used the Earth's resources, whether it be trees, minerals, seals, whales, bears, oil, caribou, or the like. They will continue to do so because they depend on the resources for survival.

NATIVES' SURVIVAL ISN'T DISNEY FILM

Having grown up as a very definite Bambi lover, it was difficult for me when I first came to Barrow to understand the hunting mentality. I had never grown up around guns and the only time I saw blood on an animal was when the steaks were being grilled.

After many years in the Arctic, I can honestly say that while I still would have trouble actually killing something, I do have a great respect and understanding for what it takes to survive in this world. And part of what it takes for life to survive here is for other life to die. That's nature as reality and not a Disney fantasy.

The Inupiat have hunted on the North Slope for thousands of years. They have no illusions about the pain involved in survival. When you kill an animal for survival you become close to that animal in many ways.

You understand and respect its way of life while knowing that for the most part you will spend your lives in an adversarial relationship.

Many well-intentioned people who have little knowledge of the price of Arctic survival tend to romanticize not only the animals and land, but also the people who inhabit it. They think of the Inupiat as some poor and noble savage who managed to inhabit this land for millennia without ever touching it.

They fantasize that somehow the Inupiat survived while floating across the tundra about 2 feet off the ground leaving no footprints or marks. They envision a culture that killed without blood or pain.

But the Inupiat did touch this land. They used its resources to survive. They left their footprints. And they were intimate with the pain and blood of death as they struggled to feed and clothe their families.

They respected the need to use it wisely so that it would be there for the future. The key here is to understand that their respect for it was based on its use to their survival.

As the debate about ANWR continues, many outsiders find themselves horrified at the thought that some Inupiat are actually in favor of drilling. This goes against all they believe about the noble savage living in peace and harmony with the land while music swells in the background and sunsets stay eternally stunning.

What they fail to understand is that the Inupiat culture is a living, evolving organism. The outside world invited itself in to the home of the Inupiat and took what it needed. Along the way, the Inupiat learned the ways of the world and adopted some of its advances.

Where once the land supported them through its game, they now see the potential for the land to also support them through its oil and gas riches. Where once their needs were for polar bar skin leggings and caribou skins, they now need the money that will continue to buy health care and housing for their people.

They have not changed their basic attitude toward the land. It is still an attitude of respect and a desire to keep it in such a manner that it will be there for the future. But the basis for this attitude is the use of the land for the betterment of the people here.

Whether you agree with the development of ANWR or not, people need to understand and respect the fact that Native people are real—not some cartoon fantasy of Adam and Eve before the fall. They have real needs and the land is the resource they have to meet those needs. They rightfully resent the idea that self-determination exists only to the extent that someone from 5,000 miles away allows.

The television show "Northern Exposure" recently had an episode in which some Indians wanted to buy a piece of land for the purpose of drilling for oil. The white lady who owned the land was at first thrilled that the Indians wanted to buy it. She assumed they would preserve it in this pristine state and make of it the game reserve she wanted.

She was horrified to find out their true plan. She made the all too common mistake of seeing a fantasy and not the reality of people living and surviving in the 20th century. Native Americans are no different from you and me when it comes to the desire to care for their families. They will continue to turn to the land to do this in whatever way the land can help them most.

JOSEPH DOHERTY GETS HIS DAY IN COURT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. MANTON. Mr. Speaker, yesterday, the Supreme Court heard oral arguments in the case of Immigration and Naturalization Service versus Joseph Patrick Doherty. Mr. Doherty is an Irish national who has been held in U.S. prisons for 8 years without being charged with or convicted of any crime in the United States.

The Justice Department has asked the Court to deny Mr. Doherty the right to reopen his request for political asylum despite rulings by the Justice Department's own Board of Immigration Appeal and the U.S. Court of Appeals for the Second Circuit ordering such a hearing. To accomplish this goal, they have asked the Court to grant the Attorney General unlimited discretion in denying an individual's request for political asylum.

I am proud that more than 130 of my colleagues joined me in an amici curiae brief on Mr. Doherty's behalf. In our brief, we argued that the Refugee Act of 1980 was designed to ensure all refugees, regardless of their country of origin, equal treatment under the law.

Mr. Speaker, Congress passed the Refugee Act to limit the discretion of the executive branch and to guarantee asylum seekers the right to a full and fair hearing on the merits of their claims. Mr. Doherty is entitled to a hearing. I urge the Court to carefully consider the arguments presented in the congressional amici brief.

Mr. Speaker, I ask unanimous consent that the names of all the signatories to the amicus brief be entered into the RECORD at this point.

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HOWARD COUNTY COUNCIL TO HONOR VETERANS

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. CARDIN. Mr. Speaker, on October 21, at 7 p.m., the Howard County Council of Maryland will honor more than 100 Howard County veterans who served their county in Desert Storm. I applaud the council for its leadership in expressing the pride we all feel in these soldiers' heroic efforts in the Persian Gulf.

These patriotic men and women risked their lives to resist aggression in the Persian Gulf. Many of them left behind their families and their jobs at a moment's notice to answer their country's call. Some did not return. I am proud to join Chairman C. Vernon Gray and the members of the county council in honoring these veterans who made Howard County's contribution to our Nation's effort to remove Saddam Hussein's forces from Kuwait.

Support Our Troops, a support group for servicemen and women and their families, deserves our thanks for the work they have done in making us aware of the hardships faced by the families of the troops. The war was not only tough on the soldiers who fought for our

country, but on the family members and friends who stayed behind. For this reason the ceremony is dedicated to them as well.

Howard County and the Nation want to say a heartfelt thanks to all of our returning troops. I am proud to represent these brave and courageous service people.

A TRIBUTE TO SEUMAS MacNEILL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to Mr. Seumas MacNeill, the principal of the College of Piping in Glasgow, Scotland. Mr. MacNeill has run a school which has taught the art of Scottish bagpiping to thousands of pupils from many parts of the world and has thus kept alive a unique part of Scotland's musical heritage.

For the past 19 summers, MacNeill has been the principal and teacher of the California Summer School of Piping in Idyllwild, CA.

MacNeill, a physicist by profession who has taught at the University of Glasgow, founded the College of Piping in 1945. MacNeill is regarded as one of the foremost experts of piping, claiming most of the important awards in the art. He is an excellent teacher, the editor of Piping Times, a monthly magazine printed by the college, and has published very successful piping books on piobaireachd—the classical music for the Great Highland bagpipe.

Seamus MacNeill has been a leader in both preserving and promoting a unique part of Scotland's musical heritage, and indeed of the world's culture. Deservedly, he has been congratulated and praised by many prominent people, including President Reagan, for his contributions at the summer school in Idyllwild, CA. On April 16, 1991, MacNeill was recognized for his efforts and devotion when he was placed on the Order Paper of the House of Commons, London, England, by Michael J. Parkin, M.P. This order was signed by 64 members of various parties.

Mr. Speaker, I want to publicly acknowledge and thank Mr. MacNeill for his dedication and contributions he has made not only for bagpiping enthusiasts but also for all who enjoy the distinct and historic piping sound.

AN EARLY DAY MOTION 712: COLLEGE OF PIPING

That this House congratulates Mr. Seumas MacNeill, the Principal of the College of Piping, who has for 45 years run a college which has taught the art of Scottish bagpiping to thousands of pupils from many parts of the world and has thus kept alive a unique part of Scotland's musical heritage; and, in order to allow the college to flourish, urges the Government to give moral and financial support to this worthwhile institution so that future generations can avail themselves of the art of piping.

PRESIDENT BUSH'S JOBLESS BENEFIT VETO

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. BUSTAMANTE. Mr. Speaker, my colleagues, Representatives BOB WISE and VIC FAZIO scheduled time under special orders on Tuesday, October 15, so that some of us could talk about the recession in America and what we in the majority party of Congress are trying to do to help the victims of this economic downturn. Unfortunately, my schedule required me to be elsewhere in the Capitol complex, and I was unable to participate in the discussion. I would like to take this opportunity to present my views on this problem which is presenting a tremendous hardship for many American families.

While the White House continues to debate the question of whether the American economy is in a recession, many American workers, newspaper editors, and economists agree that the economy is weak and that unemployment in the country is a problem and has the potential of becoming a bigger problem next year.

I'd like to call my colleagues' attention to two articles written by the Washington Post's economic reporter, Hobart Rowan. In these articles, Mr. Rowan cites a forecast by the U.S. Chamber of Commerce—which is, he notes, hardly a liberal institution. The chamber projects little growth in the third quarter of this year, with another recession following in the final quarter of this year and the first quarter of 1992. The chamber further projects a growth rate of less than 2 percent for all of 1992 and a rising unemployment rate, "which would hit 7.6 percent in mid-1992."

These articles dispute the assertion made by President Bush on October 11 that the economy is "strengthening." The comments of Mr. Rowan, Larry Hunter of the chamber of commerce, and Charles Schultz of the Brookings Institution indicate little confidence in future economic performance.

Each month hundreds of thousands of jobless workers leave the unemployment rolls because they have exhausted their benefits. However, corporate chieftains like Steven J. Ross, chairman of Time-Warner, Inc., who rakes in more than $80 million in salary "and other forms of benefits" while laying off 600 people this year, are able to line their pockets. As Richard Cohen, another Post writer, pointed out recently, the only class of Americans benefiting from current economic conditions are the corporate elite. The President looks the other way when corporate America pays itself excessive salary and benefit packages and rewards poor management with millions of dollars in golden parachutes. Yet, he is quick to denounce the majority in Congress who support a bill that will help millions of unemployed middle Americans pay their mortgages, rent, food, and medical bills.

The victims of this economic squeeze are the over 8 million unemployed Americans. In the past 6 months, more than 1.8 million people have exhausted their unemployment benefits, and the majority of them remain out of work and without jobless benefits. These are the people that we as Democrats have tried to help, but we've met resistance every step of the way from the Bush administration. Last Friday, the President threw another impediment in our efforts when he vetoed the unemployment bill.

That bill would have given 500,000 unemployed Texans an additional 7 weeks in unemployment benefits. It would have given another 68,000 unemployed Texans who have exhausted their benefits 7 additional weeks of benefits. But the President has denied them that small measure of assistance.

I would like to remind the American people that this is the second extended unemployment insurance bill Congress has passed. The first bill we passed in July was never invoked because the President refused to declare an emergency under the terms of the Budget Act. Every time Congress has tried to do something about the unemployment situation in America, President Bush has responded with a thumbs down.

The President has said he prefers the unemployment insurance bill sponsored by Senator ROBERT DOLE. The Dole bill differs from the bill Congress passed October 1. Under the formula established under the Dole bill, only six States would be able to extend benefits to jobless Americans who have exhausted their benefits. Under the Dole proposal, Texas, the President's home State, would not qualify for reach back benefits.

Hobart Rowen was right when he concluded that the President hasn't been minding the store when it comes to taking care of our own. With the Senate's failure to override the President's veto of the jobless benefits bill, let me assure the millions of jobless Americans that we won't give up on our efforts to help ease the situation in which they find themselves. We remain committed to helping the victims of this recession and their families. If we can't persuade the White House to join us, then we'll continue to take our case to the American people.

[From the Washington Post, Oct. 13, 1991]

SO WHERE'S THIS ALLEGED RECOVERY?

(By Hobart Rowen)

Denial of reality is a self-inflicted danger—whether it relates to one's personal health or to signs of weakness in the economy. For the past year, the Bush administration has looked the other way at clear-cut signals of an economy struggling to keep its head above water, with the result that the "recovery" officials have been touting can't be distinguished from recession.

Economist Lawrence Chimerine, a consultant to major corporations, told me he is stunned by the pessimism among most of his clients, based on bad results for August and September. More layoffs, rather than rehires, are in the offing.

"There's no strength anywhere in the economy, not even in manufacturing and housing that had seemed to pick up in the spring," Chimerine said.

"The fundamental point is that most [analysts] mistook this as an oil-shock recession. It goes beyond that. The economy has been weak for three years—reflecting structural problems of the '80s—and we're paying for it now. You can't keep the economy going forever by building empty office buildings and Patriot missiles."

Yet President Bush has scrambled to identify every scrap of "good news" as proof that

the nation is back on track to the boom that technically lasted until mid-1990 but that actually began to run out of gas two years earlier.

More recently, Bush has been forced to acknowledge that—gosh—"all is not well."

On a CNN talk show, consumer advocate Ralph Nader warned, "We've got hunger, homelessness, poor housing—a lot of the basic needs of an economy are not being met. But the entertainment industry is doing great. . . .

"You just look in the health insurance area as a segment of our economy, and see what's happening, not just to the poor, but to the middle class, millions of whom are now paying more for health insurance than food. And [they are] afraid to change their jobs because the new [insurance] policy doesn't cover preexisting conditions . . ."

For the first time, insiders say, Bush is asking his economic aides some pointed questions, having finally made the connection between an economy likely to be stagnant in mid-1992 and the impact that continued below-par performance could have on his reelection chances.

In emergency meetings with his Economic Policy Council recently, Bush has been more attentive to what he hears from Commerce Secretary Robert A. Mosbacher, Labor Secretary Lynn Martin, and Housing and Urban Development Secretary Jack Kemp.

In the "denial" period, sources report, Treasury Secretary Nicholas F. Brady, Budget Director Richard G. Darman, Economic Council Chairman Michael J. Boskin and chief of staff John H. Sununu assured the president that the recession would be over by mid-1991. In effect, they counseled him: Sit tight and don't do anything dramatic.

But a new forecast by the United States Chamber of Commerce—hardly the most radical institution in America—puts a grim face on prospects, echoing Chimerine's observations. It predicts the third quarter will show scanty real growth and then a return to recession—the "double dip"—in the final quarter of this year and the first quarter of 1992.

For all of 1992, the growth rate would be less than 2 percent, deepening the budget deficit and resulting in a rising, rather than falling, unemployment rate, which would hit 7.6 percent in mid-1992. But suppose the chamber is too pessimistic and that there is no second dip into recession in the six-month period that began on Oct. 1 because economic growth rates are marginally positive instead of marginally negative?

It doesn't make any difference. Economic activity a hair this way or that way around zero amounts to further economic stagnation.

Chamber economist Larry Hunter said that even if the unemployment rate next year is a full point below the organization's current estimate, "it will be too high for the administration to defend. We need to see the unemployment rate come down steadily over the next nine months [from the current 6.7 percent], and I don't see that happening."

Hunter thinks that Bush had an opportunity six to nine months ago to seize the high ground—both in an economic and political sense—by initiating a reasonable program for extended unemployment benefits, coupled with the demand that the Democrats support him with a pro-growth program, including tax cuts for middle-income groups. He could have use the "emergency" safety-valve allowed by last year's budget deficit agreement.

Failure to act was a major blunder, and some in the administration say they gave the president fair warning. "I think that all too many blue-chip [private] economists and White House economists have been overly optimistic about the recovery," Kemp told me. "They have not seen how the collapse of real estate values and [dangers to] financial institutions have prevented a more positive recovery. What recovery we have is anemic at best."

What—if anything—can produce a real recovery? The pros and cons of various recovery proposals will be examined in my next column.

[From The Washington Post, Oct. 15, 1991]

WHAT WILL GET THE ECONOMY MOVING?

(By Hobart Rowen)

As disappointments over the economy multiply, President Bush is desperately searching for a new approach. But he hasn't done more than jawbone the Federal Reserve Board into pumping cheaper money into the economy, and demand that bankers get off their backsides and lend money more freely.

And, after being pushed by a more generous Democratic proposal, Bush has been forced to say he would sign a token extension of unemployment benefits proposed by Capitol Hill Republicans. Until the past few days, the White House view was that unemployment would be no worse then 6.5 percent to 6.7 percent at the peak of the 1992 campaign, and as long as the jobless rate began trending down, Bush wouldn't be hurt politically.

"After all, that means that more than 93 percent of the labor force has jobs," said a White House insider.

Putting aside the cynical, inhumane aspect of that judgment, if a new forecast by the Chamber of Commerce of the United States is right (and they've been pretty accurate all along) the unemployment rate in mid-1992 is likely to top the 7.6 percent level unless Bush takes the leadership in establishing a more aggressive recovery program.

Those who tut-tut current unemployment rates reported by the Bureau of Labor Statistics forget two things: First, the real rate is higher, because so many workers have quit searching for jobs, or have taken part-time work in desperation. And second, even those who retain jobs don't spend money freely, wondering if they will be caught in the next wave of layoffs.

Earlier in 1991, Bush could have sought a coalition with the Democrats to propose a number of stimulants, including a middle-income tax break with a safety net package, invoking the "emergency" provision of the budget deficit agreement. It would have been first-rate politics and economics.

But Bush's timid group of advisers told him to hold off, and thereby handed the unemployment issue to the Democrats on a silver platter. It took the Democrats some time to wake up, but they finally got their act together and initiated legislation extending unemployment benefits.

Stubbornly, Bush refused to go along, and his economic advisers hammered away at the need for lower interest rates: they had no other policy, pleading the constraints of the 1990 budget package.

Interest rates did come down significantly but didn't pump up the economy. The White House blames the regulators for being too tough and bankers for being too cautious. But it takes two to tango: The demand for loans, from consumers and business, has been weak even at the lower interest rates now in effect.

Can anything—to paraphrase Jack Kennedy—get the economy moving again? The Chamber proposes not only lower interest rates and a cut in taxes (including the capital gains tax), but easing new regulations, symbolized by the Clean Air Act, that it believes divert money from constructive investments.

Brookings Institution economist Charles Schultze points out that interest rates are still historically high, "so there's more room for them to come down." But he would move only slowly to unravel the budget package, and would raise taxes to finance education and other civilian needs.

Schultze cites the need to look past the current imbroglio on unemployment insurance and tackle some of the underlying weaknesses in the economy that will correct "the real tragedy"—the fact that the U.S. economy has grown almost not at all in the past 15 years, with the bottom half of the population actually losing ground.

Jack Albertine, formerly with the congressional Joint Economic Committee and now a private economic consultant, agrees with Schultze on the depth of the problem but not on raising taxes. Without sharply lower interest rates, Albertine sees no chance to revive the housing sector, always a key to economic recovery. He advocates moving as expeditiously as possible to cut defense spending, applying some of the savings to reducing the deficit but allocating a good share to relief of the hard-pressed middle-income sector. He would cut taxes and restore Individual Retirement Accounts.

But Lawrence Chimerine of DRI-McGraw Hill, a national business advisory firm, believes that lower interest rates, while having a cushioning effect, can't generate a recovery. "There is very little the Fed or anybody else can do about the mess we're in," Chimerine says. "Our real problems are long-term in nature."

He would tackle the problem of boosting productivity—hence competitiveness—by an investment tax credit of as much as 20 percent—but only for new projects. He favors cutting defense spending, but observes that there is little short-term bang for the buck in that approach.

Clearly, there is room for debate on precisely how to proceed to encourage recovery. Chimerine and some others see stagnation ahead for years. It's Bush, not any banker, who needs to get off his duff. There is a tendency in the White House to blame everybody else for the recession—the Democrats, the Fed, the bankers, the regulators, Saddam Hussein, even consumers. In reality, there's only the president: He hasn't been minding the store.

[From the Washington Post, Oct. 9, 1991]

TEMPEST IN A TELLER'S CAGE

(By Richard Cohen)

Having virtually given up on television, I cannot tell you if Johnny Carson or "Saturday Night Live" had a field day with the congressional bank scandal, but I suspect they did. I know the press did, since every morning I peruse the newsstands and dip into three or four newspapers. Some of the mightiest organs in the land harrumphed their objection: Bouncing checks is not nice.

Oh, what guts! Here was the free press in all its glory—newspaper and television editorials in denunciation, radio talk-show hosts spewing indignation, the people rising (as if one, etc.) until, to the strains of the score of "Les Miserables," the House of Representatives of the United States of America closed its little bank and democracy was restored to the land. Or something like that.

My cynicism, deeply and religiously felt, should not lead you to conclude that I am in

favor of bouncing checks—although like you, dear reader, I have done so in my time. Nor, while we're at it, do I favor the nonpayment of restaurant bills. But I would like to point out in the matter of the bank that no taxpayer money was involved. The rubber checks, some 8,000 in a single year, were covered with funds on hand—the funds, in fact, of other members of Congress. It's those guys, the ones who did not bounce checks, who were the patsies of this operation. They were putting up loan money for their colleagues and not earning a cent in interest.

But in terms of public indignation, compare the House Bank scandal with what is happening almost daily elsewhere in America. Recently, for instance, I assassinated the character of Steven J. Ross, the chairman of Time-Warner Inc., for taking almost $80 million in salary and other forms of compensation last year—and laying off 600 people this year. As columns go, that one was a hit—a 7.8 on the Richter scale of phone calls, letters and favorable mention at lunch. Then it was used to carpet bird cages throughout the land and, in colder climes, to kindle fires.

Here is what did not happen: No member of the House rose before the television cameras and denounced Ross for selfishness. No congressman put a paper bag over his head or in some other way tried to dramatize how unaccountable the American business elite has become—unaccountable to its workers anyway or, if you will, propriety itself. Few if any editorialists worked themselves into a lather about the newly fired or, to be quaint about it, suggested that not everything that makes or saves a buck is moral.

Something weird has come over this country. It's as if almost everything that transpires in the private sector—unless it's plainly illegal—is beyond criticism as long as it's tied to making a profit. At the same time, almost everything in the public sector that concerns money is either a scandal monumentally blown out of proportion or is presented as yet another attempt by government to pick the taxpayer's pocket. Just recall John Sununu, the unpleasant and somewhat arrogant White House chief of staff. He was wrong to take a limo to New York. But was he banner-headline wrong?

Eight years of Ronald Reagan has taken its toll. The country is still in an anti-government snit. There was near bloodshed in Connecticut over a pending income tax. But where is the indignation about infant mortality in the ghetto or leaking roofs in certain public schools? A wariness toward government is always healthy. But the good that government does is also a part of the picture—and that almost never gets any ringing defense. If, for some reason, all sorts of evil and greed can be pardoned under the rubric of "maximizing profit" or some such lie, then it seems "attempting good" ought to count for something.

I am open to the suggestion that when countless people pay so much attention to so trivial a matter as the House private bank then government ought to pay attention: the natives are restless. But if they are, then some of that restlessness has to be blamed on politicians themselves, particularly the cheap-shot artists who daily parade before the television cameras for the people back home. These people, many of them new members, seem to have no loyalty to their own institution and no pride in their own profession. It makes you wonder why they chose politics and the House in the first place.

Kiting checks is bad. Dead-beating restaurants is also bad. But, truly, the perks enjoyed by a member of Congress are nothing compared with those enjoyed by corporate executives—some of whom do far more damage than almost any congressman on a bad day. Yet, we have punishing contempt for politicians and either awe or indifference for businessmen. Little wonder businessmen have so little awe for politicians and so much contempt for us.

LETTER FROM U.S. TRANSPORTATION SECRETARY SAM SKINNER

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. COX of California. Mr. Speaker, this week my Public Works and Transportation Committee completed markup of the Intermodal Surface Transportation Infrastructure Act of 1991. The current version of the bill deletes the so-called nickel for America tax increase that would have funded, among other projects, billions of dollars of unnecessary special demonstration projects. In this and other ways, the bill is a significant improvement. Nonetheless, several features of the current bill have prompted serious objections from the Bush administration. For the RECORD, I submit the following letter from U.S. Transportation Secretary Sam Skinner:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 15, 1991.

Hon. ROBERT A. ROE,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR CHAIRMAN ROE: Your Committee is about to mark up a revised "Intermodal Surface Transportation Infrastructure Act of 1991." We had hoped you would address the many serious concerns that we had expressed about the original bill, but, after examining the substitute bill, I am disappointed to find that you have not responded to the serious problems we had identified.

The very title of the Committee's bill hints at the objective of the legislation and hence the standard by which it must be judged: Does it correctly focus and adequately fund infrastructure investment? In our view, it does not.

You have deleted your proposal for a five-cent gas tax increase in the substitute bill, but otherwise you continue the most serious problems of the original bill.

Half of last year's gas tax increase, which was intended to be temporary, will be extended for an additional four years, largely to fund special interest projects and other programs that should be reduced or eliminated. Higher priority infrastructure needs will go underfunded.

Funds are diverted for earmarked highway and transit projects that will be constructed without regard to whether they are the wisest investments.

Our State and local partners will have an incentive to reduce appropriate investments in infrastructure by taking advantage of the higher Federal funding shares in the bill.

An increasing share of Federal funds will be used to cover mass transit operating deficits, which are the result of decisions made by local officials. In addition, the bill's earmarks for new transit projects could result in the funding of projects that are not cost-effective.

As you have reduced the annual funding levels in the substitute bill, you have reduced the funds dedicated to the National Highway System (NHS) to a level below what will be needed to ensure that it can continue to meet America's growing transportation needs.

The authorization levels in the bill are excessive. The Administration had proposed a 39 percent increase in highway funding over the five-year period of its proposal. The highway and transit levels in the bill would be very difficult to accommodate in future-year appropriations bills, and; if they were, funding for other important Federal programs would be imperiled.

If the bill were passed in its current form, I and the President's other senior advisers would recommend that he veto it.

The enactment of responsible surface transportation reauthorization legislation will contribute to American prosperity in the next century. I urge your Committee to make significant progress in addressing the concerns presented above, as well as those identified in my July 23 letter to you, including elimination of State regulation of interstate carriers, so that such legislation can be enacted promptly. The Office of Management and Budget advises that there is no objection to the presentation of these views and that enactment of H.R. 2950 in its current form would not be in accord with the program of the President.

Sincerely,

SAMUEL K. SKINNER.

While I voted to send the committee bill to the floor, it is my intention to support changes to the bill—both on the floor and in conference with the Senate—to remedy the remaining problems that the administration has identified. I am heartened that the Senate version of the bill does not contain the extension of last year's gas tax increase, and I expect that this superior Senate approach will be adopted in the House-Senate conference prior to a House floor vote on final passage. Finally, I am concerned with specific provisions involving waiver of environmental regulations in Orange County, CA. My vote on final passage will ultimately depend on resolution of this and the other problems cited above in the conference report.

HONORING FAMILY PRIDE DAY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. ENGEL. Mr. Speaker, an event of special significance is taking place in my district on Saturday, October 19. It is called Family Pride Day and it is being sponsored by the Youth Services Planning Committee of Bronx Community Board No. 10.

In these times of rampant crime and drug abuse, the temptations that confront our young people are astounding. It is more important than ever that our children know they can count on the support and dedication of their family members. That is what Family Pride Day is all about—an affirmation in our community's belief that the strength of our families can overcome any obstacles our young people

confront. Family Pride Day goes beyond speeches and rallies to provide families with the tools and knowledge needed to preserve their quality of life.

I congratulate the staff at Community Board No. 10 for conceiving and carrying out the idea of Family Pride Day. I urge my colleagues in Congress to recognize the need to raise awareness about the importance of family values, so that one day we may celebrate a national feeling of family pride.

TRIBUTE TO W.R. "RAY" BRADLEY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. THOMAS of California. Mr. Speaker, this week the citizens of Taft, CA, will dedicate an auditorium to the memory of W.R. "Ray" Bradley. I want to join with them in celebrating this event to honor the memory of one of the most well-respected members of California's oil industry.

Ray Bradley was the quintessential oil man. He literally worked his way to the top. He started working in the oil fields in 1935, holding a variety of jobs over the decades until he eventually became president of the Berry Holding Co., a prominent California independent producer.

Ray Bradley was proud of his profession and he offered valuable assistance to many of us in government in trying to resolve problems the industry faced. He was given to careful consideration of issues. Many of us came to rely on the sound advice and information we could count on him to provide.

Ray was more than an oil advocate, he was a community leader. His participation in local service organizations and his service as a director of the West Kern Oil Museum illustrate the kinds of efforts he made to improve his community.

Ray Bradley's service to his chosen profession and to Taft are recognized by those of us who knew, respected, and appreciated him. Dedicating an auditorium in a city he liked so much honors his memory and the examples he set for everyone who knew him.

INTERNATIONAL CREDIT UNION DAY—OCTOBER 17, 1991

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LAROCCO. Mr. Speaker, I rise today to mark International Credit Union Day, October 17, and to praise credit unions, here and abroad, for the help that they give families, individuals, and small businesses in managing their resources.

Credit unions have long been popular with the American people. Indeed I have been a credit union member for many years.

But, I am especially pleased about the spread of credit unions in other countries. In the past few years, more people than ever have been able to join new credit unions opening in countries emerging from centralized economic control and countries with less developed financial services.

In this month's issue of the League Bulletin, published by the Idaho Credit League, Kathy Thomson makes the point that "In many developing countries credit unions provide the only local access to financial services and can mean the difference between simply existing or enjoying a better quality of life."

We Americans take for granted a range of financial services in this country that are unknown in many parts of the world. Credit unions have an important role in countries with little financial infrastructure. They encourage capital formation and provide needed loan resources for entrepreneurs.

"The philosophy of self-help is important to successful economic development," says Thomson. "Yet, in many countries, dependency is reinforced rather than self-reliance. Economic progress is more effective when people are able to help themselves. That is the philosophy that credit unions exemplify."

Mr. Speaker, I could not agree more with this view, and I commend the work of credit unions worldwide.

GERARD MIGNONE: WESTCHESTER'S DETECTIVE OF THE YEAR

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mrs. LOWEY of New York. Mr. Speaker, as we debate important legislation to control and prevent crime, I rise to salute someone who pursues those goals 365 days a year. Det. Lt. Gerard Mignone of the Tuckahoe Police Department, an outstanding law enforcement officer for almost 25 years, is being honored as Westchester County's Detective of the Year. It is a great and richly deserved honor.

Since his graduation from the police academy in November 1966, Detective Mignone has been helping to make Tuckahoe a better and safer place to live. He received his first letter of commendation from then Village Police Justice Paganelli less than a month after joining the force. Many more followed. In 1973, he saved the life of a child who had been badly injured in a fire, and over the years he has foiled many crimes. His diligent efforts have resulted in the arrest of murderers, rapists, and many other dangerous criminals, including one who shot another police officer. For his conduct of that investigation, he received the Tuckahoe Police Officer of the Year Award in 1989. A short time later, he was promoted to detective lieutenant, the position in which he has admirably served over the last 2 years.

Mr. Speaker, I submit that it is people like Detective Lieutenant Mignone who should be the focus of our efforts to fight crime. Ultimately, our greatest protection against criminal activity is the bravery, intelligence, skill, and commitment of our Nation's police officers. They are the frontline troops, the ones who have to take the risks to protect our families.

A TRIBUTE TO HENRY P. BECTON

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mrs. ROUKEMA. Mr. Speaker, the Boy Scouts of America are a unique organization. When most think of the Boy Scouts, the image that immediately comes to mind is the young man, dressed in his khaki uniform, escorting the elderly woman across the street. While I'm sure no scout would pass up that chance to lend a helping hand, for Henry P. Becton and the Bergen Council of the Boy Scouts of America, Scouting has meant so much more. It is for that reason that tonight the Bergen County New Jersey Council of the Boy Scouts of America will gather to recognize this native son of New Jersey as a Distinguished Eagle Scout.

The Distinguished Eagle Scout Award is presented to Eagle Scouts who, after 25 years, have distinguished themselves in their life work and who have shared their talents with their communities on a voluntary basis. Few meet their criteria as fully as Henry Becton. Few more perfectly fit the definition of rule model for young Americans.

Henry Becton was first granted the Eagle Scout Award on November 11, 1928. As this 14-year-old boy would soon learn, the motto—"Be Prepared"—embodies so much more than learning how to start a campfire or pack for a hike. As Henry Becton knows, Scouting prepares young men and women to be contributing and important members of society. Through the Scouting experience, Henry Becton learned the essential lessons of country, commerce, and community. He has been a success at each.

Soon after his graduation from Yale's Sheffield Scientific School in 1937, Henry Becton became a salesman at the small medical instrument company founded in 1897 by his father Maxwell Becton and Maxwell's best friend in New York, NY. Within 2 years, he was elected secretary of the board of directors.

In 1942, shortly after the United States was drawn into World War II, Henry Becton put his career on hold and, holding to the Scout's oath to answer the call to do his duty to his country, joined his comrades as a technical sergeant in the 67th Fighter Wing of the 8th Air Force in England. He served with honor and distinction.

Upon his safe return home, Henry Becton set about guiding his father's company into a Fortune 500 enterprise. Today, as a leader in the medical instrument industry, Becton Dickinson and Co. employs over 20,000 people worldwide, with operations in more than 30 countries and sales of over $2.3 billion annually. The company ranks fourth in the medical instrument industry worldwide and products can be found in every hospital and major medical facility in America.

Serving as director emeritus, Henry Becton is world renowned in promoting quality manufacturing of medical instruments and has lectured often at colleges and other national meetings. He has also served as an officer and director of National Community Bank of New Jersey since 1947, vice chairman and

trustee of Fairleigh Dickinson University since 1948, and councilman of the Borough of Rutherford, NJ from 1953–1960.

Finally, Mr. Speaker, Henry Becton has not forgotten the scout lessons of community and to help other people at all times. In that effort, he has served the New Jersey Symphony Orchestra, the YMCA of Greater Bergen County, Outward Bound, the New Jersey Aviation Hall of Fame, the Blue Hill, Maine Memorial Hospital, Englewood, New Jersey Hospital, the Englewood School for Boys, and the Ethel Walker School.

Mr. Speaker, Scouting brings boys of common interests together and provides a camaraderie that builds friendships and nurtures character. I can think of few who are better role models for our youths than Henry Becton. That is why I urge my colleagues in the House to join with the Bergen County Council of the Boy Scouts of America and me in congratulating Henry P. Becton as he earns the rank of Distinguished Eagle Scout.

TRIBUTE TO THE LATE EDMUND J. SALATA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the late Edmund J. Salata from my 17th District in Ohio. It is with great sympathy that I pay respect to this man who passed away on October 15, 1991.

He was a well respected man in Youngstown. He served as executive director of facilities at Youngstown State University since 1980 and as deputy director of Public Works for the city from 1968–1976. In these positions, Mr. Salata was participant in city projects such as the construction of Federal Plaza, the reorganization of our mass transit system and the development of the university's sports complex.

Not only did Mr. Salata serve his city with his expertise, but also he was active in his community. He was a member of the Kiwanis Club of Youngstown, the Youngstown Goodwill Industries, the Henry H. Stambaugh Auditorium Association and the Eastgate Development and Transportation Agency This great man found time to serve his community after serving his country as a lieutenant in the Army and the Reserves.

Mr. Speaker, I pay tribute to this man today and offer the Salata family my deepest sympathy. This is a man who will be missed by many.

VOTER EMPOWERMENT

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. GILCHREST. Mr. Speaker, I have read that the majority party is getting ready to introduce their campaign finance bill, and it seems to me that their proposals would not effectively stem the flow of special-interest money.

The majority of a candidate's funds should not come from PAC's and special-interest lobbies from around the country as the Democrat bill would allow. A majority of funds should come from the individuals living in the candidate's own district. This will give an aggressive challenger who is willing to build grassroots local support a fair chance of winning. No longer will an entrenched incumbent who has lost touch with his constituency be able to raise all his campaign funds in Washington.

In-district financing will limit spending, not based on some arbitrary limit, but on the willingness of a candidate's constituents to contribute. Candidates with strong, broadbased support within their home districts will have the advantage over candidates with wealthy friends from outside the district. Requiring that a majority of funds come from individuals, from within the voting district, will only handicap candidates who do not have strong local support.

INTRODUCTION OF LEGISLATION REGARDING PUBLIC COMMENT ON THE POSTAL SERVICE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation today which would provide a more effective avenue by which the public can comment regarding any proposed changes by the Postal Service in mail delivery service or service standards.

As you know, the Postal Service reduced service standards last year and this caused a reduction in mail service throughout parts of the United States. Both the Postal Inspection Service and the Postal Rate Commission have concluded that a reduction in service standards should not have been implemented. Moreover, labor union representatives have testified before the House Committee on Post Office and Civil Service that the Postal Service should not have downgraded delivery service.

As many postal patron's have discovered, ontime delivery service has not improved under existing changes. Regrettably, the Postal Service has also proposed additional changes in mail delivery service which may reduce the timely delivery of mail throughout isolated parts of Alaska.

I don't believe further reductions in mail service are in the best interest of the public. Thus, I am introducing a bill which would revise the service-change process; thus, providing a more effective avenue by which the public can comment regarding any proposed changes in delivery service by the Postal Service.

Under present law, when the Postal Service plans to substantially change postal services nationwide, it is required to obtain an advisory opinion from the Postal Rate Commission [PRC]. Since the PRC's role is purely advisory, the Commission's advice may be disregarded by the Postal Service.

My bill would amend title 39, United States Code, to revise the procedures under which any change in the nature of postal services may be implemented. In particular, my bill would create a significant role for the Board of Governors—and indirectly for the PRC—in the service-change process. If the Postal Rate Commission recommends against a service change, the management of the Postal Service may not go forward with a change unless all members of the Board of Governors give their written approval. I firmly believe my legislation would increase the public's input regarding reductions in mail service standards.

THE 150TH ANNIVERSARY OF OUR LADY OF MOUNT CARMEL PARISH

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. MANTON. Mr. Speaker, this year Our Lady of Mount Carmel Parish celebrates its 150th anniversary of religious service to Queens County. The celebrations will be marked by the gala 150th anniversary dinner dance on October 19, 1991, at the Astorian Manor.

Mr. Speaker, 150 years ago on July 3, 1841, Our Lady of Mount Carmel Parish was established with Father Michael Curren becoming the first pastor of Mount Carmel. This was the first Catholic Church in my western Queens County.

In 1858, due to the death of Father Curren, the Reverend John Phelan was appointed as the new pastor. By 1869, the parish began to flourish and a new building was required. A new church was built in 1873 to accomodate the parish.

In 1883, Rev. Patrick Walsh become pastor. During his tenure, the school and convent were built. The parish school opened for the first time on September 14, 1891, with 300 children and a staff of 6 Sister's of St. Joseph of Brentwood, Long Island.

In 1915, Father Gibney, the next pastor, began renovations on the church and rededicated it on May 21, 1916. Additional classrooms were added to the school and nine more sister's were added to the staff. Monsignor Rodgers succeeded Father Gibney as pastor. He purchased land near the rectory for a future new school. The school was finished in 1954 when Monsignor Kelaher served as pastor to Mount Carmel. Part of this new school served as a convent for the Sister's of St. Joseph. In 1965, Monsignor Heneghan became the new pastor and major renovations were made throughout the premises.

Father James Smith is the current pastor and Sister Irene de Lourdes serves as principal of the school. Reverend Smith who was appointed on March 1, 1980, is in the process of finalizing the modernization of the lower church. Rev. Richard J. Hoar, Rev. Joseph Pham, and Rev. Anthony F. Raso are also assigned to Our Lady of Mount Carmel Parish.

Mr. Speaker, as we mark the 150th anniversary of Our Lady of Mount Carmel Parish, we must remember their 150 years of dedicated service to Queens County. Mount Carmel is a fine institution which has made great contributions to the religious community. I commend Our Lady of Mount Carmel Parish for their dedicated service to Queens County.

ANTONIA GARY: MINORITY BUSINESS ADVOCATE OF THE YEAR

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I would like to congratulate Antonia Gary on her recent designation as Minority Business Advocate of the Year by the Miami/Ft. Lauderdale Minority Business Development Center.

I would like to share with my colleagues an article from The Miami Times which details Antonia Gary's distinctive accomplishments. As the list of achievements will attest, she is committed to the development of minority-owned businesses and to numerous other public service activities. Antonia is definitely an asset to our community and to her family.

TONI GARY SELECTED AS YEARS'S TOP ADVOCATE FOR MINORITY ISSUES

(By Lisa Jacques)

Hard work, determination and lots of support from family and the community is a great combination to a successful career.

Just ask Antonia Gary.

They are some of the attributes that led to her being selected the Minority Business Advocate of the Year by the Miami/Ft. Lauderdale Minority Business Development Center.

"I've been really lucky. Now I have to work even harder to live up to the title," said Gary.

She is the associate dean and executive director of Miami-Dade Community College's North Campus Entrepreneurial Education Center since 1989. Its primary focus is to design, develop and implement programs for entrepreneurial training.

Gary initiated, designed and developed a business library as a resource center for training course participants and the general public. She is also involved in co-ownerships of businesses around Dade County.

Staying in the community college system is what Gary plans to do.

"The opportunity is very great here and it's very close-knit and the people are very dedicated," she told The Times. "They help me to have things running smooth."

Since graduating from Marymount College in New York, Gary said, she has been encouraged to do whatever she felt was necessary that fulfilled her.

"I was married at an early age and my husband, family and friends have always supported me in my endeavors and I have led a very full life * * * but my only regret," she joked, "is that I never became a flight attendant. That is something that I've always wanted to do. I always thought that flying all over the place and seeing different places for free would be great."

Her husband is former Miami city manager Howard Gary, who runs his own business.

Along with being a member of the Links, the Greater Miami Chamber of Commerce, Black Economic Development Corporation, and other organizations, Gary is a mother of two boys, Kito, 14, and Issa, 9.

"They're just like any ordinary teenagers in the sense that they want everything, but, no matter what, they value education," she said.

Gary has been the recipient of numerous awards for activities in the development of minority businesses and as an outspoken advocate on women's issues in the past 12 years.

Being involved and aware in the community is what she says motivates her the most.

"I grew up in Richmond Heights and I am a true Miamian, and here is where things have always been good to me, and I hope it will continue," she said.

VETO OF THE UNEMPLOYMENT BILL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. AuCOIN. Mr. Speaker, the Nation's unemployed workers can not wait any longer. Once again, the administration's message to 86,000 unemployed Oregonians is the same. It is clear, it is cold, and it is callous: Drop dead. That's why there can be no compromise with the White House.

The failure to override President George Bush's veto of the unemployment bill means this House must go back to work. If this administration won't give these workers the benefits they've earned, then Congress must.

There is a fundamental problem when the administration shows more concern for the people of Kuwait and Eastern Europe than it does for the working people in this country. Enough is enough.

If the Kurds are an emergency and the S&L's are an emergency—why aren't 33,000 Oregonians an emergency? That's how many Oregonians have exhausted their unemployment benefits this year—11,000 of them since mid-July.

Mr. Speaker, let's go for a hat-trick and pass another unemployment benefits bill. Let's keep sending bill after bill to the President until he gets it right. Until unemployed Oregonians and all unemployed Americans get some relief.

TRIBUTE TO ARLETTE GATEWOOD

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mr. Arlette Gatewood from my 17th District of Ohio. On November 3, 1991, Mr. Gatewood will be honored at the annual recognition banquet held by the Youngstown Chapter of the A. Philip Randolph Institute at the Mahoning Country Club.

Mr. Gatewood is a retiree of the Brier Hill plant of the Youngstown Sheet & Tube Co. after 32 years of faithful service. His friends described him as a dedicated trade unionist referring particularly to his service as a member of the local union 1462. He represented his union as an officer, vice-president, and member of the civil rights committee and the workers compensation committee.

Mr. Gatewood has proven his devotion to his union and community through this and other undertakings. He is not only a member of the Youngstown Area Urban League and the Youngstown Chapter of the NAACP, but he has also offered his services to the Associated Neighborhood Centers and the A. Philip Randolph Institute.

It is with with gratitude and pride that I rise today, Mr. Speaker, to pay tribute to Mr. Arlette Gatewood on this momentous occasion.

BREAST CANCER MUST BE A PRIORITY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. ATKINS. Mr. Speaker, some assert that we Americans are benefiting from health care that is superior to that of other countries because we do not have a national health system. In commemoration of Breast Cancer Awareness Month, however, I believe it is appropriate to point out that research on and screening for breast cancer is one aspect of health care in which West European medicine has put the American health-care system to shame.

The United States has one of the highest rates of breast cancer in the industrialized world. The incidence of breast cancer among women aged 45 to 69 in the United States is 34 percent higher than in Great Britain and 39 percent higher than in France. In 1991, an estimated 175,000 women will develop and 44,500 women will die from breast cancer. Indeed, breast cancer is currently the leading killer of women aged 35 to 54 in the United States.

Most of these deaths from breast cancer would have been avoidable if this killer had been caught early enough. Studies have demonstrated that early detection, the use of mammography, can reduce breast cancer deaths by at least 30 percent.

Mr. Speaker, one reason why the West Europeans are so much more effective than us in combating breast cancer is because many West European nations have set up nationwide programs for the early detection of breast cancer. Most of these programs include a national commitment to nationwide breast cancer screening of all women over 40 and a network of specialized breast cancer centers at hospitals for the diagnosis and treatment of breast cancer. As a matter of fact, all Swedish women between the ages of 40 and 74 receive periodic mammograms and actually automatically receive letters reminding them to schedule their routine mammogram appointments.

By contrast, the American health system has been much less committed to combating breast cancer. Here in the United States, we have been plagued by a lack of commitment to universal screening, poor quality mammography, and the lack of systems that might catch mistakes in diagnosis. As a result, only 30 percent of American women over 40 are participating in a periodic mammogram program.

I believe that the United States ought to enact a new health-care system which will provide adequate health benefits for all Americans at a reasonable cost, and such a univer-

sal health insurance program should include periodic mammograms. However, I also realize that universal health will not be enacted overnight, and that it is unrealistic to expect American women to wait that long. That is why I am a cosponsor of H.R. 1161, the Women's Health Equity Act of 1991.

The Women's Health Equity Act is comprehensive legislation which includes the provisions of four important mammography bills: H.R. 381, which would authorize an additional $25 million for basic breast cancer research at the National Cancer Institute; H.R. 382, which would withhold Federal Medicaid funds to States which do not enact laws requiring physicians and surgeons to inform breast cancer patients of alternative effective methods of treatment for breast cancer before treatment begins; H.R. 1129, which would require States to provide Medicaid coverage for routine mammography and pap smear screening; and H.R. 3462, the Breast Cancer Screening Safety Act of 1991, which would ensure safe and accurate mammograms by requiring national quality standards for all mammography facilities.

Mr. Speaker, these bills do not replace the importance of a total overhaul of our Nation's health-care system, but they are a step in the right direction. I wholeheartedly urge my colleagues to join in increasing awareness of breast cancer and women's health issues by cosponsoring these important bills.

HONORING IRWIN GOLDFARB

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to Mr. Irwin Goldfarb on the occasion of his retirement from the New York City Board of Education.

During his 33 years of service, Mr. Goldfarb served as a teacher, school psychologist, and supervisor of psychologists for special education students. He also served as an adjunct professor at City University of New York for 10 years.

Through all his professional endeavors, Mr. Goldfarb has demonstrated a combination of sensitivity and expertise that has enriched the lives of many young people. His caring is apparent in the fact that since last July he has taken time to work with pre-school children at the Western Queens Child Development Center.

Knowing that his contributions are far from finished, I nonetheless join his colleagues and friends in wishing Irwin Goldfarb a healthy and happy retirement.

UPON THE RETIREMENT OF MR. ELROY THOMAS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. THOMAS of California. Mr. Speaker, I want to recognize Mr. Elroy Thomas on his retirement from public service after over 40 years of dedicated employment with the Federal-State Shipping Point Inspection Office in California.

During his first 10 years with the Inspection Office, Mr. Thomas worked in 17 different inspection districts throughout California, and even one in Arizona, before he made the Delano district his permanent office in 1960. Using his knowledge of most all the fresh fruits and vegetables grown in the State of California, Mr. Thomas served admirably as a fruit and vegetable quality control inspector II for the Delano district until 1971, when he was promoted to the supervising inspector for the Downey District. In 1972, Mr. Thomas was transferred back to the Delano district to be the supervising inspector in charge, where he remained until his recent retirement.

Throughout his career with the Federal-State Shipping Point Inspection Office, Elroy Thomas has exemplified the dedication and expertise we all hope to find in our public servants. Mr. Thomas is highly respected by both his colleagues and employees at the inspection office, as well as by the farmers and shippers with which he has worked over the past 40 years. While we are all pleased that Elroy Thomas will finally have a well-deserved opportunity to relax, you can be sure that he and his many talents will be missed.

Mr. Speaker, I thank my colleagues for allowing me this opportunity to honor Elroy Thomas on his retirement from the Federal-State Shipping Point Inspection Office, and wish him the best of luck on his future endeavors.

A BREAKTHROUGH FOR PEACE IN EL SALVADOR

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LAROCCO. Mr. Speaker, before adjournment, it is likely that the House of Representatives will consider the future of the United States' policy toward the country of El Salvador. The latest round of negotiations between the Salvadoran Government and the FMLN, coupled with the trial of Salvadoran military personnel for the 1989 murder of six Jesuit priests, indicates to us all that the United Nations-sponsored peace process is truly working.

It is my belief that we must remain committed to a peaceful resolution of El Salvador's civil war. These recent developments offer signs of hope for a nation in need and reveal that final solutions must be reached at the bargaining table, and not on the battlefield.

The following editorial from the September 27, 1991, Idahonian, was written by Kenton Bird. It provides an informative summary of the most recent negotiations, and offers useful suggestions for the U.S. role in future peace talks.

A BREAKTHROUGH FOR PEACE IN EL SALVADOR

(By Kenton Bird)

An agreement reached at the United Nations this week has the potential to end El Salvador's 12-year-old civil war—as long as the United States doesn't do anything to upset the delicate balance between the two sides.

The negotiators overcame a major obstacle by designing ways to protect rebel groups from reprisals by death squads linked to the Salvadoran military. The accord signed Wednesday lays the groundwork for another round of talks next month in Mexico City.

"The Gordian knot has been untied," said U.N. Secretary-General Javier Perez de Cuellar, referring to the breakthrough after 10 days of talks in New York.

The agreement's success owes much to Perez de Cuellar, who has made peace in Central America a priority for the remainder of his term, and to his representative at the talks, Alvaro de Soto. Credit is also due to House Speaker Tom Foley and the Democratic leadership in Congress, for pushing the last two years to put conditions on U.S. military aid in El Salvador.

Members of the principal rebel group, the Farabundo Marti National Liberation Front (FMLN), are justifiably reluctant to lay down their weapons until they are assured of protection against revenge kidnappings and killings. The agreement addresses their fears in two main ways:

It calls for a new civilian police force, independent of the Defense Ministry, in which the FMLN may participate. The existing National Guard and Treasury Police, which provide covers for the notorious death squads, will be disbanded.

It commits the government to recognizing the property rights of FMLN members who occupy land in areas of fighting. While agrarian reform is being negotiated, the rebels and their families will be protected against eviction at gunpoint.

Many difficult issues, including a procedure for removing renegade officers from the military, need to be resolved before a cease-fire can take place. Even as negotiators announced their agreement in New York, renewed fighting killed four people in El Salvador. And the leader of a construction union was murdered in San Salvador in what appeared to be a death squad killing.

What El Salvador needs now from the United States is encouragement for the next round of talks. What it doesn't need is more weapons. The Bush administration should immediately suspend weapons shipments previously approved and withdraw its request for more money for next year.

Pressing ahead with more military aid now would undercut the efforts of Salvadoran President Alfredo Cristiani and invite right-wing extremists to sabotage the agreement. Surely President Bush can see the window of opportunity represented by the U.N. accords—a window that could be easily shattered by U.S. carelessness.

AMERICAN-IRISH ASSOCIATION HONOREES

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mrs. LOWEY of New York. Mr. Speaker, I would like to draw the attention of my colleagues to two individuals who have been leaders of the Irish-American community in Westchester. These two individuals will be honored tomorrow by the American-Irish Association of Westchester County, which I am proud to represent.

For her many contributions to the Irish-American Community, Amelia Babcock is being honored as the "Irish-Woman of the Year." She has consistently served the American-Irish Association in her many leadership positions within that organization. She was recently elected New York State president of the Ladies Ancient Order of Hibernians. She has also been instrumental in organizing both the Yonkers and New York City St. Patrick's Day parades.

The American-Irish Association is also honoring Monsignor John J. Foley with its distinguished service award. Monsignor Foley was ordained on June 3, 1950, by Cardinal Spellman. In 1954, he was assigned to Christ the King Church as parochial vicar and became pastor of the parish in 1980. He has also served the community as Catholic chaplain to the Yonkers Police Department, and he is chairperson of the pastoral care department of St. John's Hospital. In addition, he is chaplain to the Yonkers St. Patrick's Day parade committee and marched proudly as the grand marshal of the parade in 1977. In 1986, Post John Paul II bestowed the title of "Monsignor" on Father Foley.

These are truly outstanding individuals who should be praised for their years of dedication and sacrifice, and I think that the honors they are receiving are richly deserved. I congratulate Amelia Babcock and Monsignor Foley for their community service. The many lives they have touched have been enriched because of their activities.

LEGISLATION TO GUARANTEE AMERICAN BORROWING EFFORTS PRIOR TO GUARANTEEING LOANS OF ANY FOREIGN BORROWING ENTITY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. TRAFICANT. Mr. Speaker, I am introducing a resolution today stipulating that the borrowing efforts of American States, municipalities, school districts, and other tax levying entities be guaranteed prior to guaranteeing the loans of any foreign borrowing entity, especially foreign governments and foreign central banks.

The reason I introduce this legislation is apparent. Israel recently requested $10 billion in housing guarantees from the United States and Congress is so eager to shell out the money that it came to blows with the administration over a 120-day delay in providing them. I am aware of the foreign policy concerns that proponents and opponents of the guarantees and delays in providing the guarantees continue to debate. They are concerned with the effect the guarantees will have on a Middle East peace conference, Palestinians, Israelis, and Israeli emigres. I believe that those considerations are important. However, it is more important to consider the effect that providing those guarantees or any guarantees will have on the domestic situation in the United States.

Let's consider the $10 billion Israel loan guarantee proposal specifically. Proponents of the guarantees argue that Israel has never defaulted on a loan. However, a recent report issued by the United States Export-Import Bank cautions that Israel's present financial and economic problems make the likelihood of default on such a large loan a very real possibility. Taking on these loan guarantees would be a large credit risk for the United States. Reports have estimated that the cost of default to the American taxpayer would range from $112 to $117 billion.

At the same time, a recent Wall Street Journal article related that military loans that the United States provides Israel have a "way of becoming grants. From 1974 to 1989, Israel received a total of $16.4 billion in 'loans' that the United States converted to 'grants.'"

These considerations aside, one report estimates that providing the guarantees would cost the United States between $3.1 to $7.1 billion simply in administrative costs. With the United States facing ceaseless economic crisis, it does not seem fair to the American taxpayer to dole out and risk so much money.

Federal budgetary constraints have resulted in reductions of needed public sector health, housing, education, environmental and public safety infrastructures and program operations. CBO estimates that our fiscal year 1992 budget deficit will be at $362 billion. It was supposed to shrink to $247 billion by 1992.

Cuts have been proposed in the current fiscal year budget and the upcoming year's budget for almost every State and major urban center. States and local governments have been forced to restrict essential services. In Ohio alone, there were $220.6 million in budget cuts in fiscal year 1991. Across the board cuts went into effect, State workers were laid off, contributions to State employee retirement funds were delayed, and there was a hiring and traveling freeze. New taxes of up to $98 million have been proposed in fiscal year 1992.

Providing loans and assistance of any kind to a foreign nation when our country is in such dire straits is nothing but inappropriate. It seems quite obvious that we need housing guarantees and other subsidies right here in the United States. It's bad enough that the United States gives away approximately $15 billion annually to foreign countries. These supplemental foreign assistance giveaways have got to end. We've already given Israel supplemental assistance this year, not to mention the Turks and the Kurds. Enough is enough.

I want to make it clear that any nation requesting such an astronomical amount of assistance from the United States, when the United States is literally bankrupt, would receive the same response from me. If this bill is ever enacted into law, I made it broad enough to encompass any nation that requested such assistance.

In the final analysis, it all comes down to priorities. Do you obligate our taxpayers' dollars to the United States or foreign governments first? I urge my colleagues to join me in cosponsoring this important legislation.

A TRIBUTE TO A LIFETIME OF DEDICATED GOVERNMENT SERVICE: GEORGE L. WARREN, JR.

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. FASCELL. Mr. Speaker, today I would like to honor the memory of George L. Warren, Jr., a consultant for the House Committee on Foreign Affairs, who died after taking ill in his office at the Rayburn Building on October 10, 1991.

Mr. Warren, 68, devoted his very productive lifetime to Government service. And he died doing what he liked best: dealing with world refugee matters.

A native of Boston and graduate of Harvard University with a degree in economics, Mr. Warren spent most of his long career as a State Department Foreign Service officer.

He was with the Army in Europe during World War II and received the Bronze Star and Purple Heart commendations during battlefield operations.

From 1948 through 1958, Mr. Warren served in Austria, working on United States programs for displaced persons and later for refugees of the 1956 Hungarian Revolution. In 1959, his first assignment with the State Department was working on the White House Conference on Refugees.

Following that, he worked with the Agency for International Development and from 1962 to 1966 he was assigned to the State Department's political and military affairs office and the Vietnam working group. In 1965, he served on a White House mission to Vietnam.

Mr. Warren was stationed in Athens from 1967 to 1972, where he was a political officer and special assistant to the U.S. Ambassador. He then spent 6 years as an officer in the international negotiations division of the Office of the Joint Chiefs of Staff. He retired from the Foreign Service in 1978.

As a policy assistant for the Intergovernmental Organization for Migration, Mr. Warren then spent the next 10 years in Geneva. He had served as a consultant for the House Committee on Foreign Affairs after returning from Switzerland.

Our prayers and sympathies are with his wife, Lila, daughter, Mary and son, George III. They can take comfort in knowing that George, who had served his country well and faithfully throughout his life was engaged in dedicated and productive service to the plight of refugees even as he was fatally stricken.

SADDAM'S CONTINUING DEFIANCE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LEVINE of California. Mr. Speaker, in his article, "Act Now Against Saddam," (Washington Post, October 16), Jim Hoagland correctly points out that so long as Saddam Hussein remains in power, the people of Iraq will continue to suffer for the aggression and intransigence of their brutal dictator.

Moreover, nearly every day new evidence is discovered about Iraq's nuclear capabilities, which proved to be much farther developed than most experts or the administration previously believed. Considering Saddam has used every weapon he has had in his possession, it is imperative that the international community continue to demand the complete disarmament of the Iraqi war machine.

Mr. Hoagland suggests several immediate steps the United States and the West can take to deal with the continuing threat Saddam poses to the stability of the region and particularly to the Iraqi people.

I strongly urge my colleagues to review the following analysis:

ACT NOW AGAINST SADDAM

This much is now beyond dispute: Saddam Hussein's scientists were years closer to building an atomic bomb than the world's most knowledgeable experts believed. And Saddam is still trying.

That stark reality, and the Iraqi dictator's continuing disdain for the welfare of his starving citizenry, should strip away the complacency that surrounds U.S. postwar policy toward Iraq. These developments demand immediate steps to replace Saddam's regime with a new Iraqi government.

The peculiar pattern of Iraq's behavior in recent confrontations over United Nations inspection rights suggests to intelligence experts that Saddam's nuclear effort continues in some secret cavern deep in Iraq.

For those in range of Saddam's hidden missiles, each day counts.

New reports from Baghdad show that while Iraq's civilian population, put in harm's way by American bombs, desperately forages for food and medicine, Saddam's cronies amass small fortunes from smuggling. Saddam's clansmen grow fat by creating a black market out of the sanctions that are supposed to bring them down.

The streets of Baghdad are filled with Mercedes limousines stolen from Kuwait or smuggled in more recently by people such as Ali Hassam Hamadi, one of the new sanctions millionaires described in detail in the Paris daily Le Figaro on Oct. 3. But ordinary citizens lack money to pay the skyrocketing prices for food.

For those who are starving in Iraq, each day counts.

The revelations about Saddam's nuclear effort and the extent of sanctions-breaking show conclusively how wrong President Bush's critics were in arguing a year ago that time was on America's side and that sanctions would work against Saddam if given a chance.

Disclosures of how close Saddam has come to a doomsday weapon also show how mistaken Bush was to adopt the positions of his opponents after the war ended. The need for urgency should also be clear by now. But the president pursues a strategy of slow attrition.

For those who took on the responsibility of establishing regional security and stability through Operation Desert Storm, each day counts.

At least it should. But Bush has taken as the pillars of his postwar policy the notions his opponents preached to try to avoid Operation Desert Storm. Time is on America's side, the president's men now say. Sanctions will work against Saddam.

Saddam delights in proving otherwise. The administration assumed sanctions would force Saddam to agree to United Nations sale of $1.6 billion of Iraqi oil on world markets to buy food and medicine that U.N. personnel would distribute inside Iraq.

He refused. In a defiant speech in Baghdad on Sunday, Saddam said Iraq could endure sanctions for 20 years rather than accept the U.N. plan, which is spelled out in Security Council Resolution 706.

The Bush administration, which should have learned better, weakly explains away such statements by Saddam as vain boasting that he will have to abandon soon. But Saddam has no interest in protecting or feeding his people. "He would prefer to see people starve than to see his authority eroded by having a foreign organization distribute food to Iraqi citizens," says a member of the opposition International Committee to Free Iraq.

Israel's unilateral decision to send reconnaissance aircraft over Iraq is a concrete expression of doubt about time being on America's side. Israel would not have taken the risks involved in the surveillance flights unless it was seriously considering sending in commando units to clean out the rocket launching sites and depots in western Iraq that are within range of Israel.

Astonishing, the United States has criticized these flights of self-protection, claiming they jeopardize the Middle East peace process.

The administration has it exactly backward. The peace process, as conceived and implemented at the State Department, jeopardizes the more urgent talk of finishing with Saddam. Concern over convening a ceremonial peace conference causes the United States to turn a blind eye to the active aid Jordan gives Saddam in breaking sanctions and money laundering.

Several immediate steps need to be taken.

The Iraqi opposition is on the verge of forming a broad-based provisional government in Iraqi territory now under United Nations protection. Recognition by Washington and other Western capitals would provide a basis for an aggressive international pursuant of the secret bank accounts owned by Saddam and his family in Jordan, Switzerland and elsewhere.

Those funds could be used to buy food and medicine for Iraq. The international coalition, led by the United States, should offer the military protection the U.N. teams need to distribute humanitarian relief, just as Washington was ready to use force to protect the U.N. atomic inspection team.

For those willing to save even one Iraqi child's life or to reduce Saddam's chance to send an atomic or chemical warhead to Israel or Saudi Arabia by even a fraction of one percent, each day counts.

BANNING ASSAULT WEAPONS

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LEWIS of Florida. Mr. Speaker, today, I voted in support of the Volkmer amendment to delete provisions of the crime bill to ban ownership or transfer of 13 categories and copies of assault weapons. This amendment also banned ammunition feeding devices with a capacity of more than seven rounds.

I have always had one goal in reviewing gun control legislation. That goal has been to keep guns out of the hands of criminals without infringing upon the rights of law abiding citizens. The proposed assault weapon ban fails the test of my goal on both counts and in my opinion is not responsive to curbing assault weapon crime.

Make no mistake, this measure falsely lulls the American people into believing they are being protected by congressional regulation. This is no more than an illusion. I find it difficult to believe that organized crime bosses and drug kingpins were watching today's vote to determine what weapons they are no longer able to use.

This ill-conceived and poorly drafted legislation would do nothing to reduce crime. Yesterday's horrid incident in which George Hennard slayed 22 individuals in Kileen, TX, is simply unspeakable. Mr. Hennard's Glock model 17 semiautomatic pistol was not on the list of 13 proposed banned assault weapons. The assault weapons language in this crime bill would have done nothing to stop George Hennard from taking those 22 lives.

These needless deaths must stop. If we are serious about reducing crime and preventing needless assault weapons deaths, we need to strengthen our criminal justice system by holding convicted felons and criminals responsible for their actions. We also need to do what I have advocated from the very beginning—require a mandatory, instantaneous criminal background check for firearms purchases. These are the only effective ways to keep guns out of the hands of criminals and mentally ill individuals.

Let us not mislead the American people with measures that offer empty solutions.

ANTI-ASIAN AMERICAN VIOLENCE: A DISGRACE TO OUR NATION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. KOSTMAYER. Mr. Speaker, racially motivated crimes are a disgrace to our Nation. Positive action must be taken to recognize these incidents for what they are and to put a stop to them.

In the past, anti-Asian violence has received little or no attention. Like many other Americans, Asian Americans are hard-working and law-abiding people who are too often left out of discussions on racism and civil rights.

Mr. Speaker, the New York Times of September 12, 1991, contained a very valuable article by Helen Zia on the subject of anti-Asian violence entitled "Another American Racism." I commend it to my colleagues, and I urge them to join me in speaking out against the prejudice against all Asian-Americans:

ANOTHER AMERICAN RACISM

(By Helen Zia)

As Jeffrey Dahmer's defense attorney ponders the advantages of an insanity plea for the confessed murderer of 17 people, one unforgettable image stands in sharp contrast: Mr. Dahmer rationally, convincingly telling the Milwaukee police that Konerak Sinthasomphone, a 14-year-old Laotian boy, was his adult lover.

Last week, two officers were dismissed and one was suspended for their handling of the situation, and their cavalier dismissal of an

African American woman who questioned why they returned a naked, brusied Asian boy to his attacker. Though much has been said, and rightly, about the bias of these officers toward the black and gay communities, there has been virtually no recognition of their racism toward Asians.

Sadly, Mr. Sinthasomphone is not the only victim of anti-Asian racism. He is one of many Asian Americans harassed, assaulted and killed, whether through direct racial confrontation or malfeasance rooted in bias.

A sampling from July: In Revere, Mass., 100 Asians were rounded up by the police in a random search-and-detain action. In Waterbury, Conn., a Chinese restaurant delivery boy was killed in a planned execution by teenagers, who invited neighborhood kids to watch. In Phoenix, nine Thai clergy were shot to death in their Buddhist temple; anti-Asian bias has not been ruled out.

Almost as distressing as the rise in such racism has been the failure to acknowledge the anti-Asian racial component of such attacks. Whether expressed by business leaders and politicians in their Japan-bashing or, more overtly, by hate groups, anti-Asian sentiment is rampant.

For much of the last decade, Asian Americans have been trying to draw attention to this increasingly hostile racial climate. In 1983, a national effort led to the Federal civil rights prosecution of the killers of Vincent Chin, a 27-year-old Chinese American who was beaten to death in Detroit by two white auto workers who were overheard making obscene remarks about Asians and Japanese cars.

When the workers were acquitted, many Asians concluded that the U.S. was not ready to recognize Asian Americans' civil rights. At the time, more than a misinformed few liberals argued that Asian Americans have not faced discrimination and were therefore not entitled to the same civil rights protections as blacks.

Paradoxically, only days before the negligence of the Milwaukee police in Konerak Sinthasomphone's murder was exposed, Asian Americans had finally won a Federal civil rights victory in the killing of a Chinese American. Jim Ming-hai Loo.

On July 15, a jury of 11 whites and one African American found Lloyd Ray Piche, a 34-year-old white man, guilty of interfering with the civil rights of Mr. Loo and six Vietnamcse-American companions as they played pool at an upscale billiards hall in Raleigh, N.C.

Mr. Piche had spent the evening assailing the youths with every imaginable anti-Asian slur, including mock Asian language sounds and kung fu noises. Before he fatally injured Mr. Loo with a blow to the back of the head, Mr. Piche offered his own twisted logic for the attack: "My brothers didn't come back from Vietnam because of you," he said repeatedly, although he had no relatives who had served there.

Mr. Piche's trial yielded two surprises for the Asian American community—a guilty verdict—and silence. Unlike most civil rights prosecutions, this one passed virtually unnoticed, despite its being only the second Federal civil rights prosecution involving an Asian victim. Compare this lack of coverage to the steady flow of reports about Asian gangs, drugs and gambling.

Asian Americans are growing restless with this national intransigence. We have grown at a rate faster than any other group this decade. Some of us are recent immigrants; others have been here longer than many European Americans. But in a society that recognizes only black and white, those who don't fit the color scheme become shadows.

TRIBUTE TO LILY AND PAT OKURA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. MATSUI. Mr. Speaker, I rise to pay tribute to Lily and Pat Okura, who this Sunday will be celebrating their 50th wedding anniversary. In order to mark this joyous and noteworthy accomplishment, the Okuras will be having a party at the Fort Myer Officers' Club in Arlington, VA.

Together, Lily and Pat have made great contributions to the Japanese-American community, and indeed to all Americans. They have worked tirelessly to ensure justice and due process to all citizens, so that no person is denied any opportunity on the basis of race. The Okuras also played a major role in the effort to provide redress to Japanese Americans interned during World War II.

Mr. Speaker, I believe we could all learn something from Lily and Pat Okura and the values that have seen them through a half century together. Their commitment to each other and to their fellow citizens is truly inspirational. In honor of their 50th anniversary, I ask my colleagues to join me in wishing them congratulations on this most impressive milestone and all the best in the coming years.

THE EASTCHESTER SCHOOL BOARD: DEDICATED TO OUR CHILDREN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mrs. LOWEY of New York. Mr. Speaker, I'd like to call attention to a group of people whose great contributions to the future of our Nation all too frequently go unnoticed. I am speaking of those who serve on local school boards, who give of their time and energy to improve education for children in their communities.

At the end of this month, New York State will observe School Board Recognition Week. I am glad to join them in saluting the men and women who make up the school boards of our State. School board members give up long hours of their time to do these jobs. They don't get paid, and they are called on to address problem after problem. But there is an immense sense of satisfaction, a knowledge that they have made their communities better places and they have made an important contribution to our Nation's future. Those rewards are truly beyond compare.

I am aware of no finer example of this than the wonderful people who serve on the Eastchester School Board: Orlando Magnani, Carmine Giannelli, Robert Keller, Diane Carre, Stephen DiNardo, Vincent Forte, Robert Mancuso, William O'Connell, and Robert Sicilia. They are a hard working, dedicated, imaginative, and caring group of people. The citizens of Eastchester will be honoring these fine individuals during School Board Recognition Week. It is a privilege to join them in expressing appreciation for their service.

In every community in every congressional district, Mr. Speaker, there are wonderful people who have found the energy and commitment to give of themselves to strengthen our schools. Their tireless efforts should be recognized more frequently. I am sure that all of my colleagues join me in honoring the members of the Eastchester School Board, and every school board across the country, for their dedication to our Nation's children.

HEALTH CARE IN NEW HAMPSHIRE

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. SWETT. Mr. Speaker, on Tuesday, October 15, the Committee to Study Rural Health Care in New Hampshire, made up of lawmakers and health care officials, released its final report after more than a year of research. The report confirms the great urgency of the serious health care problems which exists in New Hampshire and throughout rural America.

According to the committee's report, the major problem is the continuing exodus of physicians from rural communities. This serious decline in the number of available physicians is creating tremendous difficulties for residents to receive adequate health care. This situation leads to another problem—the limited availability of transportation to reach the remaining health care facilities As lawmakers, we need to make it our priority to assist these rural communities in their ability to attract and retain primary care physicians.

Mr. Speaker, I insert excerpts of this important report by the New Hampshire Committee to Study Rural Health Care be inserted into the CONGRESSIONAL RECORD:

HEALTH CARE IN NEW HAMPSHIRE

(By the New Hampshire Committee to Study Rural Health Care)

SUMMARY

The premise behind the legislation establishing the Committee to Study Rural Health Care was that residents in rural areas have a health status worse than residents in other areas and are at a disadvantage in receiving health care. The work of this committee confirms that premise:

The age adjusted death rates for heart disease, cancer and stroke are higher in rural areas then in other areas of the state.

The incidence of infants being born with a low birth weight, which is a general indicator of health risk, is greater in rural areas than in other areas of the state.

Between 1980 and 1991 the number of primary care physicians serving rural areas of New Hampshire increased by 38 (from 62 to 100) while the number of primary care physicians serving urban areas increased by 228 (from 220 to 448).

During the course of its work, the Committee found that:

Eight of the state's 26 hospitals serve approximately 100,000 citizens in predomi-

nantly rural areas. Eight of the hospitals are located in urban areas and provide services to a little over 500,000 citizens.

Less than 10% of New Hampshire's population reside in rural areas, areas that comprise almost one-third of the state's total land area. On the other hand, almost 50% of New Hampshire's population live in urban areas, areas that are only about one-fourth of the state's area.

In 1980, the population in rural areas living in poverty was greater than the population living in poverty in urban areas (12.3% vs. 7.8%). The Committee believes that the 1990 national census will show this problem continues.

Poor or non-existing access to health care for rural population due to limited transportation. This lack of mobility especially effects teens.

Eight family practitioners who previously provided obstetrical services have left Coos County this year.

Three other family practitioners in Coos County have announced that because of the cost of liability insurance, they will limit obstetrical services.

Recent trends in New Hampshire and Vermont show that independent solo practitioners are joining hospitals or other group practices due to escalating costs of liability insurance, third party administrative burdens, and the demands of "on-call" coverage.

INTRODUCTION

The mandate of Chapter 222 (HB 1304), New Hampshire Laws of 1990, to the Rural Health Study Committee has proved to be an extraordinary vehicle for the first accurate assessment of the general health and medical picture of New Hampshire (see Appendix A for the text of Chapter 222). To complete this picture it was necessary to define "urban" and "rural," taking into consideration corresponding population and mileage factors, accessibility to hospitals, clinics, and doctors, and the patterns of health needs.

Mobile Health Care Units

From the onset, testimony from physicians involved in rural mobile unit practice, information received from other states, and correspondence with the North Dakota Center for Rural Health quickly led the committee to realize mobile units were not an answer to New Hampshire's rural health needs for the following reasons:

Mobile equipment is expensive. A fully-equipped van begins with the initial cost of $100,000 or more, then adds maintenance, cost of time spent on the road, and the financial incentives needed to entice appropriate personnel. (Only Arizona has succeeded with a rural mobile health unit.) Mobile health units are most effective if they are supported by and used to supplement existing community health services.

Most health practitioners would rather practice in close proximity to their colleagues and community hospitals than be isolated in rural communities. Even Dartmouth Hitchcock's Outreach Clinics utilize established "satellite" facilities and afford access to research and consultation.

Most patients need the security of visiting a permanent, fixed site. They would prefer the inconvenience of arranging for their own transportation and contending with the vagaries of New Hampshire's weather rather than have the health care unit come to them. Communities themselves are bent on establishing their own local facility, even though it might be a "satellite" clinic. A local community clinic is a symbol of status and prestige.

Health Care Access Alternatives

After realizing that rural mobile health care units are not the right solution to New Hampshire's rural health problems, the committee members then directed their attention to alternative sources for providing access to health care for all the population of New Hampshire. Most states have chosen to address the problem of rural health care deliver through methods other than mobile health units. Accordingly, the Committee has included these concepts in the recommendations.

Integrating public school health programs into existing community health resources. Most communities have visiting nurse or home health agencies and all communities have school health programs.

Using service organizations as volunteer staff for health clinics. It takes more than professional staff to operate a clinic.

Participation of community hospitals in expanding services to outlaying communities.

Establishing evening clinics in school/municipal buildings to more efficiently and effectively utilize space. Those schools in the State's technical college system that already have facilities to offer programs in health related fields would be ideal.

The formation of coalitions of communities and health and social service agencies aimed at establishing community health centers.

Locating health clinics for adolescents at high schools with community participation.

These possible solutions can be applied to urban as well as rural locations. The challenge to rural communities is the recognition that they share with each other the same health care needs and that together, through cooperative efforts, they can more easily marshal the resources to address those needs than can individual communities on their own.

RECOMMENDATIONS

The Committee to Study Rural Health Care, after receiving testimony from health care providers and considering the actions of other states in providing health care in rural areas, recommends that:

The General Court enact legislation requiring the Division of Public Health Services and the Department of Education to develop a "model" for school based clinics to deliver health services. Sites would include vocational, technical, middle, and high schools. The model should be completed within six months of enactment (see the Additional Information and Resources file for a description of the Clipper Health Service in Portsmouth, NH, and information on other school-based clinics).

The General Court identify incentives to attract and retain primary health care providers and review existing statutes relative to the delivery of health care, insurance coverage for health care, and the public purchase of health care, to identify barriers to effective primary care.

Health Manpower Availability

The federal government, in its guidance to states and community organizations for identifying medically underserved areas (MUAs) and Health Professional Shortage Areas (HPSAs) as a precondition for establishing community health centers, focuses on five physician specialties as key providers of primary health care (10). For the purpose of this report these five specialties were used in reviewing health manpower in the three areas of the state. Those specialties are family practitioners, general practitioners, obstetricians/gynecologists, physicians practicing in internal medicine, and pediatricians. Information on the numbers of practitioners in each specialty and the locations of their practices was provided to the Division of Public Health Services by the Board of Registration in Medicine. Any future studies should include the availability of other health professions, such as Advanced and Pediatric Nurse Practitioners, midwives, and others within the concept of health manpower. At the time this report was prepared, data on these professions was not readily available and, as the federal government is refining its own definition, the Division of Public Health Services chose the more narrow definition to assure compatibility with other reviews and findings from this state and elsewhere.

Table 5 presents, for Rural, Rural/Urban and Urban areas, the number of currently licensed practitioners (as of 3/91) in these specialties and as was reported in a survey done in 1980 by the Division of Public Health Services' Bureau of Vital Records and Health Statistics (11). Table 5 also presents the population to physician ratio, based on the population in each area from the 1980 Census and the preliminary 1990 Census release. Data is provided for each hospital service area in Appendix F.

Between 1980 and the present time, the availability of primary care physicians in the Rural areas has remained relatively constant with the population to physician ratio actually improving. Only the General Practice specialty in the Rural areas experienced a decline from eight providers to five. The largest rate of increase in providers was in the Urban areas, where the number of providers increased by over 100% (220 to 448) and the physician to population ratio changed from just over 2,000 residents per physician to 1,227 residents per physician. This increase was at a rate higher than the general population increase, which climbed by 24% in the ten year period. The highest rate of population increase in the decade was in the Rural/Urban areas, with an increase of 27%. The Rural areas population increase in the decade was 17%. Relative to primary care physicians, the rate of increase in both the Rural and Rural/Urban areas was about the same: 61% in Rural areas and 63% in Rural/Urban areas.

A note of caution needs to be raised here. The number of primary care physicians generally, and especially in the Rural/Urban areas, is inflated by the presence of the medical school at Dartmouth College. While these physicians may be engaged in providing care, their practices should not be considered the same as the practices of their colleagues in other communities. Further, considering only the number of physicians may be misleading. Physicians may be licensed but not in active practice, may have reduced practice hours, may limit the number of patients they serve, and may not take patients whose payment source is public funding (e.g., Medicaid). Additional study, done on a community by community and physician by physician basis, is needed to develop an accurate picture of primary care physician availability.

The material gathered for this report, however, does permit generally describing the availability of primary care physicians. In 1980, seven hospital service areas had no providers in at least one specialty (see Appendix H). Five of the areas are classified as Rural in this report, and there was one area in each of the Rural/Urban categories. Two areas in 1980, the Cottage Hospital (Haverhill) area

and the Upper Connecticut Valley (Colebrook) areas, both of which are Rural, lacked providers in three areas, including OB/GYN and Pediatricians. They shared this lack with the Franklin and Weeks (Lancaster) areas and, for OB/GYN, with the Huggins (Wolfboro) and Speare (Plymouth) areas. All of these areas are Rural, except for Franklin, which is an Urban area. In 1991, the number of areas without providers in at least one specialty increased from seven to eleven, with seven in the Rural category, three in the Rural/Urban category and one in the Urban category. Unlike 1980, however, there were no areas lacking providers in three specialties.

On balance, between 1980 and 1991, while the distribution of primary care physicians improved in all areas, and the population to physician ratio improved in all areas, the Rural areas, though having the best ratio of population to physicians, experienced an increase in the number of areas not having ready access to some specialties. It would seem, in spite of ten years of improvement, that Rural areas continue to experience disadvantages in the availability of primary health care. Without the additional studies mentioned above, no firm conclusions can be drawn about the availability of health manpower and the effect that availability (or lack of) may have on the health status of those living in the Rural areas.

Statement of Findings

The Committee to Study Rural Health Care finds that using hospital service areas as a focus, there are definable and distinct rural and non-rural areas of the state. The rural areas do differ appreciably from the non-rural areas in economic terms, health status and the availability of health manpower and these differences place the residents of rural areas at a disadvantage, healthwise, to residents in non-rural areas.

HOUSE RESOLUTION 237—ONGOING CRISIS IN YUGOSLAVIA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. FEIGHAN. Mr. Speaker, the war in Yugoslavia rages on. Hundreds—perhaps thousands—of people have lost their lives. Many more have been maimed, orphaned, or had their homes and property destroyed throughout this madness.

Meanwhile the United States is silent. The European Community has been involved—their diplomats should be commended for their determination and the long hours spent mediating between the warring factions. But each cease-fire has been violated by shortsighted, hateful gunmen who care not about human life or the future of their own region.

The United States is the most powerful and respected Nation in the world. Why has our Government been reluctant to use our power and prestige in the name of peace?

Many observers tend to write this conflict off as some kind of inevitability—as one not easily prevented. They assume that everybody in that regional wants war and that there's no stopping them. This cynical view, Mr. Speaker, is completely wrong.

I strongly feel in my heart that the people of Yugoslavia do not want war. The great majority of Croats, Serbs, and others want to see an end to the killing, the wanton destruction of homes and property, the economic devastation that war has wrought. Sadly, war is forced upon them by a zealous and paranoid leadership. War is perpetuated by a majority of Yugoslavs—by a few ruthless zealots and an out-of-control federal army.

Mr. Speaker, last Thursday, I introduced House Resolution 237 regarding the ongoing crisis in Yugoslavia. In writing this resolution, I have striven to achieve balance. Nothing is gained by parceling out blame and taking sides. To do so in a resolution meant to encourage peace would not help achieve peace. In fact, it would most likely push true peace further into the future.

But that does not mean that I cannot stand up now and vent some of my feelings about those most responsible for this crisis.

I say loud and clear that those most responsible for the Yugoslav tragedy include Yugoslavia's extremist leaders and the federal army. Many leaders, most notably Serbian President Slobodan Milosevic, pathetically hide their economic failures behind nationalist rhetoric. Such rhetroric encourages extremism and directly leads to more killing. The army, by openly siding with Serb insurgents in Croatia, has totally failed in its duty to keep the peace.

Milosevic and his ruthless cronies are pushing their country to the brink of ruin. And some individual Serbs have committed heinous atrocities against Croats. If they truly cared about their country and the well-being of their people, they would not bankrupt their economy and future to wage this brutal war. They would not continue to lead their country into international isolation.

To those who would lump the Serbian people in with some of their worst leaders, I must say this. It is wrong to blame the Serbian people as a whole. To do so is to forget the thousands of brave Serbs who marched against Milosevic's rule in antigovernment demonstrations in Belgrade. What about those mothers of Serb conscripts who have begged the government to end the aggression and bring their boys home? We cannot forget their courage.

Rather than engage in the pointless—and counterproductive—exercise of parceling out blame at this stage, we should instead work toward achieving an end to the fighting. House Resolution 237 does that by offering the Helsinki principles—to which all Yugoslavs should be held—as guidelines for solving their differences peacefully.

The Helsinki principles have kept peace in Europe for two decades. I call on all parties to the Yugoslav conflict to use these principles as guidelines for peacefully resolving their differences—and to protect the rights and self-determination of minorities.

This resolution also condemns the federal army's partisan conduct and calls on it to cease providing assistance to the Serbian insurgents in Croatia.

Finally, House Resolution 237 urges the President and Secretary of State to support the formation of a Commission on Security and Cooperation in Europe [CSCE] peacekeeping force in order to assist in the enforcement of cease-fire compliance once the fighting parties separate themselves.

I believe that this resolution offers sound guidelines for the resolution of the conflict in Yugoslavia. I strongly urge my colleagues to support House Resolution 237.

LOWERING INTEREST RATES ISN'T GOING TO REVIVE THIS ECONOMY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, one of southern New Jersey's prominent business leaders, Mr. Gerald Banmiller, has written a very thoughtful article entitled, "Lowering Interest Rates Isn't Going To Revive This Economy." Printed by the Courier-Post on October 4, 1991, today I am inserting it into the CONGRESSIONAL RECORD.

The article follows:

[From the Courier-Post, Oct. 4, 1991]

LOWERING INTEREST RATES ISN'T GOING TO REVIVE THIS ECONOMY

(By Gerard M. Banmiller)

An article in the Courier-Post on Sept. 14 described the potential impact of the lowering of the discount rate and the reduction of other borrowing rates, such as the mortgage and prime rate.

Speculation that lower rates will be good for the economy is so far off the mark that it is beyond belief.

We will not—I repeat, not—cause the economy to turn around by lowering interest rates. The reason the economy is sluggish is not a function of the rate of interest that people pay. The reason we are in an economic malaise is because of perception.

Let me describe to you the reasons why there is a perception problem on the part of the borrower and the lender in today's economic environment.

Talk to any tax specialist, any Certified Public Accountant and most individuals who have an economic awareness and an IQ above 50 and they will tell you that the Tax Reform Act of 1986 was not a positive influence on our economy. Essentially, the act discourages people from owning real estate. It's treatment of accelerated depreciation and passive losses essentially took 25 percent off the value of commercial real estate.

It is no coincidence that we snuck into a recession in 1987 and 1988 and felt the full effects in 1989 and 1990. When real estate loses value, our economy, which is essentially real estate driven, pays the ultimate price. It is no coincidence that savings and loan institutions began falling like dominoes soon after the passage of this act.

Another impediment imposed on economic health is the capital gains fiasco. The liberals in Congress have convinced themselves and tried to convince the public that capital gains relief is a rich man's benefit. Nothing—I repeat, nothing—could be further from the truth. To tax someone beyond the normal tax rate for any appreciation in an asset discourages the movement of money. When you discourage the movement of money, you, by definition, impede economic growth.

Every astute economist has recommended that we do something to encourage the movement of property ownership. It generates jobs, it generates commissions and generates income. Until we see some relief from the onerous provisions of the 1986 Tax Reform Act, and until we perform a lobot-

omy on the liberals in Congress and convince them that their wrong-headed position on capital gains is causing the malaise that we have, there will be no robust recovery.

There are also administrative problems with our economy. The failures of the S&Ls have caused the regulators to look hard at the lending practices of commercial banks. The regulators' rules haven't changed, but conditions have, particularly the performance of the real estate sector. Since the overwhelming majority of loans are real-estate based, the economy and, therefore, the condition of bank portfolios, have been negatively impacted. The regulators, in doing their jobs, have caused the banks to be incredibly cautious about granting any loans, not just real estate loans.

It is ironic that an agency of the U.S. government is wagging its finger at the lending practices of banks. To my knowledge, banks have never collectively operated at a multibillion dollar operating loss, as has the U.S. government. Think about that the next time you hear pompous posturing on the part of our elected representatives in Washington. They and their spending habits have put our country in serious multi-billion dollar debt. If the banks ran themselves like the government, we would have been out of business 40 years ago.

How can we recover vibrant economic growth? First, repeal the 1986 Tax Reform Act and replace it with one devised with serious input on the part of the economic community. Second, provide sellers of assets with capital gains relief. Third, convince Washington that you have to have a dollar before you spend a dollar and tell the regulators that cooperation is necessary if we are going to recover from this economic situation.

News of the economy should be moved from the back pages of the newspapers to the front pages. Until then, we won't have an opportunity to throw out the idiots who buy their election by catering to special interest groups.

TRIBUTE TO THE SPRINGFIELD BOYS' CLUB

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to do what is too seldom done, namely, to give credit where credit is due. Today, and every day for the past 100 years, credit has been due to the Springfield Boys' Club. Without this remarkable institution, neither I nor thousands of other boys in the Springfield area would have become the men that we are today. As the 100th anniversary of that founding November 19 draws near, I would like to pay tribute to an organization that has been a positive shaping force in the lives of countless Springfield youths over the past century.

Henry Wright, who served as president of the club during the late 1890's, often invoked President Calvin Coolidge's comment, "What the boy is, the man will be." It was with this thought to the future character, as well as present happiness, of the boys in all of Springfield's various neighborhoods that a few concerned individuals and a good number of the city's merchants banded together to develop and expand the role of the boys' club in the city of Springfield as a new century dawned.

The founders of the club, as they held their first meetings over Lobsitz's Bakery, had as their goal the creation of a comfortable, safe, and companionable meeting place for neighborhood boys. The early focus was on building strong bodies as well as strong minds in these children of the American melting pot. Members of every conceivable ethnic group came together to play, read, and learn useful skills under the guiding influence of men such as Henry Spurdle, Donald North, Harry Feldman, and the stern but caring Fred Stephenson, among others.

Somehow the lines of demarcation between and among Irish, Italians, French, Jews, Russians, Arabs, blacks, and whites were erased with every day that their children played and learned as one community. The club was and is a place to learn more about yourself and your neighbors. It represented a way to improve yourself, and the door to opportunity was wide open to all, regardless of color or religion. I often think that this has been one of the most significant factors in the development of my own views on racial and religious equality.

The club moved several times during its early years, and benefited enormously from the support of local businesses and private individuals. A pool was built and the facilities expanded to keep pace with the growing size and character of the club. Activities ranged from sporting contests to weekly movie nights. And, as always, the boys' club offered a quiet, well-lit area in which to read or study. In 1921, John Robinson donated a farm in Brimfield to the Springfield Boys' Club, which has been put to good use as a summer camp which stresses a balance between work and play to an untold number of visitors over the past 70 years or so.

The Springfield Boys' Club possessed an understanding of its members that is reflected in the dues charged. They were never more than a boy could afford, yet enough to teach the value of saving the pennies you earned on your newspaper route in order to belong and maybe buy some popcorn at the weekly movie. They say that you get what you pay for, but at the boys' club I got a great deal more than what my annual dues of $1.50 would have bought in any store.

All of what I am describing to you today is living history to me and thousands like myself, who belonged to the club, or coached or taught there. Their names come easily; Tommy Ryan, Mike Pagos, Gary McCarthy, Art Jones, and Mark Moran. Each one of these men had a profound effect upon the hundreds of kids who passed through the doors of 260 Chestnut Street in the early 1960's. To us, they were more than just coaches or counselors. They taught us dignity, courtesy, and respect for the institutions of life. More importantly, they introduced us to the value of friendship. To this day, the people whom I met at the boys' club during my youth remain my closest and best friends.

Of course, athletics are what really attracted us to the club. I remember walking up Chestnut Street every Saturday morning in the winter to play in the old Inter-City Basketball League, made up of players from Sixteen Acres to East Springfield, and from Brightwood to Hill-McNight. Each game was played with the pride of your neighborhood at stake, so the competition was always tough. We used the old "winners" rule: you had to keep winning if you wanted to keep playing. There was Henry Payne, Dwight Durrant, and Bob "Rabbi" Ryan from Commerce; Red Moriarty, Tom Long, and the Gallagher brothers from Technical; and Barry Metayer from Classical, just to name a few. If you were looking for a good pick-up game with good people, you found it at the boys' club on any given Saturday.

Ironically, the boys' club also played an important role in my eventual decision to enter the field of public service. On a crisp November day over 30 years ago, I stood outside the club with my family and watched as Senator John F. Kennedy spent part of his last day as a candidate for the Presidency in Springfield. I can remember vividly the sight of Kennedy's motorcade traveling slowly downtown, where he addressed a large crowd from a stage that he shared with Congressman Edward Boland. It is a memory that I have never forgotten.

For the people with whom I grew up, the boys' club was more than just a recreation center, it was a second home. Even today, I'll run into one of the old members and our conversation will drift back to our days playing hoops on the court at the boys' club. It was a place that gave me character, it is where I met some of my best friends, and it is where we all learned about winning, losing, and life.

I was fortunate to have been a member of the Springfield Boys' Club as a youth and I continue to offer my full support of their activities today. There is no doubt in my mind that the Springfield Boys' Club will continue to prosper in the next century because of the continued support of the Springfield community and the hard work of dedicated volunteers like Peter Picknally, Attorney John Fitzgerald, the Foleys, and E. James Stephens. People such as Archie Rintoul, Jim Shonak, and Billy Sullivan and the Moses family have been lifelong friends and supporters of the Springfield Boys' Club. Saco Catjakis, Irv Schrachs, and the Garveys have all played important roles in the club and have contributed countless hours to such long-standing club activities as the ever-popular bingo games.

The strong network of care and commitment created by these individuals has done more than just maintain and improve the boys' club. It has also provided a base for the launching of the Springfield Girls' Club, lending valuable experience and support during that organizations early years, and the two clubs continue to work cooperatively on a number of programs. It is only with the continued active support of the entire community, as well as the innovative and far-sighted leadership of Gary McCarthy, that the club has been able to grow and adapt to the changing character of Springfield's youth, and today offers services designed to curtail such increasingly pervasive problems as substance abuse and delinquency. The modern Springfield Boys' Club strives to raise self-esteem and focus ambitions through life-skills development programs and career counseling. The club's goal of "service to youth" retains a strong link to ath-

letics but also incorporates contemporary concerns and problems into its programs.

I extend my congratulations to Executive Director Gary McCarthy and his fine staff on continuing the noble tradition which began 100 Novembers ago. The boys of Springfield continue to become productive and responsible men of the worlds thanks to the mission which Henry Spurdle undertook, and which is proudly upheld for the boys of today and tomorrow.

HONORING BOB RAY SANDERS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. FROST. Mr. Speaker, Bob Ray Sanders is being honored tonight by the Dallas Civil Liberties Union Foundation, which will give him its Thomas Jefferson Liberty Award. This award is richly deserved.

Mr. Sanders has committed his professional life to journalism, working in both Dallas and Fort Worth in radio, television, and a daily newspaper. More than that, he has utilized his journalistic abilities to explore controversial issues and pursue justice.

The Dallas Times Herald published an editorial in today's edition praising Bob Ray Sanders for his work and contributions to the community. I join in this praise and commend the editorial to my colleagues for their review:

[From the Dallas Times Herald, Oct. 17, 1991]

HONOR FOR BOB RAY SANDERS

Bob Ray Sanders has long been the conscience of Dallas journalism. At the Fort Worth Star-Telegram, at KERA-TV and FM, and now at radio station KLIF he has upheld the highest standards not only of professionalism but of fairness and justice. No one deserves the Second Annual Thomas Jefferson Liberty Award of the Dallas Civil Liberties Union Foundation more than he does. It is highly appropriate that Mr. Sanders will be presented that award tonight.

Bob Ray Sanders left the Star-Telegram in 1982 to join "Newsroom," a week-nightly program at Channel 13. He quickly established himself as one of the strongest reporters on the show, covering issues fraught with controversy and pain in a manner characterized by compassionate intelligence.

Not for him the detachment of the purely professional. Mr. Sanders was more than that. He was a seeker after justice, and for him journalism meant a life of fidelity to a few cardinal principles embodied in our national canon, the Constitution and the Declaration of Independence.

After running KERA-FM and producing an elegant series for public television with Ossie Davis and Ruby Dee, Mr. Sanders started "News Addition", where he was host. He left KERA earlier this year to join KVIL. His talk show quickly became one of the most talked about in the city.

There to honor Mr. Sanders tonight will be Tarrant County Commissioner Dionne Bagsby; Warren (Buck) Buckingham III, director of the AIDS Arms Network; Rene Castilla, president of the DISD Board of Education and a former colleague of Mr. Sanders on "Newsroom"; Sylvia Komatsu, vice president of local programming at KERA and KDNT-TV; John McCaa, news manager and anchor at WFAA-TV and Jack Tinsley, editor of the Fort Worth Star-Telegram.

We add our congratulations to theirs.

WHAT ABOUT ARMS CONTROL?

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. McCURDY. Mr. Speaker, as the administration continues its efforts to convene a Middle East peace conference, it should keep in mind the pressing need for serious proposals to curb the flow of dangerous weapons into that volatile region. While meaningful arms control in the Middle East would be a difficult and complicated process, the United States should still place the issue on the agenda if a peace conference takes place.

Jay Winik, senior fellow at the National Defense University, Michael Nacht, dean of the University of Maryland's School of Public Affairs, and Alan Platt, and international consultant, recently served on the U.S. Institute of Peace Study Group on Arms Control in the Middle East. In an article published by the Washington Post, they offered some excellent suggestions on how arms control might be pursued in the Middle East. I commend their article to my colleagues:

WHAT ABOUT ARMS CONTROL?

(By Michael Nacht, Jay Winik and Alan Platt)

In its headlong rush to convene the Middle East peace conference, the Bush administration is given short shrift to arms control in the region. That is a serious mistake: Reducing the capabilities and incentives for states in the region to wage war is not only an urgent concern but one that can be usefully addressed even if a peace conference bogs down.

The administration has taken some initiatives to stem the flow of new ballistic missiles into the Middle East, and the president himself has stated that arms control should be priority. But these efforts have not received the sustained high-level attention and support required to produce results. And even if these efforts were successful, they would still be woefully inadequate.

The Middle East remains virtually the only region where war is still a legitimate and widely used means of achieving political ends and where all the major powers have important ties and interests. Even if all outside arms shipments to the region ceased tomorrow, the region would be the most heavily armed in the world today. What must be found are measures that inhibit and ultimately delegitimize aggressive war as an instrument of policy.

Virtually all observers of the Middle East have rightly noted that it will take years, if not decades, for deep-seated difference between Arabs and Israelis to be overcome. Even if the peace conference were successful—a big if—this sobering reality will not change. Israeli officials have quietly speculated that increased Syrian-Israeli tensions could result from a stalemated peace conference. Should the peace process fail, another war is likely. Whatever the outcome, in the absence of arms control, regional hostility will loom as a cloud threatening reconciliation in the region.

The notion of applying arms control to the Middle East, is often greeted with skepticism based upon three arguments: that arms control is a Western concept inapplicable in the Middle East; that there is no experience with arms control in the region; and that even after the Gulf War there is no evidence of support in the Middle East for such measures. All three arguments are erroneous.

It is true that modern arms control was conceptually developed in the United States and Great Britain in the late 1950s and early 1960s. But this does not make it ill-suited for the Middle East. East-West arms control has had to cover a far broader range of issues and Uechnological esoterica than would be necessary in the Middle East, from strategic and theater nuclear arms to space weapons to a myriad of conventional systems.

The immediate requirements for arms control in the Middle East, however, need not be nearly so comprehensive and arcane. Rather, smaller attainable steps such as confidence-building measures, taken by the regional states themselves, hold far greater promise than they did in the U.S.-Soviet and European contexts.

The bitterness of the Arab-Israeli dispute is not necessarily a block to useful arms negotiations—no more than was the once bitter enmity between the West and the Soviet bloc. Indeed, arms control has often been more effective between adversaries than allies, because its potential payoff is most obvious and the interest of the parties is correspondingly intense. Particularly in times of crisis, arms control can prevent escalation of conflict from political miscalculations or the perception of one side that another has acquired new, first-strike weapons systems. At a minimum, arms control measures could delay or prevent a new round of qualitative weapons competition and military maneuvers which, if left unchecked, would likely bog down the peace process or serve as a catalyst for renewed conflict.

There is, moreover, greater experience with arms control in the Middle East than is commonly acknowledged. The disengagement-of-forces agreements concluded in 1974 and 1975 between Egypt and Israel and between Israel and Syria specified a number of quantitative and geographical limitations on weapons deployments. The 1979 peace treaty between Israel and Egypt also included many such provisions. Over the years, a series of tacit understandings about acceptable military actions has also evolved.

More importantly, arms control is today being accorded for greater attention in the region. United Nations Security Council Resolution 687, which is unprecedented in its scope, seeks to construct an elaborate arms control regime. It calls for the destruction of Iraq's weapons-grade nuclear material and chemical and biological weapons, research sites, equipment to develop weapons of mass destruction and all ballistic missiles with ranges exceeding 150 kilometers. Not unlike the European theatre, a weapons data base is called for, as are intrusive methods of verification and rigorous measures to enforce compliance.

Both in Egypt and Israel, at the Al Ahram and Jaffe strategic study centers respectively, independent experts are, for the first time, exploring regional arms control measures. And in terms of declaratory policy, Egyptian President Hosni Mubarak has called for the elimination of all weapons of mass destruction from the Middle East, while Israel has publicly supported the concept of a nuclear-free zone.

Agreement on a series of confidence-building measures must undergird any arms control regime. These would reduce the likelihood of war by fostering what experts call

"transparency of capabilities and intentions."

The Middle East's historical record demonstrates that ambiguity about intentions has repeatedly led to war. In 1967 Egyptian troops massed against Israel. Uncertain as to Egypt's intentions, Israel struck preemptively, thus beginning the Six Day War. In 1973, Egyptians and Syrians conducted deceptive maneuvers. Israel chose a wait-and-see attitude, only to be caught off guard when the combined Arab armies attacked. And in August 1990, Iraq employed similar tactics against Kuwait. In each of these cases, military action, whether defensive or preemptive, was seen as the only viable option for ending the crisis.

Among specific measures that should be considered are: hotline agreements; risk-reduction centers; establishment of keep-out zones and demilitarization of critical terrain; and requirements for pre-notification and explanation of military exercises above agreed-upon limits. Clear violations would create a "political trip-wire" designed to bring immediate international pressure to bear *before* aggressive hostilities break out.

Collectively these measures would go a long way toward making the use of war a far more difficult course for resolving political differences. Over time, states in the region would have far greater confidence in the diplomatic process and would also have greater incentives to make concessions for peace. Moreover, in due course arms-reduction agreements that could lend further stability to the region would have a better chance of success.

While the administration has been slow to articulate a policy for arms control in the Middle East, this approach has already been endorsed by an international group of regional and security specialists. In a recent report published by the United States Institute of Peace, they state: "The Gulf War has created a rare opportunity for serious initiatives on arms control in the Middle East. * * * * Arms control measures should be pursued in parallel with the peace process."

The winter 1991 issued of Daedalus, the prestigious journal of the American Academy of Arts and Sciences, reflecting on 30 years of arms control, notes the imperative of disseminating the lessons of arms-control practice to the Middle East. Indeed, no less a hawk than Israel's Ariel Sharon has openly observed that arms control, not a continued arms race, could help bring peace to the Middle East.

What must be emphasized is that trust is not a necessary pre-condition for effective arms control. Control does not automatically translate into arms reductions and disarmament, as is popularly believed. Nor should it necessarily be construed as meaning comprehensive arrangements that are often unattainable. Rather, arms control encompasses those measures that strengthen regional stability and diminish war as an attractive instrument of national policy whether by design or perceived necessity—precisely what is needed now.

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS HONORS BONNIE HENESON

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize Bonnie K. Heneson, president of Bonnie Heneson Communications, upon her selection as the National Association of Women Business Owners—Baltimore Regional Chapter's 1991 Woman of the Year.

A native of New York City, Bonnie is a graduate of Goucher College in Baltimore and is an active board member of NAWBO–BRC, National Association of Women Business Owners—Baltimore Regional Chapter. She has served for several years as public relations chair for the group and serves on the group's executive forum. Bonnie also participates in the national association's marketing committee where her work was important in obtaining national publicity for NAWBO Month in March.

Bonnie was cited especially for her contribution of time and services to the Baltimore regional chapter of NAWBO and for the example she has set as a successful business woman in the community. At a dinner on October 22, she will receive the Margaret Brent Award for her contribution to furthering women in business and for her active role in both the business and civic community.

In August 1990, Mrs. Heneson opened Bonnie Heneson Communications, with offices in Owings Mills, MD. Bonnie was vice president and a stockholder of a Baltimore public relations agency with which she was affiliated with for 16 years. She specialized in health care marketing and public relations. Throughout the years, her talent and ability was clearly evident as she directed the public relations activities of many Baltimore area hospitals and health care institutions.

Bonnie Heneson Communications provides public relations, advertising, marketing, special events planning, and graphic design and development services to a wide variety of clients. Manufacturing companies, retail stores, service businesses, real estate accounts, startup businesses, hospitals, and health care institutions all call upon the expertise of her firm.

However, Bonnie's interest and success extends far beyond the professional realm as she has done several pro bono public relations projects for local charitable causes. In addition, she serves on the executive committee of the board of the National Multiple Sclerosis Society of Maryland Chapter as secretary of the board. She is a board member and communications chair of the Maryland Chapter of the Academy of Health Care Marketing and a board member of the Center for Ethic and Corporate Policy, where she serves on the public relations committee. Bonnie is a member of the Maryland Hospital Association's Public Relations Society, the Public Relations Society of America, and the Reisterstown-Owings Mills-Glydon Chamber of Commerce, where she serves on the chamber's program committee.

Her commitment and dedication to such endeavors truly is commendable. It is far too easy to judge one by their professional success or material wealth. Yet individuals like Bonnie Heneson truly are blessed as they possess a wealth of character and spirit.

Although we are all proud of the success of women such as Bonnie Heneson, we must keep in mind that women deserve recognition, not for the mere fact that they are women in the work force or women employed in typically male occupations, but for their hard work, professionalism, and dedication.

When I covered the waterfront and labor issues for the Baltimore Sun, and when I served as Chairman of the Federal Maritime Administration, I did not place emphasis upon the fact I was working in positions never held before by women. Rather, my goal was to do the best job I could.

One who seeks to gain respect and recognition for the mere novelty of holding such positions do a great injustice to their position and to other women. If respect is deserved, it is because women must demonstrate, as Bonnie has, that we are not simply a part of the work force, but that we are equally competent and capable of making significant contributions, no matter what field of work we choose.

I share in the pride and joy of the National Association of Women Business Owners as they recognize Bonnie Heneson as 1991 Woman of the Year. Bonnie personifies so many qualities that have made this such a great nation. Her work ethic, commitment to civic organizations and professionalism are deserving of the utmost recognition.

Mr. Speaker, it is with great respect and admiration that I congratulate Bonnie Heneson upon this momentous occasion. May she have continued success and happiness in the years ahead.

PRESERVING THE NATION'S HERITAGE: THE 25TH ANNIVERSARY OF THE NATIONAL HISTORIC PRESERVATION ACT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. MICHEL. Mr. Speaker, America's relationship with its past is unique. Present constitutional debates on modern issues frequently require our society to look back into history, into the minds of the Founding Fathers, to determine what their original intent may have been. The Constitution, while its interpretations may evolve over the years, remains a static document and a bedrock for our form of government.

America's heroes, as venerated in many of the monuments in the Nation's Capital reflect this Nation's deep regard for its history. From Washington and Jefferson to Lincoln and Kennedy, much of the attention has focused on the great men in our past. In recent historiography that focus has shifted from the great men of history to the common society of the past.

Twenty-five years ago, the National Historic Preservation Act became law. By this act, the Congress recognized that a true understanding of history meant more than remembering

the deeds of great men. Indeed, it meant preserving those homes, buildings, and other important artifacts of people from all sectors of society.

Part of the challenge of historic preservation is selectivity. Needlessly protecting useless buildings can be as counterproductive as protecting none. Like pruning an overgrown tree, the selective choosing of worthy historic preservation sites will encourage both an appreciation of our past and a facilitation of progress in our future.

The National Trust for Historic Preservation is dedicated to this difficult task. This private nonprofit association works with thousands of local historic preservation and community groups to help with preservation of individual buildings, objects, sites, and districts significant to the history and culture of the Nation. It provides technical advice to public and nonprofit organizations, sponsors educational programs, and advocates the country's heritage in many different ways.

In fact, the National Trust has done work in my hometown of Peoria by providing a grant to help support the Judge Jacob Gale House. This and countless other projects have contributed to a richer historical understanding of our Nation.

I would like to commend the National Trust for Historic Preservation, which is now meeting in San Francisco, on its contributions to American historical preservation over the last 25 years. I also encourage them to keep up the good work in achieving the right balance between preserving areas that have real historic value and discarding places that are just plain old.

THE FIGHT AGAINST BREAST CANCER

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. MAZZOLI. Mr. Speaker, it is appropriate in this month of October—National Breast Cancer Awareness Month—that we focus our attention on the positive steps we can take here in Congress to promote treatment and prevention of this terrible disease.

All too often with diseases like breast cancer, preventive measures are unavailable or ignored until a critical condition is reached. We have within our grasp the ability to reduce significantly the incidence of illness and death from breast cancer.

Among the legislative initiatives which offer hope in breast cancer prevention is H.R. 3462, the Breast Cancer Screening Safety Act of 1991. I am pleased to be a cosponsor of this bill which seeks to establish national quality standards for all mammography facilities—their equipment, personnel, and quality control. Women have a right to feel secure that their mammogram results are accurate and of the highest quality.

It is easy to understand that the payments for routine screening programs are cost-effective and that detecting cancer in its early stages can greatly increase the chances for survival. Preventive care simply makes good sense and, as the familiar phrase goes, it is the right thing to do.

I am also pleased to support the Medicaid Women's Basic Health Coverage Act of 1991 (H.R. 1129), which would provide Medicaid coverage for routine mammogram tests for women over 35 years old, and the Medicare Preventive Benefits Act of 1991 (H.R. 2565), which similarly, would extend Medicare coverage to various preventive services for senior citizens, including annual screening for breast cancer, rather than the current biennial exam. Both of these common sense bills have my full support.

Legislation with its emphasis placed on preventive should move in concert with vigorous efforts in research. There is presently no cure for breast cancer, nor is its cause known. But funding for research toward finding answers to these questions, like that proposed by H.R. 381, the Breast Cancer Basic Research Act of 1991, which I have cosponsored, is an important step in the right direction.

Earlier this year the House approved its fiscal year 1992 labor, health and human services, and education appropriations bill which would provide $1.83 billion for the National Cancer Institute [NCI]. This represents an increase of about $117 million over last year's appropriation, with the largest percentage of increases being provided to women's health issues.

The House bill also includes $50 million for the Centers for Disease Control to continue its breast and cervical cancer prevention and control program. I hope that funding for these initiatives can be maintained at the highest possible levels following House and Senate conferees' deliberations.

Mr. Speaker, in sum, there is much that we in Congress can do to reduce the tragic consequences of breast cancer in America. Accomplishing this task will require the collective efforts of the medical and scientific communities, our elected leaders, and every American citizen.

So, during the celebration of National Breast Cancer Awareness Month, as we recognize what progress has been made and what lies ahead, let us set our sights high with renewed commitment to this worthy goal.

NATIONAL BRAILLE LITERACY WEEK

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. BALLENGER. Mr. Speaker, I am pleased to introduce today a resolution designating January 4, 1992, through January 10, 1992, as National Braille Literacy Week. This designation would serve to highlight the importance of Braille to blind people, and would also stand as a memorial to Louis Braille who was born on January 4, 1809. This resolution has the full support of the American Council of the Blind, the Nation's largest organization of blind people.

Braille is the most effective reading and writing medium available to people who are blind. A recent decline, however, in Braille literacy has led several States to examine the need to encourage, and in some cases virtually mandate, Braille instruction to blind students in the public schools. In these times of ever-increasing public and media focus on our national education system, it is vital that blind children who can benefit from Braille instruction have access to highly qualified teachers who can provided this instruction regardless of the type of school in which the child is educated.

Not only is it crucial that blind children are taught the Braille language, but adults who are blind or visually impaired should have the right to become literate through instruction in Braille as well. The ability to read and write independently is a great asset and an immeasurable joy to the blind person of any age.

Braille should be recognized as a legitimate and useful medium. National Braille Literacy Week will help bring about greater interest in Braille and give this valuable means of communication the recognition it rightly deserves.

INTRODUCTION OF LEGISLATION CALLING FOR A REVIEW OF DELINEATING WETLANDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. BROWN. Mr. Speaker, today, I am introducing legislation calling upon the National Academy of Sciences to complete an independent review of the science and methodology of delineating wetlands.

In 1989, wetland scientists representing the four Federal agencies: the Army Corps of Engineers, the Environmental Protection Agency, the Fish and Wildlife Service, and the Agriculture Department's Soil Conservation Service, reached a consensus on the scientific definition of wetlands and devised a Federal Manual for delineating wetlands. Wetlands are valued because of the ecological and recreational uses that they provide. These include flood control, water quality improvement, ground water recharge, shoreline stabilization, and wildlife habitat and fisheries.

On August 14, the administration announced sweeping changes to the Nation's no-net loss of wetlands policy, including proposed revisions to the 1989 Federal Manual for identifying and delineating jurisdictional wetlands. The debate over the methodology for defining wetlands has been raging for some time. The proposed changes to the manual appear, however, to be based largely on political considerations rather than science. In fact, the events leading up to the publication of the new consensus proposal clearly show that the changes to the wetlands manual were not reached by a true scientific consensus between the involved agencies, but instead appear to reflect the politically based dictates of the President's Council on Competitiveness chaired by Vice President DAN QUAYLE. Thus, instead of a scientifically based consensus document to delineate wetlands, we may be called upon to implement a less substantive policy—a policy that many Federal scientists with expertise in wetlands definition apparently do not support.

This legislation requiring a National Academy of Sciences review will serve, at least, to confirm the scientific underpinnings of the administration's proposals, including the prospect of mitigation banking of wetlands by creation and restoration, and the prospect of wetland classification according to varying degrees of ecological value. If the review proves it necessary, this legislation will also serve to bring science back into the regulatory arena and will allow Congress to determine the appropriate wetland policy.

I believe that before any of the proposed changes to the manual are adopted and implemented, an independent scientific review must be conducted. Preliminary results from over 25 States that are field testing the proposed changes to the manual indicate that in a majority of States more than half of the existing wetlands will lose their protection. Chesapeake Bay, already in serious trouble from pollution and overfishing, is dependent on an enormous watershed covering all of Maryland, a third of Pennsylvania, and more than half of Virginia for perpetual flushing with fresh water. A current estimate is that at least 35-percent of the tri-state's freshwater wetland would fall out of protection under the new manual. Further, the Governor of Pennsylvania recently testified that the proposed changes to the manual would pose a serious threat to hundreds of thousands of acres of valuable—and vulnerable—wetland heartland. Also at risk are prairie potholes in the Great Plains States which provide essential habitat for nesting waterfowl, vernal pools in California and Oregon, and bottomland hardwood forests which serve as flood plains for our rivers and streams. In the opinion of many wetland scientists, even the Everglades—our most significant wetland is at risk.

In addition to a number of witnesses appearing this week at wetlands hearings held by two of the House committees, nationally recognized wetland scientists as well as the Audubon Society and the National Wildlife Federation have called for a National Academy of Sciences study of wetlands. The study that will be undertaken following passage of this bill will insure that the scientific integrity of our wetlands policy remains defensible and uncompromising.

IN TRIBUTE TO GEORGE RUSSELL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. PORTER. Mr. Speaker, when House Assistant Chief Clerk to Reporters George Russell passed away recently, the Congress lost a great friend and an outstanding public servant. He faithfully served this House and his Nation for many years, and he will be deeply missed by all of us who were fortunate enough to know and work with him.

When I first came to Congress, George was already a familiar face in this Chamber. At that time, as a freshman Member taking on new responsibilities and facing new pressures in the House of Representatives—an intimidating experience for anyone—I found reassurance in his personal warmth, friendship, and easy smile. Throughout my service in Congress, George continued to be a friend and an individual of delightful spirit whose goodwill touched and inspired me.

In the midst of the partisan political battles which have frequently consumed this House, George was a constant reminder of our common bonds and the goals of public service which we all share. He earned the respect of Members on both sides of the aisle, and with good reason.

George Russell was recently described by House Clerk Donnald Anderson as a man of "spontaneous friendship and kindness," a man whose delightful personality was so apparent that he received thousands of letters from viewers of House proceedings on C–SPAN, "people who didn't know him but felt like they should."

Mr. Speaker, that observation speaks volumes about how lucky we all have been to know George Russell. His contributions to this Congress, our Nation, and those of us who are privileged to serve here will not be forgotten.

I join my colleagues in expressing my deep sadness over George's death, and in sending my profound condolences to his friends and family at this difficult time.

IN MEMORY OF ENS. JOHN LONERGAN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to the memory of Ens. John Joseph Lonergan of Philadelphia, who tragically lost his life in an automobile accident on October 12 at the age of 23.

As a boy, Mr. Lonergan used to sit with this father on the bleachers at JFK Stadium in Philadelphia, and watch the annual Army-Navy football game. From that time on, John Lonergan knew that he wanted to attend Annapolis, and worked with persistence and diligence throughout his school years to achieve his goal. I helped young John attend the academy. Whether he was serving as a class officer, or playing the tenor saxophone in the Northeast Catholic High School Jazz Band, John Lonergan constantly delighted his friends and teachers with his numerous talents.

In 1987, John Lonergan fulfilled the goal he had set for himself long ago, as he entered the freshman class of the U.S. Naval Academy in Annapolis. Following his graduation this year, Ensign Lonergan was assigned to the Navy's Surface Warfare Officers' School Command in Newport, RI.

John Joseph Lonergan's friends and family recall that he lived by "a code of persistence." As a student, an officer, or a friend, John Lonergan will always be remembered for his determination, and his kindness toward others. I join my colleagues in extending my deepest sympathies to Ensign Lonergan's parents, John and Sally, as well as to the rest of his family and friends.

TRIBUTE TO HIRAIR HOVNANIAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. PALLONE. Mr. Speaker, on October 26, in a place that most Americans have probably never heard of, a ceremony will take place marking an act of extreme generosity. In the city of Gumairi, in the newly independent Republic of Armenia, a grand opening will be held for a new factory complex that was constructed by the Armenian Assembly of America Relief Fund, Inc.

Mr. Speaker, all Americans should take pride in this wonderful act of kindness and concern extended by U.S. citizens to the people of a land that is finally emerging from so many years of Communist tyranny and mismanagement. For me, it is a special source of pride that the president of the board of directors of the Armenian Assembly is one of my constituents, Mr. Hirair Hovnanian of Deal, NJ.

Hirair Hovnanian has enjoyed great success in the construction industry with his family-owned business. But what truly distinguishes this fine man is the tireless work that he has performed to give the Armenian people a ray of hope for the future. Mr. Hovnanian was born in Iraq, the son of Armenian parents who were displaced from their homeland by the terrible tragedy perpetrated on the Armenian people by the Ottoman Turks. He immigrated to the United States when he was 21. After graduating from Villanova University, he started his own construction company, Hovsons, Inc. Mr. Hovnanian has joked that his goal was to be "an American tycoon businessman." While succeeding in that endeavor, he has not forgotten the strong ties that bind together the Armenian people—both those who live in the small Republic that until recently was part of the Soviet Union and the millions of other Armenians dispersed throughout the world.

It is indeed fitting that the Hovnanian business is in the construction industry. Building, and rebuilding, is exactly the type of assistance that Armenia needs. For many Americans, the reality of Armenia was unknown until the December 1988 earthquake that claimed the lives of 50,000 Armenians and left another half-million homeless. This tragedy exposed to the world the inability of Soviet-dominated Armenia to recover from a tragedy of this magnitude. Coming at the time that the cold war was beginning to wind down, this natural disaster resulted in the first direct assistance from the United States to the Soviet Union since the end of World War II. But, after the news of the Armenian earthquake went off the front pages, the problems faced by the Armenian people remained. With the recent tumultuous events in Moscow, it now appears that the destiny of Armenia will be in the hands of the Armenian people and not in central government. This provides both an opportunity and a challenge.

Hirair Hovnanian has spearheaded a $3.3 million project, through the Armenian Assembly, that will give the Armenians a greater degree of self-sufficiency in the future. The assembly has been building three factories in Ar-

menia—with prefabricated materials shipped from the United States to Armenia on huge Soviet cargo planes—that will produce building materials for homes and other structures. The expectation is that the new factories, built to modern Western standards, will be able to turn out enough material to build 10,000 homes per year. Next Saturday, the dream will begin to become reality.

Mr. Speaker, lest we forget, the Armenian people are the proud descendants of one of the most ancient cultures in human history—a history that has continued unbroken despite unimaginable adversity. The Armenians suffered horrendously—over 1 million dead—in a deliberate and ongoing policy of genocide by the Ottoman Empire that modern Turkey has still refused to acknowledge. For the past seven decades, the citizens of the Armenian Soviet Socialist Republic, comprising only a fraction of the Armenian homeland, have suffered the kind of oppression and deprivation experienced throughout the U.S.S.R.

In February 1990, Levon Ter-Petrosian, a scholar and former political prisoner of the Soviet system, became President of the Republic of Armenia. Earlier this week, in the wake of last month's near unanimous vote in favor of secession from the Soviet Union, Mr. Ter-Petrosian became the first popularly elected President of Armenia with approximately 80 percent of the vote. About a year ago, President Ter-Petrosian paid a visit to Capitol Hill, and many Members of this House had the honor of meeting and speaking with this remarkable man.

The Armenian Assembly of America is a charitable, nonprofit association, founded in 1972, headquartered in Washington. In the wake of the earthquake, the assembly established a special earthquake relief fund which has raised more than $4 million in contributions.

SYRIA'S CYNICISM

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. SCHEUER. Mr. Speaker, in this morning's news we once again see the cynicism and unreliability of Syrian President Hafez al-Assad—President Bush's newly found Middle Eastern ally.

After 12 hours of talks, even the tireless James Baker could not get Mr. Assad to budge from his longstanding rejectionism of Israel.

Notwithstanding his earlier—vague but much celebrated—agreement to attend a Middle East Peace Conference with Israel, Assad now says he will certainly not attend multilateral talks about regional issues—such as water, the environment, and arms control—until Israel withdraws from all of the disputed territories.

The primary purpose of the talks, the Syrian Foreign Minister now admits, is to get back the Golan Heights—not to talk peace and cooperation.

He says he won't even shake Israeli Foreign Minister David Levy's hand when the conference begins.

Let us not forget whom we are dealing with here, Mr. Speaker. As the leader of a country that the State Department cites for engaging in state-sponsored terrorism, Mr. Assad harbors and supports vile terrorists—including those who bombed Pan Am Flight 103, who kidnaped and continue to hold American hostages in Lebanon, and who killed 238 U.S. marines in a car-bomb attack on their barracks in Lebanon.

Mr. Speaker, sadly, President Bush and Secretary Baker have invested so much time and political capital in convening a history-making Middle East Peace Conference that they refuse to apply heavier pressure on Assad as he backs away from his earlier commitment to attend peace talks with Israel. Their reluctance to push Assad harder only encourages his—and others—further intransigence.

This is a mistake. Mr. Speaker, because until Assad, and the many other Arab States that follow his lead, truly pursue peace for peace's sake, no peace will ever reign in the Middle East.

A TRIBUTE TO JAN MISHODEK

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding community service of Jan Mishodek of Yucaipa, CA. Jan will be honored for 16 years of service as a member of the Board of Education of the Yucaipa Joint Unified School District at a special dinner in November.

Jan's love for children is no secret. The mother of seven children and eight grandchildren, she has always secured a special place in her heart for kids. "Jan Mishodek is a woman who loves children," said Ron Bennett, district superintendent. "Her primary concern as a board member has been what is best for students. Jan has given her entire adult life to serving the children of the Yucaipa Valley."

Jan has left her valuable mark on education and the community for many years. She began as a young room-mother in 1968 and has had a long involvement with PTA, serving as both school and council presidents on several occasions. She has served as a school board member longer than any other woman since the first Yucaipa school board was formed in 1917. As a member of the school board, she was elected president four times.

The school district has distinguished itself in many areas during Jan's tenure with the school board. The district has been recognized for consistently high test scores in all areas of the CAP and CTBS achievement tests. Valley Elementary and Yucaipa Middle Schools were designated as distinguished schools by the California State Department of Education. Green Valley Continuation School was the recipient of the California School Board Golden Bell Award. In addition, the high school forensics team has been ranked nationally for many years.

Of course, Jan has made a number of other contributions to education and the community. She served on the Colton-Redlands-Yucaipa regional occupational program boards from 1975–89, three times as president. Statewide she has been a member of the delegate assembly for the California School Board Association, including 6 years as regional director. In addition, she has served in a number of capacities on the San Bernardino County School Boards Association.

"Now, I really feel it is time for me to move on," Jan explains. "I will probably miss the board all the rest of my life. When you work with a group of such fine people, you enjoy the rewards of success. It's got to be one of the most fulfilling things you can do."

Mr. Speaker, I urge you and our colleagues to join me in recognizing the devotion and many unselfish contributions made by Jan Mishodek over the years. Her commitment to the future of our children is worthy of recognition by the House today.

TRIBUTE TO THE CROSWELL OPERA HOUSE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. PURSELL. Mr. Speaker, I rise today to comment on the 125th anniversary of the Croswell Opera House located in Adrian, MI.

The Croswell is the oldest continuously operating theater in the State of Michigan. It also is believed to be the third oldest theater in the Nation, having been built in 1866 by Charles Croswell.

Croswell, who would go on to become the Governor of Michigan, originally operated the auditorium for live theater. From 1866 to 1921 the Croswell Opera House served as the home for stage, concerts, lectures, vaudeville, minstrel shows and educational activities.

From 1921 to 1967, live entertainment gave way to film as the opera house became a movie theater.

In 1967 the wrecker's ball was trained on the facility, however, the Croswell Opera House and Fine Arts Association was created and saved the historic building from destruction. The association now operates, maintains and preserves the theater.

Since 1967, the Croswell has returned to live entertainment, including professional theater. In 1976 the building became a Michigan Historical Site. In 1985 it was added to the National Register of Historical Places.

Today's activities at the Croswell include summer musical theater, winter theater, Junior Town Hall, Town Hall Lecture Series, an art gallery, the Lenawee County Heritage Festival, as well as other local school and charity events.

Mr. Speaker, on this 125th anniversary, I salute the directors of the Croswell—Carol Jodis and Robert Soller—and the entire board of trustees and officers of the association—Allan Brittain, Samuel Engardio, Ray Maxe, Marcia Lngnick, Kenneth Roof, Milton Schoch, Mary Weeber, Robert Bell, Gerald Burg, Karen Glaser, Jan Gurdjian, Thomas Hummel, Har-

vey Koselka, Charles Ojeda, Martha Poppink, and Paul Rupert.

HEROES IN EDUCATION

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. SCHAEFER. Mr. Speaker, it is with great pleasure that I rise today to salute a Colorado educator, Principal Thomas Trembath, who has given unselfishly of his time and talents to complete a task that had no funding from his school district.

In this time of ever shrinking school budgets, there was no money available to paint the trim at Kullerstrand Elementary School in Jefferson County, CO. When the Kullerstrand PTA got involved, they provided the money to buy the paint, and Thomas Trembath spent over 2 weeks of his summer vacation painting the trim on the school. Thomas Trembath realized there was a need, and unselfishly donated his time and energy to see that the project was completed.

I am proud to represent educators such as Thomas Trembath, who go the extra mile when it comes to children. He represents what is best both in Jefferson County Schools and in Colorado, and that is the spirit of giving of time and talents to see that a much needed project can become a reality.

Mr. Speaker, I ask my colleagues to join with me in thanking Thomas Trembath and all those unsung heros in unwavering dedication and commitment.

TRIBUTE TO DR. RONALD N. LEVINSON

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. MILLER of California. Mr. Speaker, on November 2, 1991, the Graduate School of Professional Psychology of John F. Kennedy University will pay tribute to Dr. Ronald N. Levinson for his contributions to Contra Costa County, CA. It gives me great pleasure to join them by offering this special recognition.

Dr. Levinson has had a distinguished career in the field of clinical psychology, including a number of achievements both in private clinical practice and in sharing his knowledge with others.

As dean of the Graduate School of Professional Psychology at John F. Kennedy University for the past 18 years, Dr. Levinson has created a highly acclaimed program for the purpose of teaching and training therapists and other mental health practitioners. The graduate school has grown under Dr. Levinson's direction from a student body of 30 to more than 500 students on two campuses. Today more than 1,200 alumni from this program work in mental health and community service agencies.

Dr. Levinson began his career in community service with the Economic Youth Opportunity Agency of Los Angeles in the 1960's. He continued his service-oriented work with the Peace Corps in the West Indies, the Lane County Community Action Agency in Eugene, OR, the Group Health Cooperative of Puget Sound in Seattle, and as the director of Continuing Care Services for Contra Costa County Mental Health in California. In 1976, Dr. Levinson established the Community Council Center in Pleasant Hill, CA, which is now the largest low-fee mental health clinic in the San Francisco Bay area.

Dr. Levinson is currently a consultant to the Phoenix Programs of Concord, Sunrise House of Concord, and Allied Fellowship in Oakland. He also serves on the advisory board of New Connections in Concord, CA. In addition, Dr. Levinson maintains a private practice and serves as clinical supervisor to master's degree and doctoral students from various bay area universities such as California State University, Hayward, St. Mary's College, the Wright Institute, and Saybrook Institute.

In recognition of his years of hard work and many accomplishments, Dr. Levinson has been the recipient of several awards, the most recent being the prestigious Koret Foundation Israel Prize.

Mr. Speaker, I am proud to join his family and colleagues in honoring the many achievements that dominate his career. Dr. Levinson has earned our deepest respect and admiration for his service to his community.

RED RIBBON WEEK

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. DOOLEY. Mr. Speaker, it takes a remarkable amount of courage and leadership for any community to stand strong in the war against substance abuse. On October 24, 1991, Delano, CA, will initiate its latest step to help combat the growing drug and alcohol abuse problem in our Nation by kicking off its second annual Red Ribbon Week.

Last year's event was a tremendous success which can be attributed to concerned individuals who felt the growing need to guide the youth of Delano. Lonnie Lemmons, sales manager of the Delano Record, is one such individual.

Lonnie developed and organized the weeklong event which focused on the importance of the youth of Delano. He realized the best way to educate the younger generation about the dangers of drug use was to involve members from all segments of the community. Lonnie firmly believes education and unity have always been the most powerful weapons in wiping out the problem of drugs. Red Ribbon Week not only concerns the schools, it encourages the businesses, community organizations, and city government to conduct services that promote a drug- and alcohol-free lifestyle.

This year the event will focus on awareness, involvement, and alternatives. The goals outlined by Lonnie and his committee are to make the public aware of the hazards children face relating to drugs, gangs, alcohol and tobacco; to get as many people involved as possible as good role models for the children of the community; and to raise money for alternative programs and projects that Delano's youth can turn to, like a youth center.

Recently, Lonnie and his committee were honored for community coordination and collaboration during the Kern County Superintendent of Schools Substance Abuse Program Excellence Awards presentation. Now I ask my colleagues to join me in commending Lonnie for the altruistic contributions he has made to his community. The concern and dedication he shows for our future generations should set an example for all to follow.

MASSACHUSETTS FIREFIGHTING ACADEMY OPENS NEW FIRE TRAINING GROUNDS

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. WELDON. Mr. Speaker, I rise today to call your attention to the grand opening of the Massachusetts Firefighting Academy's Fire Training Grounds scheduled for this weekend.

On October 19, 1991, the formal grand opening ceremony for the academy's fire training grounds will be conducted, uniting the training facilities with the administrative headquarters. The new state-of-the-art facilities represent the second phase of an $11 million improvement project at the academy, which serves as central training ground for firefighters from across the State.

The facility, one of the most modern in the Nation, includes a six-story high-rise structure for realistic high-rise fire simulation and training; a specially designed structure that simulates different types of building fires; a complex maze through which firefighters will crawl to learn how to battle blazes in confined areas in full gear; a 6½-acre flammable-gas training facility; and a 19,000-gallon pool for rural fire fighting instruction.

The facility operates with the problems of our environment in mind—with a 70-percent capture of the water used in training exercises for recycle and reuse.

More than 1 million dollars' worth of utilities and technical equipment have been donated by private industry to the academy.

Mr. Speaker, please join me in applauding the efforts of the leadership, staff and friends of the Massachusetts Firefighting Academy for providing the means to better educate and train the brave men and women of the Massachusetts fire service.

ANNIVERSARY OF THE NATIONAL HISTORIC PRESERVATION ACT

HON. J. ALEX McMILLAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. McMILLAN of North Carolina. Mr. Speaker, October 15 was the 25th anniversary of the National Historic Preservation Act. Pres-

ervationists and historians are now gathering in San Francisco for their annual conference. The meeting will stimulate discussion about the historic preservation movement over the past 25 years and what can be expected in the future.

Earlier this summer, we held a congressional symposium on private sector solutions to historic and natural preservation opportunities. I was impressed by the variety of private sector innovations in historic and natural places. The difference in our quality of life that organizations like the National Trust for Historic Preservation and preservation-conscious entrepreneurs make is outstanding. If it were not for the vision of a few, we might not today be able to enjoy Mount Vernon, walk the sacred ground where the Battle of Gettysburg was fought, or appreciate the charm of historic Charleston.

My State of North Carolina is fortunate to have abundant historic and natural resources such as Tryon Palace, Biltmore Estate, and the Smoky Mountains. The Preservation Foundation of North Carolina has been integral in stimulating over 135 historic preservation projects through a private revolving fund that has stimulated private sector investments of over $40 million, so that generation after generation will have the opportunity to know the past as if it were here today.

I invite my colleagues to reflect this week on the importance of the historic places in their lives and in their districts and how these places contribute to this Nation as a whole. I also urge you to take a look at H.R. 1601 and H.R. 1566 for your possible support.

ASSAULTING ASSAULT WEAPONS, NOT THE SECOND AMENDMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. ANDERSON. Mr. Speaker, I rise today in support of the assault weapons ban contained in H.R. 3371, the 1991 crime bill. This bill specifically bans 22 semiautomatic assault weapons. These weapons are defined as any repeating firearm which utilizes a portion of the energy of a firing cartridge case to extract the firing cartridge case and chamber the next round. This requires a separate pull of the trigger to fire each cartridge. This definition is narrower than the sporting test language implemented by the Bush administration to ban the import of 43 types of semiautomatic, military-style rifles. Much debate has centered on this definition and the degree to which assault weapons are used in drug and violent crimes, but the bottom line is that these weapons threaten our Nation's law enforcement officials and the general public. They are specifically designed to kill human beings, not for hunting or recreational purposes. That is why I join the numerous police organizations, including the National Association of Police Organizations [NAPO], the International Association of Chiefs of Police [IACP], and the Fraternal Order of Police [FOP], in endorsing the assault weapon ban.

In discussing the assault weapon ban, we must not only spell out what it accomplishes, but also dispel the myths circulated by the bill's opponents. The bill would not grant unelected bureaucrats the power to ban additional weapons. The Bureau of Alcohol, Tobacco, and Firearms [BATF] has explicitly acknowledged this fact. While the BATF can recommend changes to the list of banned weapons, these recommendations will not have the force of law unless they are approved by Congress. The bill does allow the BATF to ban a copy of a prohibited gun. A copy applies to isolate circumstances in which a manufacturer or any other person attempts to evade the ban by renaming a weapon or by making a minor, cosmetic change.

The assault weapon ban will not turn the owners of these weapons into criminals. The bill's grandfather clause protects the rights of those who legally owned the banned weapons prior to the bill's enactment. The BATF will have the authority to draft regulations concerning the transfers of these grandfathered weapons, but the transfer of these legally owned firearms will not be prohibited. If you own an assault weapon now, you will be able to retain your ownership and your right to sell or transfer it under the crime bill's provisions.

I would not support a bill that broadly restricted the second amendment rights of gunowners. The assault weapons ban contained in H.R. 3371, though, is narrowly confined to the 22 weapons listed. While opponents view this ban as an infringement on the second amendment's right to bear arms, the Supreme Court has rejected the notion that this right is without limitations. By refusing to grant cert in the case of Farmer versus Higgins earlier this year, the Supreme Court implicitly accepted Congress' constitutional ability to curtail the proliferation of machineguns without violating the second amendment and to regulate the possession of any firearm if deemed in the public interest. This principle clearly extends to the semiautomatic weapons covered by H.R. 3371. For this reason, I have continued to support such limited gun control measures that will keep guns out of the hands of criminals and make the streets safer for our citizens.

When debating the assault weapons ban, a central consideration should be the men and women who fight crime every day, our Nation's police officers. The proliferation of assault weapons has left these officers outgunned in the war against crime. It is time to even the competition. Next, the most principal of our concerns must be the people in our communities, who should feel safe in their own neighborhoods. While assault weapons currently comprise one-half of 1 percent of all guns in circulation, they accounted for 10 percent of all crime guns traced in 1988–89. Unless Congress takes action now, these weapons will continue to proliferate to the detriment of our Nation's security.

Yesterday, the National Law Enforcement Officers Memorial was dedicated to the memory of those officers who died in the line of duty. Over 12,561 names were listed on the memorial, with over 1,000 coming from my own State of California. These officers made the ultimate sacrifice defending our streets against crime. Today's officers face life and death situations every day. They support this ban on semiautomatic weapons to make the streets safer for them to patrol. I urge my colleagues to support the pleas of law enforcement by supporting the ban on semiautomatic assault weapons.

TRIBUTE TO FIVE OF STATEN ISLAND'S FINEST

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Ms. MOLINARI. Mr. Speaker, I rise today to congratulate five members of the Staten Island Police and Highway Patrol Departments, whose dedication and outstanding service are to be recognized at a local awards ceremony in my district this week. All of these officers contribute and serve the needs of our community with a strong commitment to excellence.

Lt. Donald J. Boyle, 120th precinct, has served with New York City's finest for 21 years and currently organizes training, crime prevention, and warrant enforcement programs for his precinct. Detective Bruce I. Schreiber, 120th precinct, commits himself to making a change in our society by working diligently with the local community groups, schools, and religious institutions. Officer James O'Brien, 122d precinct, also actively works with senior citizens and schools helping foster better relations throughout Staten Island. A 29-year veteran, Police Officer David Hunter, 123d precinct, unselfishly passes on to younger officers the benefit of his experiences. Highway Patrolman Thomas Del Priore, the most senior highway officer on Staten Island, is best known among his peers for his ability to assist families in need.

It seems fitting that we should praise the dedication of these officers in a week in which the Nation has come together to dedicate the National Law Enforcement Officers Memorial. Staten Island remains proud and appreciative to these men for their steadfast guardianship and thoughtful assistance.

A TRIBUTE TO BERNARD RAPOPORT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. LANTOS. Mr. Speaker, On Tuesday, October 29, the Jewish National Fund will honor Bernard Rapoport, chairman of the board and chief executive officer of the American Income Life Insurance Co., with its highest honor, the Tree of Life Award. I invite my colleagues to join me today in paying tribute to this remarkable individual.

"B" Rapoport, as he is known to all, is being honored not only for his legendary success in business but also for his accomplishments in private life. In both of these realms, "B" has made a lasting mark.

Born in San Antonio on July 17, 1917, "B" demonstrated early in his life the splendid traits that led him to the very top: hard work, perseverance, and a genuine kindness of generosity that has touched the lives of many.

The son of a Russian revolutionary who fled Latvia during an agrarian revolt is 1905, "B" learned well the lessons of capitalism: through "luck and pluck," "B" established and nurtured a highly prosperous insurance business. Indeed, the success of his company says much for the man.

While looking to acquire a business many years ago, "B" had been able to find opportunity and provide service where others could not. He was able to identify and target an underserved area of the insurance market: union members with the need for supplemental insurance beyond what their organization offered. He turned this idea into the American Income Life Insurance Co., a leader in the field today.

"B"'s high degree of accomplishment in the field of business is surely matched by that in his private life. He is an extraordinary humanitarian. Much of his time and energy has been spent to help better the lot of his fellow man and woman, particularly in the field of education. He is a member of the board of regents of the University of Texas System; board of overseers of the Hebrew Union College; board of directors of the American Jewish Congress; a member of the Economic Policy Institute; Waco Symphony Orchestra; and a host of other local, State, and national organizations.

Mr. Speaker, the world could use more "B" Rapoports. He embodies what it means to be a good friend, a good neighbor, and a good American. On the occasion of his receiving the Tree of Life Award from the Jewish National Fund, I ask that my colleagues join me in paying well-deserved tribute to him and wishing him the very best in all of his future endeavors.

A SALUTE TO SID DEWBERRY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. WOLF. Mr. Speaker, on behalf of my colleague, Representative JIM MORAN of the Eighth District of Virginia, and myself, we want to bring to our colleagues' attention the annual Northern Virginia Community Foundation's Founders Award which this year on November 23 at the Ritz-Carlton in Tysons Corner will be presented to a most exemplary citizen of northern Virginia—Sidney O. Dewberry of Arlington.

The founders award is presented each year in recognition of outstanding community service and dedication to the betterment of the northern Virginia community. The Northern Virginia Community Foundation was established in 1978 by a group of northern Virginia residents seeking to improve the community in which they live. The foundation is a nonprofit community endowment from which funds are used to support the arts, education, health care, youth programs, and civic improvement for the benefit of citizens in northern Virginia.

This year's award recipient—Sid Dewberry—has a history of dedicated service to his community. Sid Dewberry is managing partner of Dewberry & Davis, an award-winning architectural, engineering, planning, and surveying firm—the largest in Virginia. Mr. Dewberry, a native of Pittsylvania County, VA, has been an integral figure in the development and civic improvements that have taken place in northern Virginia and the surrounding area. Those include the Dulles Toll Road, Tysons II, Fair Lakes, Fairview Park, Fair Oaks Shopping Center, Pentagon City, and the Filene Center at Wolf Trap, and residential projects such as Lake Braddock, Burke Centre, Lake Ridge, Franklin Farm, Sully Station, and Ashburn Farm.

His work nationally includes surveying and mapping the White House grounds and national mall and monument areas, and dispatching dozens of engineers to South Carolina and the Virgin Islands in the wake of Hurricane Hugo and to San Francisco following the Loma Prieta earthquake.

He holds a B.S. degree in civil engineering from George Washington University and this year received the university's Distinguished Alumni Achievement Award. Mr. Dewberry has spent time promoting education initiatives in northern Virginia, including the establishment of the Dewberry & Davis Institute, a comprehensive in-house training and employee development program.

Sid Dewberry is also past chairman and founding member of the Northern Virginia-based Engineers and Surveyors [ESI]. His other educational initiatives include the new Urban Systems Engingeering Program at George Mason University and ESI's Plans Examiner Program.

Professional and community service achievements have always been a part of Sid Dewberry's life. His continuous dedication to the betterment of northern Virginia serves as a reminder that each individual can make a difference. We offer sincere congratulations and best wishes on behalf of all northern Virginians to Sid and his family for this most deserving honor.

HISTORIC PRESERVATION

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. BENNETT. Mr. Speaker, in 1966, I, along with a majority of the Members of the 89th Congress, voted in favor of the National Historic Preservation Act and on October 15, 1991, President Johnson signed that legislation into law. This week, historians and preservation activists across the country celebrate the 25th anniversary of the passage of that monumental bill and I join them in that.

Throughout my career in Congress, I have taken an active role in the field of historic preservation. From the passage of the Moss-Bennett Act, protecting thousands of archaelogical sites around the country, to the time and energy I spent in helping to preserve the St. Lukes Hospital Building in Jacksonville, FL, which now houses my district office, I have commited myself to saving, for my children and my children's children, invaluable resources which, in a variety of ways, tell the unique stories of our history.

While I am proud of the work that I and so many others have done to protect our historic resources, I realize that there is a great deal more to be done. It is for that reason, that on March 19, 1991, I introduced H.R. 1601, the National Historic Preservation Amendments Act of 1991, which would enhance the Federal protection of historic sites. The legislation is a needed and logical next step in the area of historic preservation and a great followup to the legislation this body passed 25 years ago.

RATE OF POSTAGE FOR MAIL GOING TO AND FROM THE U.S. VIRGIN ISLANDS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. DE LUGO. Mr. Speaker, today I have introduced legislation to provide that the rate of postage going to and from the U.S. Virgin Islands shall be 6 percent of the rate that would otherwise apply.

A survey to be released tomorrow by the firm of Price Waterhouse will show that only 6.4 percent of the 3-day mail going to and from my district, the Virgin Islands, is actually delivered in 3 days. This is, by far, the worst service in the Nation, which averages better than an 83 percent delivery rate.

My legislation makes an exception to the Postal Service Reorganization Act for the Virgin Islands. Under law, the Postal Service Commission is empowered to set postal rates at a level that covers the cost of service. Six percent of the current 29-cent first class postage rate is about 2 cents. Mr. Speaker, this is all that postal patrons of the Virgin Islands should be required to pay because it is all that the mail service they receive is worth.

I commend the hard-working staff at Virgin Islands Post Offices who have been shown by the postal survey to have improved inter-island overnight mail from 17 percent a year ago to 52 percent in the most recent survey.

But, after many years of effort on my part to see mail service to the Virgin Islands brought up to acceptable levels, to have 3-day service to and from the U.S. mainland slip to the point where only 6 letters in 100 are delivered on time, it is high time that postal patrons be required to pay no more for a first-class postage stamp than the value of the service they can expect to receive.

Mr. Speaker, I hope my colleagues will join me in support of this legislation.

INTRODUCTION OF THE AMERICAN TRAILS TRUST FUND

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. PETRI. Mr. Speaker, today I am introducing the American Trails Trust Fund Act of 1991, which would create a trust fund with the taxes currently being paid on nonhighway recreational fuel used on or near trails. Money

from the trust fund will be used to maintain and enlarge the Nation's recreational trails system. I am introducing this bill as replacement legislation for H.R. 1155, the National Recreational Trails Trust Fund Act which I introduced earlier this year. The American Trails Trust Fund Act is very similar to provisions that were passed by the Senate as part of S. 1204, the Surface Transportation Efficiency Act.

This bill sets a framework for hikers, equestrians, snowmobilers, cross country skiers, motorcyclists, and campers to work together on the State and Federal levels to create a trails system that all recreationists can enjoy. This bill has support from many diverse organizations.

This legislation would not produce higher taxes. When you tank up your snowmobile or other recreational vehicle, you pay a Federal gasoline tax. Currently, that tax on gasoline used for recreation goes to build highways. Even more absurd is the fact that you pay a tax on the fuel you use to fill your camp stove, and that tax money also goes to the highway trust fund. I think it makes more sense, and would be more equitable, to spend that money on recreational uses to benefit those who have paid the taxes.

Some believe that because our national infrastructure needs are great, money should not be spent on funding recreational trails. However, Federal gasoline taxes are regarded as user fees. If we want to build more highways, we tax the highway users to do it. And we already reserve taxes paid on motorboat fuel for programs to benefit boaters. This bill simply applies the same concept to fuel used on recreational trails. Only the trail users are paying the taxes reserved under the bill. Why shouldn't they get the benefits? Surely that is reasonable and fair.

Mr. Speaker, I would like to insert the bill at this point in the RECORD.

H.R. 3585

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Trails Improvement Act of 1991".

SEC. 2. CREATION OF AMERICAN TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. AMERICAN TRAILS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'American Trails Trust Fund', consisting of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) EXPENDITURES FROM TRUST FUND.—Amounts in the American Trails Trust Fund shall be available for making expenditures to carry out the purposes of the American Trails Improvement Act of 1991.".

(b) DEPOSIT OF UNREFUNDED HIGHWAY TRUST FUND MONEYS.—Section 9503(c) of the Internal Revenue Code of 1986 (relating to the Highway Trust Fund) is amended by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM THE TRUST FUND FOR NONHIGHWAY RECREATIONAL FUEL TAXES.—

"(A) TRANSFER TO AMERICAN TRAILS TRUST FUND.—The Secretary shall annually pay from the Highway Trust Fund into the American Trails Trust Fund amounts (as determined by the Secretary) equivalent to 0.5 percent of total Highway Trust Fund receipts, as adjusted by the Secretary pursuant to subparagraph (B).

"(B) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, based on studies of nonhighway recreation fuel usage in the various States, adjust the percentage of receipts paid into the American Trails Trust Fund to correspond to the revenue received from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—The amount of an adjustment in the percentage stated in clause (ii) shall be not more than 10 percent of that percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—The Secretary shall make use of data on off-highway recreational vehicle registrations and use in making an adjustment under clauses (i) and (ii).

"(C) DEFINITIONS.—For the purposes of this paragraph, the following definitions apply:

"(i) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term 'nonhighway recreational fuel taxes' means the taxes under sections 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to fuel used as nonhighway recreational fuel.

"(ii) NONHIGHWAY RECREATIONAL FUEL.—The term 'nonhighway recreational fuel' means—

"(I) fuel used in vehicles and equipment on recreational trails or back country terrain, including use in vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain; and

"(II) fuel used in campstoves and other outdoor recreational equipment.".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9511. American Trails Trust Fund.".

SEC. 4. AMERICAN TRAILS FUNDING PROGRAM.

(a) IN GENERAL.—The Secretary, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this Act are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies, and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Before the date that is 3 years after the date of the enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is 3 years after the date of the enactment of this Act, a State shall be eligible to receive moneys under this Act only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves an amount equivalent to a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this Act as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 percent of the expenditures made annually from the Fund may be used to pay the cost to the Secretary—

(A) for approving applications of States for moneys under this Act;

(B) for paying expenses of the American Trails Advisory Committee;

(C) for conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this Act; and

(D) if any such funds remain unexpended, for research on methods to accommodate multiple trail uses and increase the compatibility of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et seq.).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 percent of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 percent of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this Act—

(A) in an amount not exceeding 7 percent of the amount of moneys received by the State, for administrative costs of the State;

(B) in an amount not exceeding 5 percent of the amount of moneys received by the State, for operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) for development of urban trail linkages near homes and workplaces;

(D) for maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) for restoration of areas damaged by usage of recreational trails and back country terrain;

(F) for development of trail-side and trailhead facilities that meet goals identified by the American Trails Advisory Committee;

(G) for provision of features which facilitate the access and use of trails by persons with disabilities;

(H) for acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) for acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) for construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown;

(K) for development and maintenance of recreational features of State and local greenways; and

(L) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation Plan, for construction of new trails crossing Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this Act—

(A) for condemnation of any kind of interest in property;

(B)(i) for construction of any new recreational trail on National Forest System lands unless such lands—

(I) have been allocated for uses other than wilderness by an approved forest land and resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction and such approved land and resource management plan; or

(ii) for construction of any new recreational trail on Bureau of Land Management lands unless such lands—

(I) have been allocated for uses other than wilderness by an approved Bureau of Land Management resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved management plans; or

(C) for upgrading, expanding or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS.—

(a) IN GENERAL.—A State may provide moneys received under this act as grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of section 4(c)(2)(A), for uses consistent with this section.

(b) COMPLIANCE.—A State that issues such grants subparagraphs (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 percent of the moneys received annually by a State under this Act shall be reserved for uses relating to motorized recreation, and not less than 30 percent of those moneys shall be reserved for uses relating to nonmotorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(a) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this Act in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and nonmotorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 percent of moneys received under this Act in the aforementioned manner.

(b) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of section 4(c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and, in which nonhighway recreation fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—At the option of each State, moneys made available pursuant to this Act may be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) EXCEPTION.—If approved without dissent by the State recreational trail advisory board satisfying the requirements of section 4(c)(2)(A) moneys paid to a State may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreational trail pursuant to this Act is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this Act diminishes or in any way alters the land management responsibilities, plans, and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the American Trails Trust fund established by section 9511 of the Internal Revenue Code of 1986.

(3) MOTORIZED RECREATION.—The term "motorized recreation" may or may not include motorized conveyances (such as self-propelled wheelchairs) used by individuals with disabilities, at the discretion of each State.

(4) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6)(C)(ii) of the Internal Revenue code of 1986.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 5. AMERICAN TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the American Trails Advisory Committee.

(b) MEMBERS.—There shall be 11 members of the advisory committee, consisting of the following:

(1) 8 members appointed by the Secretary of the Interior (hereinafter in this section referred to as the "Secretary") from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) Hiking.

(B) Cross country skiing.

(C) Off-highway motorcycling.

(D) Snowmobiling.

(E) Horseback riding.

(F) All terrain vehicle riding.

(G) Bicycling.

(H) Four-wheel driving.

(2) An appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary.

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations.

(4) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a nonvoting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the ad-

visory committee must be supported by at least 5 of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of 3 years, except that the members filling 5 of the 11 positions shall be initially appointed for terms of 2 years, with subsequent appointments to those positions extending for terms of 3 years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization by States of moneys allocated under this Act;

(2) establish and review criteria for trailside and trail-head facilities that qualify for funding under this Act; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this Act.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBURSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 4(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, a study which summarizes the annual reports of the American Trails Advisory Committee, describes the allocation and utilization of moneys under this Act, and contains recommendations for changes in Federal policy to advance the purposes of this Act.

HUMAN RIGHTS NEWS IN EL SALVADOR IS ENCOURAGING

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. SHUSTER. Mr. Speaker, the recent human rights news in El Salvador has been encouraging. On September 28, 1991, after a short trial during which all of the accumulated evidence was presented, a Salvadoran jury convicted Col. Guillermo Benavides and Lt. Yusshy Mendoza for the murders of six Jesuit priests, their maid, and her daughter in November 1989.

Benavides is the highest ranking officer ever convicted of a human rights crime in El Salvador. As the senior Republican appointed by Republican Leader ROBERT MICHEL to monitor the Jesuit case, I am encouraged that the much-criticized Salvadoran judicial system has shown that it can work. Most importantly, contrary to the critics who said it was impossible to convict Benavides, he now faces at least 20 years in jail for this heinous crime.

With respect to the whole matter, I have reviewed a just-released study, "The Rule of Law in Wartime El Salvador: The Jesuit Case in Context," published by the Central American Lawyers Group. I urge each of my colleagues to read it. Among other things, this careful analysis challenges some of the conclusions reached in reports recently released by the special task force on El Salvador—better known as the Moakley Commission.

Chairman MOAKLEY has been influential in stimulating progress in this case. But the Central American Lawyers Group raises provocative questions and alternative explanations for the behavior of the Salvadoran military hierarchy that are fully detailed in their study and merits your close attention as you review the outcome of the recent concluded Jesuit trial.

INTRODUCTION OF A BILL TO PREVENT MEDICARE ABUSE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mr. SCHULZE. Mr. Speaker, today, I am introducing a bill to prevent Medicare abuse. Many honest, unsuspecting senior citizens are becoming victims of aggressive medical equipment suppliers. Certain medical equipment companies are telephoning senior citizens and conning them into accepting unwanted and ineffective equipment. In many cases, the equipment is of little value. However, suppliers often charge outrageous prices knowing that they will be reimbursed by Medicare.

My bill will eliminate this abuse by preventing durable medical equipment companies from soliciting senior citizens by telephone. These medical suppliers, in most cases, are not physicians and are not qualified to make medical diagnoses over the phone. Suppliers do not always know what sort of equipment a particular senior citizen actually needs.

In addition to posing potential dangerous health effects, such medical equipment is often overpriced, in some cases up to 500 percent of cost. For example, a tens unit, a transcutaneous nerve stimulator, costs only $50 to produce. However, these companies were reimbursed $419 by Medicare. With this profit margin, there is no wonder why medical equipment companies are urging senior citizens to accept equipment.

While some may say this bill is too restrictive, there is simply no other way to prevent this Medicare abuse. The incentive is too great for suppliers not to continue badgering innocent senior citizens to accept unnecessary equipment.

Mr. Speaker, this Medicare abuse must be stopped. Such fraud and abuse is costing the American taxpayer millions every year, not to mention wasting precious Medicare dollars which could be used for much better purposes.

ON THE OCCASION OF THE 25TH ANNIVERSARY OF THE ENACTMENT OF THE NATIONAL HISTORIC PRESERVATION ACT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1991

Mrs. KENNELLY. Mr. Speaker, on the occasion of the 25th anniversary of the enactment of the National Historic Preservation Act of 1966, I rise to recognize and cheer the progress this Nation has made in that time in conserving those places that give Americans so much pride in our past.

As a member of the Hartford Court of Common Council, I remember well coming to work each day through some of the oldest neighborhoods of Hartford, CT. These fine buildings, long neglected, have been, and continue to be, part of the rebirth of our city and so many other cities like it. As my colleagues know, I have long championed the use of income tax credits to encourage the reuse of historic places. Since 1976, Federal tax incentives have encouraged the rehabilitation of more than 21,000 historic buildings for commercial and residential use.

The Tax Incentives Program has become one of the most important historic preservation tools and a model for Federal assistance to old and historic areas of the Nation's cities and small towns. As my colleagues know, since 1986, historic preservation work has slowed due in large measure to unfavorable tax law changes. I sincerely hope that, on this 25th anniversary of the National Historic Preservation Program, we can redouble our efforts to remedy this situation and get the hard work of historic preservation moving again.

Let me extend my special thanks on this occasion to Connecticut's preservationists including the Connecticut Historical Commission, and the members of the National Trust for Historic Preservation, the Connecticut Trust for Historic Preservation, and all those local historic preservation organizations throughout the State that have done so much for historic preservation.