

## HOUSE OF REPRESENTATIVES—Monday, October 28, 1991

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
October 28, 1991.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,  
Speaker of the House of Representatives.

### PRAYER

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

Let us pray using the words of the 100th Psalm:

*Make a joyful noise unto the Lord, all ye lands.*

*Serve the Lord with gladness; come before his presence with singing.*

*Know ye that the Lord he is God; it is he that hath made us, and not we ourselves, we are his people and the sheep of his pasture.*

*Enter into his gates with thanksgiving, and into his courts with praise; be thankful unto him, and bless his name.*

*For the Lord is good; his mercy is everlasting; and his truth endureth to all generations.*

### THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. The Chair recognizes the gentleman from Wyoming [Mr. THOMAS] to lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

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

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced

that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes; and

H.R. 2194. An act to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2194), "An act to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BURDICK, Mr. BAUCUS, Mr. MOYNIHAN, Mr. MITCHELL, Mr. LAUTENBERG, Mr. CHAFEE, Mr. SIMPSON, Mr. DURENBERGER, and Mr. WARNER, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 347), "An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. SARBANES, Mr. DIXON, Mr. GARN, and Mr. GRAMM, to be the conferees on the part of the Senate.

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

S. 680. An act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill and joint resolutions on Friday, October 25, 1991:

H.R. 470. An act 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, IN;

H.J. Res. 360. Joint resolution making further continuing appropriations for the fiscal year 1992, and for other purposes; and

S.J. Res. 192. Joint resolution designating October 30, 1991 as "Refugee Day."

### ANOTHER BIRTHDAY IN CAPTIVITY FOR HOSTAGE TERRY ANDERSON

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

Mr. MAZZOLI. Mr. Speaker, this is certainly a momentous week in the history of the Middle East. Today the President is flying to Madrid, first to meet with President Gorbachev and then to continue his work when the Peace Conference on the Middle East opens this coming Wednesday.

This will be a very difficult Peace Conference. These are very difficult issues, but the augurs have never been better that in some way peace could ensue. But we need to be brought up to reality, Mr. Speaker, and the reality is that just yesterday hostage Terry Anderson, whose sister Peggy Say lives in Kentucky, celebrated his 44th birthday, the 7th such birthday in captivity in Lebanon. He is one of several Western hostages whose whole aspect and hope for freedom are in the hands of the peacemakers who will gather in Madrid and in the hands of Xavier Perez de Cuellar, the Head of the United Nations.

Mr. Speaker, I can only say that we wish the President well. We hope that these conferences will produce peace. We also want to send our best wishes and birthday greetings to Terry Anderson and hope that his spirit prevails in the middle of these difficult times.

### THE FMLN'S MANAGUA CONNECTION

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

Mr. BALLENGER. Mr. Speaker, I rise to call your attention to some news which I think you will find revealing. It turns out that the often disputed claims that the Nicaraguan Sandinistas were supplying the Communist guerrillas in El Salvador were quite true.

Further, it appears that the connection has continued a year and a half after the Sandinistas were thrown out of office, if not out of power. This fraternal Socialist arms traffic came to light when a half dozen Sandinista soldiers, present and former, were arrested in September for stealing and trafficking weapons in connection with Colombian drug dealers. They allowed

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the charges to stand until after the recent agreement between President Cristiani and the FMLN. At that point they revealed the El Salvador link, apparently arguing that political motivation was a defense against charges of drug trafficking.

That is a poor defense, in my opinion. In any event the six revealed that they had planned to ship a thousand mortar grenades to the FMLN, as well as 20 anti-aircraft missiles. Yet another Managua connection, Mr. Speaker. These Sandinistas and their El Salvadoran counterparts were the people some of our colleagues just had to help. It is time for disclosure on the Democrats' Managua connection.

#### CONGRATULATIONS TO MINNESOTA TWINS

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

Mr. VENTO. Mr. Speaker, I rise to congratulate the Minnesota Twins, the baseball team that represents all Minnesota and that won the world championship of 1991 last night after an extra inning of play. It was great sport, a great event, something I know Minnesotans and all Americans are very proud of the competitive spirit and the enterprise that was shown in this. I think it was one of the most exciting World Series games.

I'm pleased that we are carrying forward the great tradition of American baseball in Minnesota.

The World Series Champion Twins kept us up late Sunday night as they performed the extra inning, extraordinary win in game seven. All Minnesotans and all Americans are surely pleased with the exhilarating World Series play that we have viewed the past 9 days.

I commend the valiant performance of the Atlanta Braves, the National League Champions, for the quality and enthusiastic play they demonstrated.

The American League Champion Twins, with their backs to the wall in game six and seven, reached down and found that special tenacity and determination manifested in the play of slugger Kirby Puckett and ace pitcher Jack Morris and all the players led by Skipper Tom Kelly, propelling themselves into a cliffhanger extra inning seventh game, finally decided in the 10th inning with a single hit and score.

Mr. Speaker, I am hopeful that the 1991 World Champion Minnesota Twins will be in our Nation's Capital shortly so that we can all personally congratulate this St. Paul-Minneapolis, MN, all-American team and celebrate with them their world championship and the great American pastime—baseball.

The SPEAKER pro tempore (Mr. HUBBARD). Is there any Member from Georgia seeking recognition? If not,

the Chair recognizes the gentleman from Wyoming [Mr. THOMAS].

#### TAKING STEPS TO MOVE THE ECONOMY

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

Mr. THOMAS of Wyoming. Unfortunately, Mr. Speaker, we do not have a team in Wyoming. We certainly congratulate the Minnesota Twins.

Mr. Speaker, I have not been in this body a long time, I guess not long enough to be dated about some of the kinds of comments that go on. In fact, they bother me quite a bit.

During the past week we have heard a great deal about the economy. We have heard a great deal about reducing taxes. We have heard a great deal about the middle class, which almost all of us fall into.

Mostly what we have heard about, however, is posturing for the 1992 Presidential elections. Members of this body, the majority party, get up and continually criticize the President for not reducing taxes. The president of the party was on the Sunday talk shows this week criticizing the Republicans and the President for not reducing taxes.

Mr. Speaker, the fact is the Democrats have a majority in this House. They have a majority in the Senate and could pass a tax reduction bill by Wednesday if they chose to do so.

I think what we ought to do, really, is stop posturing for 1992. We ought to do some things to help kick this economy and move it, and I suggest we do it quickly.

#### AMERICA'S CONCERNS

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

Mr. APPELLEGATE. Mr. Speaker, the latest polls show President Bush in a faster rate of decline than most people thought he would be, but then Congress is not doing any better. And why is this happening?

Well, another poll I just saw showed the people's concerns, and they are concerned about the economy. They are concerned about the deficits. They are concerned about bad management by the officials they elected. They are concerned about trade, the inequity of trade, and they are concerned about health. None of these issues are being addressed and the people of this country know that and they understand it. They say there is a lot of rhetoric, but there is not any action, and the people are losing faith in the system.

□ 1210

More, they are losing faith in the people who are running the system. And they want action.

They want the President and they want the Congress of the United States to work together and to quit this squabbling and bickering. They want America to work again.

They want higher standards from the officials that they put into office. They deserve at least that much from the people they elect and, by God, they have got the power and if they do not get what they want, I will tell you, sitting in this body and in the White House, that they are going to put you out of office if you do not start listening.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HUBBARD). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow, Tuesday, October 29, 1991.

#### MINUTE MAN NATIONAL HISTORICAL PARK AMENDMENTS OF 1991

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2896) to authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2896

*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 "Minute Man National Historical Park Amendments of 1991".

#### SEC. 2. AMENDMENTS TO MINUTE MAN PARK ACT.

The Act of September 21, 1959, entitled "An Act to provide for the establishment of the Minute Man National Historical Park in Massachusetts, and for other purposes" (Public Law 86-321; 73 Stat. 590; 16 U.S.C. 410s and following) is amended by striking so much of the first section as follows the first sentence thereof (including all of subsections (b) and (c)) and inserting the following:

"The purposes of the park shall include the preservation and interpretation of (1) the historic landscape along the road between Lexington and Concord, (2) sites associated with the causes and consequences of the American Revolution, and (3) the Wayside on Lexington Road in Concord, the home of Nathaniel Hawthorne, Bronson Alcott, Louisa May Alcott, and Margaret Sidney, whose works illustrate the nineteenth century American literary renaissance.

"(b) The park shall be comprised of the lands depicted on the map entitled 'Boundary Map NARO-406-20015C' dated June 1991."

(3) Section 2 is amended by inserting "(a)" after "Sec. 2." and by adding the following at the end thereof:

"(b) The Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Defense the two parcels currently administered by the Secretary of the Interior, as depicted on the map dated April 1990 and numbered NARO-406/80805. The Secretary of Defense shall transfer to the administrative jurisdiction of the Secretary of the Interior, without reimbursement, for inclusion in the Minute Man National Historical Park the 4 parcels now administered by the Secretary of Defense, as depicted on the maps dated April 1990 and numbered NARO-406/80804 and NARO-406/80805.

"(c) The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests in lands within the areas included within the boundaries of the park pursuant to amendments made by the Minute Man National Historical Park Amendments of 1991 (hereinafter referred to as '1991 additions') except that—

"(1) lands, and interests in lands, within the 1991 additions which are owned by the State of Massachusetts or any political subdivision thereof, may be acquired only by donation, and

"(2) lands, and interests in lands, within the 1991 additions which are used for non-commercial residential purposes as of July 1, 1991, may be acquired only with the consent of the owner thereof unless the property is being developed, or is proposed to be developed, in a manner which the Secretary determines to be detrimental to the scenic, historical, cultural, and other values of the park.

Nothing in paragraph (2) shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances for any lands within the 1991 additions. Not later than 6 months after the enactment of the Minute Man National Historical Park Amendments of 1991, and after notice and opportunity for public comment, the Secretary of the Interior shall publish specific guidelines for making determinations under paragraph (2). Such guidelines shall provide for (A) written notice to the Secretary prior to commencement of any proposed development on the lands referred to in paragraph (2), (B) written notice by the Secretary to the owner of such lands of any determination proposed to be made under paragraph (2), and (C) a reasonable opportunity for the owner to comment on such proposed determination.

"(d)(1) Any individual who owns private property acquired by the Secretary under subsection (c) may, on the date of such acquisition and as a condition of such acquisition, retain for himself and his successors or assigns, a right of use and occupancy of the property for a definite term of not more than 25 years from the date of acquisition by the Secretary or a term ending at the death of the owner or the owner's spouse, whichever is later. The owner shall elect the term to be reserved.

"(2) Unless the property is wholly or partially donated, the Secretary shall pay to the owner reserving a right of use and occupancy under this subsection the fair market value of the property on the date of its acquisition, less the fair market value on the date of the right retained by the owner.

"(3) For purposes of applying this subsection, ownership shall be determined as of July 1, 1991."

(4) At the end of section 6 insert "For fiscal years after fiscal year 1991, there is authorized to be appropriated an additional

\$15,000,000 for development and an additional \$7,300,000 for acquisition of lands and interests in lands."

(5) Add the following new section at the end of such Act:

**"SEC. 7. RESIDENTIAL OCCUPANCY.**

"(a) OFFER.—In the case of each individual who—

"(1) sold residential property between 1966 and 1968 to the United States for purposes of the park, and

"(2) continues to occupy such residential property pursuant to a residential special use permit as of the enactment of this section,

the Secretary of the Interior shall offer to extend such residential special use permit for a term ending on the death of such individual or such individual's spouse, whichever is later.

"(b) TERMS AND CONDITIONS.—Any residential special use permit extended pursuant to subsection (a) shall—

"(1) permit the reasonable residential use and occupancy of the property by the individual to whom such permit is granted and such individual's spouse; and

"(2) be subject to such terms and conditions as the Secretary may prescribe (including termination) to ensure that the permit does not unreasonably diminish the values of the park.

The extension of any such residential special use permit shall be conditional upon the payment by the individual holding such permit of an annual fee in the same amount as required as of July 1, 1991.

**"SEC. 8. DEFINITION.**

"As used in this Act, the term 'residential property' means a single-family dwelling, the construction of which began before July 1, 1991, together with such land on which the dwelling and appurtenant buildings are located as is in the same ownership as such dwelling and as the Secretary designates as reasonably necessary for the owner's continued use and occupancy of the dwelling."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2896.

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

There was no objection.

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

Mr. Speaker, H.R. 2896, a bill introduced by Congressman CHET ATKINS expands the boundaries of Minute Man National Historical Park to provide increased protection of the park resources located there. The Congressman from Massachusetts has worked long and hard to enact this legislation.

Minute Man National Historical Park located in Lexington and Concord, MA, preserves and interprets the famous opening battles of the American Revolution

in April 1775. As Ralph Waldo Emerson wrote, "By the rude bridge that arched the flood, their flag to April's breeze unfurled, here the embattled farmers stood, and fired the shot heard 'round the world."

In testimony before the Committee on Interior and Insular Affairs at the recent hearing on H.R. 2896, we heard strong support for this bill from the administration and from local residents. H.R. 2896 adds 200 acres to the park, provides legislative purposes regarding its management, exchanges certain lands with the Department of Defense and resolves a longstanding dispute with some residents there.

Mr. Speaker, I endorse this bill and urge its passage.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation as reported by the Interior and Insular Affairs Committee. The bill before the House provides for an approximate 200-acre expansion of the existing 750-acre Minute Man National Historical Park. The proposal before Members today is based largely on a detailed park plan completed by the National Park Service.

The measure we are considering today is similar to legislation acted upon by the Parks and Public Lands Subcommittee last Congress. The major areas of difference from last Congress are that Mr. ATKINS has reduced the amount of nonessential private property proposed for acquisition by 20 percent and he has provided reasonable protection for those private home owners whose land is included within the new park boundaries.

I am pleased that the bill's author and subcommittee chairman have recognized the importance of taking private property rights into consideration in this park expansion bill and hope that they will support similar language on other bills. It seems to me that private property owners should be treated similarly regardless of where they live.

The local people, as well as the bill's author, expressed concern at the hearing about language in this bill, which implies that the National Park Service should manage the historical landscape outside the park boundary. Unfortunately, those reasonable concerns were not incorporated into this bill, and I hope they will be addressed by the Senate.

Mr. Speaker, the administrator supports this measure and I urge my colleagues to join me in supporting it as well.

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. ATKINS] who, as I mentioned, has

worked so hard on putting this bill together. It has been a major task, and he has performed it well.

Mr. ATKINS. Mr. Speaker, Minute Man is one of this Nation's most venerable parks. It celebrates the defining moments in this Nation's quest for independence. Paul Revere's ride and the Battle of Concord and Lexington are events that make our history rich, exciting, and alive. The American Revolution shaped the character of this Nation, and the fortitude and the courage displayed in Concord, in Lexington, and throughout Massachusetts in those days have given comfort and inspiration to independence movements worldwide for over 200 years.

When Rev. Lazlo Tokes, the man whose defiance of the despotic Ceausescu sparked the revolution in Romania, came to America he asked to see the monuments to our own revolution. Our visit together to Minute Man Park was poignant. I who had visited the park so many times before—saw for the first time how deeply affecting our experience with revolution could be to those whose memories are still so fresh and alive.

Yet, Minute Man is a park that is still very much in transition. Resources and energy have gone primarily into assembling parcels of land that in the aggregate give the park enormous, but still unrealized potential. Given the enormous pressures for development in suburban Boston, the main thrust thus far has been to accrue lands that have historical significance. As critical as this process has been, it has come at some cost, and the legislation now pending before the House redresses some of the problems that have become evident since the original enabling legislation was passed in 1959.

This legislation sets forth a fresh mission for Minute Man. This will permit the park to begin a new phase whereby the events of April 19, 1775, can be brought to life and the historical landscape can be protected.

In the past, the park's unruly attempts to acquire land have resulted in unwelcome and unproductive tension between the Park Service and the surrounding communities. Therefore, by fixing boundaries, by spelling out the rights of homeowners within the boundaries and by correcting past injustices, the citizens in the park's vicinity will finally have peace of mind.

Mr. Speaker, it is hard to know sometimes, when we take up a bill on the Suspension Calendar, how much time and effort and compromise goes into getting a bill this far. The citizens of Concord, MA, having great pride in their town were understandably wary of legislation connected to Minute Man Park. But, after countless hours and work by very caring and diligent individuals in Concord and in Lincoln, we arrived at a bill that fundamentally meets the concerns of the towns' resi-

dents. We were also very fortunate to have as the backbone of this enterprise an energetic and sensitive park superintendent.

But, all of this would not have been possible without the understanding and guidance and perseverance of Chairman VENTO. His was not an easy task. He is a zealous guardian of precedents as he must be if the Park Service is to truly be a national resource, but he also understands the local character that parks take on and the special ways individual parks have of interacting with the local communities. He was able to craft a bill that responded to local concerns without tampering with precedents that affect our entire Park System. Chairman VENTO and his staff have my utmost appreciation and admiration.

I urge my colleagues to vote for this legislation.

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

Mr. VENTO. I thank the gentleman from Massachusetts for his thoughtful comments.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2896, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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GENERIC DRUG ENFORCEMENT ACT OF 1991

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2454) to authorize the Secretary of Health and Human Services to impose debarments and other penalties for illegal activities involving the approval of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2454

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; REFERENCE; FINDINGS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Generic Drug Enforcement Act of 1991".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) FINDINGS.—The Congress finds that—

(1) there is substantial evidence that significant corruption occurred in the Food and Drug Administration's process of approving drugs under abbreviated drug applications,

(2) there is a need to establish procedures designed to restore and to ensure the integrity of the abbreviated drug application approval process and to protect the public health, and

(3) additional standby capacity for criminal investigations of violations of the Federal Food, Drug, and Cosmetic Act is needed.

(d) TABLE OF CONTENTS.—

Sec. 1. Short title; reference; findings; table of contents.

Sec. 2. Authority to deny review and approval of applications.

"Sec. 306. Debarment, temporary denial of approval, and suspension.

"(a) Mandatory debarment.

"(b) Permissive debarment.

"(c) Debarment period and considerations.

"(d) Termination of debarment.

"(e) Publication and list of debarred persons.

"(f) Temporary denial of approval.

"(g) Suspension authority.

"(h) Termination of suspension.

"(i) Procedure.

"(j) Judicial review.

"(k) Applicability.

Sec. 3. Certifications.

Sec. 4. Civil penalties.

"Sec. 307. Civil penalties.

"(a) In general.

"(b) Procedure.

"(c) Judicial review.

"(d) Informants."

Sec. 5. Authority to withdraw approval of applications.

"Sec. 308. Authority to withdraw approval of applications.

"(a) In general.

"(b) Procedure.

"(c) Applicability.

"(d) Judicial review."

Sec. 6. Inspector General.

Sec. 7. Information.

Sec. 8. Definitions.

Sec. 9. Effect on other laws.

SEC. 2. AUTHORITY TO DENY REVIEW AND APPROVAL OF APPLICATIONS.

Sections 306 and 307 (21 U.S.C. 336, 337) are redesignated as sections 309 and 310, respectively, and the following is inserted after section 305:

"DEBARMENT, TEMPORARY DENIAL OF APPROVAL, AND SUSPENSION

"SEC. 306. (a) MANDATORY DEBARMENT.—If a person has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of any abbreviated drug application, the Secretary shall debar such person from submitting, or assisting in the submission of, any abbreviated drug application.

"(b) PERMISSIVE DEBARMENT.—

"(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may debar a person described in paragraph (2) from submitting, or assisting in the submission of, any abbreviated drug application if the Secretary finds that there is reason to believe that such person may undermine the regulatory process.

"(2) PERSONS SUBJECT TO PERMISSIVE DEBARMENT.—The following persons are subject to debarment under paragraph (1):

"(A) CONVICTION RELATED TO AN ABBREVIATED DRUG APPLICATION.—Any person that the Secretary finds has been convicted of (i)

a misdemeanor under Federal law or a felony under State law for conduct relating to the development or approval, including the process for the development or approval, of any abbreviated drug application, or (ii) a conspiracy to commit, or aiding or abetting, such criminal offense.

“(B) CONVICTION FOR BRIBERY, FRAUD, OR SIMILAR CRIME.—Any individual whom the Secretary finds has been convicted under Federal or State law of (i) a felony of bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, or falsification or destruction of records, or (ii) a conspiracy to commit, or aiding or abetting, a felony offense described in clause (i).

“(C) CONVICTION RELATED TO OBSTRUCTION OF JUSTICE.—Any individual whom the Secretary finds has been convicted under Federal or State law, of (i) a felony related to the interference with, obstruction of the investigation into, or prosecution of, any criminal offense, or (ii) a conspiracy to commit, or aiding or abetting, such felony.

“(D) MATERIAL PARTICIPATION.—Any individual whom the Secretary finds materially participated in acts that were the basis for a conviction for an offense described in subsection (a) or in subparagraph (A), (B), or (C) of this paragraph for which a conviction was obtained.

“(E) USE OF DEBARRED PERSON.—Any person that the Secretary finds has knowingly—

“(i) employed or retained as a consultant or contractor, or

“(ii) otherwise used the services of, a person who is debarred under this section in any capacity in which such person has or might have any control over or involvement in the development of any drug application subject to section 505 or 507.

“(c) DEBARMENT PERIOD AND CONSIDERATIONS.—

“(1) IN GENERAL.—During the period of debarment under subsection (a) or (b), the Secretary shall not accept any abbreviated drug application and shall not review (other than audit under this section) any pending abbreviated drug application of a person debarred under such subsection.

“(2) DEBARMENT PERIODS.—

“(A) IN GENERAL.—The Secretary shall debar a person under subsection (a) or (b) for the following periods:

“(i) The debarment of an individual under subsection (a) shall be permanent.

“(ii) The period of debarment of a person (other than an individual) under subsection (a) shall not be less than 1 year or more than 10 years, but if an act leading to a subsequent debarment occurs within 10 years after such person has been debarred under subsection (a), the period of debarment shall be permanent.

“(iii) The period of debarment of any person under subsection (b)(2) shall not be more than 5 years.

The Secretary may determine whether debarment periods shall run concurrently or consecutively in the case of a person debarred for multiple offenses.

“(B) NOTIFICATION.—Upon a conviction described in subsection (a) or (b), a person may notify the Secretary that the person acquiesces to debarment and such person's debarment shall commence upon such notification.

“(3) CONSIDERATIONS.—In determining the appropriateness and the period of a debarment of a person under subsection (b) and any period of debarment beyond the minimum specified in subparagraph (A)(ii) of paragraph (2), the Secretary shall consider where applicable—

“(A) the nature and seriousness of any offense involved,

“(B) the nature and extent of management participation in any offense involved, whether corporate policies and practices encouraged the offense, including whether inadequate institutional controls contributed to the offense,

“(C) the nature and extent of voluntary steps to mitigate the impact on the public of any offense involved, including the discontinuation of the distribution of suspect drugs, full cooperation with any investigations (including the extent of disclosure to appropriate authorities of all wrongdoing), the relinquishing of profits on drug approvals fraudulently obtained, and any other actions taken to substantially limit potential or actual adverse effects on the public health,

“(D) whether the extent to which changes in ownership, management, or operations have corrected the causes of any offense involved and provided reasonable assurances that the offense will not occur in the future,

“(E) whether the person to be debarred is able to present adequate evidence that current production of drugs subject to abbreviated drug applications and all pending abbreviated drug applications are free of fraud or material false statements, and

“(F) prior convictions under this Act or under other Acts involving matters within the jurisdiction of the Food and Drug Administration.

“(d) TERMINATION OF DEBARMENT.—

“(1) APPLICATION.—Any person is debarred under subsection (a) (other than a person permanently debarred) or any person that is debarred under subsection (b) may apply to the Secretary for termination of the debarment. Any information submitted to the Secretary under the subsection does not constitute an amendment or supplement to pending or approved abbreviated drug applications.

“(2) ACTION BY THE SECRETARY.—The Secretary shall grant or deny any application respecting a debarment which is submitted under paragraph (1) within 180 days of the date of the application is submitted.

“(3) TERMINATION.—If the conviction for which a person has been debarred under subsection (a) or (b) is reversed, the Secretary shall, on the Secretary's own initiative or upon petition, withdraw the order of debarment. Upon application submitted under paragraph (1), the Secretary shall terminate the debarment of a person if the Secretary finds that—

“(A) changes in ownership, management, or operations have fully corrected the causes of the offense involved and provide reasonable assurances that the offense will not occur in the future, and

“(B) sufficient audits, conducted by the Food and Drug Administration or by independent experts acceptable to the Food and Drug Administration, demonstrate that pending applications and the development of drugs being tested before the submission of an application are free of fraud or material false statements.

In the case of persons debarred under subsection (a), such termination shall take effect no earlier than the expiration of one year from the date of the debarment.

“(4) SPECIAL EARLY TERMINATION.—

“(A) APPLICATION.—Any person that is debarred under subsection (a) (other than an individual or a person permanently debarred under subsection (c)(2)(A)(ii)) may apply to the Secretary for special early termination of debarment which may take effect before

the expiration of the one-year minimum period prescribed under subsection (c)(2)(A)(ii).

“(B) HEARING ON PETITION.—If the Secretary, after an informal hearing, determines that—

“(i) the person making the application under subparagraph (A) has demonstrated that the felony conviction which was the basis for such person's debarment involved the commission of an offense which was not authorized, requested, commanded, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting on behalf of the person within the scope of the board's or agent's office or employment,

“(ii) all individuals who were involved in the commission of the offense or who had or should have had prior knowledge of the offense have been removed from employment involving the development or approval of any drug subject to sections 505 or 507,

“(iii) the person fully cooperated with all investigations and promptly disclosed all wrongdoing to the appropriate authorities, and

“(iv) the person acted to mitigate any impact on the public of any offense involved, including the discontinuation of the distribution of any drug which the Secretary asked be withdrawn due to concerns about its safety or efficacy,

the Secretary shall take the action described in subparagraph (C).

“(C) SECRETARIAL ACTION.—The action referred to in subparagraph (B) is—

“(i) terminating the debarment immediately, or

“(ii) limiting the period of debarment to less than one year.

whichever best serves the interest of justice and protects the integrity of the abbreviated drug application approval process.

“(e) PUBLICATION AND LIST OF DEBARRED PERSONS.—The Secretary shall publish in the Federal Register the name of any person debarred under subsection (a) or (b), the effective date of the debarment, and the period of the debarment. The Secretary shall also maintain and make available to the public a list, updated no less often than quarterly, of such persons, of the effective dates and minimum periods of such debarments, and of the termination of debarments.

“(f) TEMPORARY DENIAL OF APPROVAL.—

“(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may, in accordance with paragraph (3), refuse by order, for the period prescribed by paragraph (2), to approve any abbreviated drug application submitted by any person—

“(A) if such person is under an active Federal criminal investigation in connection with an action described in subparagraph (B),

“(B) if the Secretary determines that such person—

“(i) has bribed or attempted to bribe, has paid or attempted to pay an illegal gratuity, has induced or attempted to induce another person to bribe or pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services or to any other Federal, State, or local official in connection with any abbreviated drug application, or has conspired to commit, or aided or abetted, such actions, or

“(ii) has knowingly made or caused to be made a pattern or practice of false statements or misrepresentations with respect to material facts relating to any abbreviated drug application or the production of any drug subject to an abbreviated drug application to any officer, employee, or agent of the

Department of Health and Human Services, or has conspired to commit, or aided or abetted, such actions, and

"(C) if a significant question has been raised regarding the integrity of the approval process with respect to such abbreviated drug application, the reliability of data in such person's abbreviated drug application, or the reliability of data concerning such abbreviated drug application.

Such an order may be modified or terminated at any time.

"(2) APPLICABLE PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a denial of approval of an application of a person under paragraph (1) shall be in effect for a period determined by the Secretary but not to exceed 18 months beginning on the date the Secretary finds that the conditions described in subparagraphs (A), (B), and (C) of paragraph (1) exist. The Secretary shall terminate such denial—

"(i) if the investigation with respect to which the finding was made ends, does not result in a criminal charge against such person or if criminal charges have been brought and the charges have been dismissed or a judgment of acquittal has been entered, or

"(ii) if the Secretary determines that such finding was in error.

"(B) EXTENSION.—If, at the end of the period described in subparagraph (A), the Secretary determines that a person has been criminally charged for an action described in subparagraph (B) of paragraph (1), the Secretary may extend the period of denial of approval of an application for a period not to exceed 18 months. The Secretary shall terminate such extension if the charges have been dismissed or a judgment of acquittal has been entered or if the Secretary determines that the finding described in subparagraph (A) was in error.

"(3) INFORMAL HEARING.—Within 10 days of the date of the order of the Secretary's refusing to approve an abbreviated drug application is served upon a person under paragraph (1), the Secretary, in response to a petition, shall provide such person with an opportunity for an informal hearing on the decision of the Secretary to refuse such approval. Within 60 days of the date on which such hearing is held, the Secretary shall notify the person given such hearing whether the Secretary's refusal of approval will be continued, terminated, or otherwise modified. Such notification shall be final agency action.

"(g) SUSPENSION AUTHORITY.—

"(1) IN GENERAL.—If—

"(A) the Secretary determines—

"(i) that a person has engaged in an action described in subparagraph (B) of subsection (f)(1) in connection with 2 or more drugs under abbreviated drug applications, or

"(ii) that a person has engaged in flagrant and repeated, material violations of good manufacturing practice or good laboratory practice in connection with the development, manufacturing, or distribution of a drug approved under an abbreviated drug application during a 2-year period, and—

"(I) such violations may undermine the safety and efficacy of such drugs, and

"(II) the causes of such violations have not been corrected within a reasonable period of time following notice of such violations by the Secretary, and

"(B) such person is under an active investigation by any Federal authority in connection with a civil or criminal action involving an action described in subparagraph (A),

the Secretary shall issue an order suspending the distribution of all drugs the development

or approval of which was related to an action described in subparagraph (A) or suspending the distribution of all drugs approved under abbreviated drug applications of such person if the Secretary finds that an action of such person described in subparagraph (A) may have affected the development or approval of a significant number of drugs which the Secretary is unable to identify. The Secretary shall exclude a drug from such order if the Secretary determines that such action was not likely to have influenced the safety or efficacy of such drug.

"(2) PUBLIC HEALTH WAIVER.—The Secretary shall, on the Secretary's own initiative or in response to a petition, waive the suspension under paragraph (1) (involving an action described in paragraph (1)(A)(i)) with respect to any drug if the Secretary finds that such waiver is necessary to protect the public health because sufficient quantities of the drug are otherwise not available. The Secretary shall act on any petition seeking action under this paragraph within 180 days of the date the petition is submitted to the Secretary.

"(h) TERMINATION OF SUSPENSION.—The Secretary shall withdraw an order of suspension of the distribution of a drug under subsection (g) if the person with respect to whom the order was issued demonstrates—

"(1)(A) on the basis of an audit by the Food and Drug Administration or by experts acceptable to the Food and Drug Administration, or on the basis of other information, that the development, approval, manufacturing, and distribution of such drug is in substantial compliance with the applicable requirements of this Act, and

"(B) changes in ownership, management, or operations (i) fully remedy the patterns or practices with respect to which the order was issued, and (ii) provide reasonable assurances that such actions will not occur in the future, or

"(2) the initial determination was in error. The Secretary shall act on a submission under paragraphs (1) and (2) within 180 days of the date of the submission and the Secretary may consider the submission concurrently with the suspension proceeding. Any information submitted to the Secretary under this subsection does not constitute an amendment or supplement to a pending or approved abbreviated drug application.

"(i) PROCEDURE.—The Secretary may not take any action under subsection (a), (b), (c), (d)(3), (g), or (h) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(j) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (a), (b), (c), (d), (f), (g), or (h) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified by the Secretary's decision) a petition requesting that the decision be modified or set aside.

"(k) APPLICABILITY.—

"(1) CONVICTION.—For purposes of this section, a person is considered to have been convicted of a criminal offense—

"(A) when a judgment of conviction has been entered against the person by a Federal or State court, regardless of whether there is an appeal pending,

"(B) when a plea of guilty or nolo contendere by the person has been accepted by a Federal or State court, or

"(C) when the person has entered into participation in a first offender, deferred adjudication, or other similar arrangement or program where judgment of conviction has been withheld.

"(2) EFFECTIVE DATE.—Subsection (a) and subparagraphs (A), (B), and (C) of subsection (b)(2) shall not apply to a conviction which occurred more than 5 years before the initiation of any agency action proposed to be taken under such subsection or subparagraph, and subparagraphs (D) and (E) of subsection (b)(2) and subsections (f) and (g) shall not apply to an act which occurred more than 5 years before the initiation of such action."

SEC. 3. CERTIFICATION.

Section 505(j)(2)(A) 21 U.S.C. 355 (j)(2)(A) is amended—

(1) by striking out "and" at the end of clause (vii), by striking out the period at the end of clause (viii) and inserting in lieu thereof a semicolon, and by adding after clause (viii) the following:

"(ix) a certification that the applicant did not and will not use the services of any person debarred under section 306 in connection with the application; and

"(x) a list of all convictions, described in subsections (a) and (b) of section 306, within the last 5 years of the applicant and affiliated persons responsible for the development or submission of abbreviated drug applications," and

(2) in the last sentence, by striking out "(viii)" and inserting in lieu thereof "(x)".

SEC. 4. CIVIL PENALTIES.

Chapter III, as amended by section 2, is amended by adding after section 306 the following:

"CIVIL PENALTIES

"SEC. 307. (a) IN GENERAL.—Any person that the Secretary finds—

"(1) knowingly made or caused to be made, to any officer, employee, or agent of the Department of Health and Human Services, a false statement or misrepresentation with relation to a material fact in connection with an abbreviated drug application,

"(2) bribed or attempted to bribe or paid or attempted to pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services in connection with an abbreviated drug application,

"(3) destroyed, altered, removed, or secreted, or procured the destruction, alteration, removal, or secretion of, any material document or other material evidence which was the property of or in the possession of the Department of Health and Human Services for the purpose of interfering with that Department's discharge of its responsibilities in connection with an abbreviated drug application,

"(4) knowingly failed to disclose, to an officer or employee of the Department of Health and Human Services, a material fact which such person had an obligation to disclose relating to any drug subject to an abbreviated drug application,

"(5) knowingly obstructed an investigation of the Department of Health and Human Services into any drug subject to an abbreviated drug application,

"(6) is a person that has filed with the Secretary at any time an abbreviated drug ap-

plication (whether or not such application has been approved) and employed, retained as a consultant or contractor, or otherwise used (in any capacity in which such person has or might have any control over or involvement in the development of an abbreviated drug application) the services of a person that the person knew or should have known was debarred pursuant to section 306, or

"(7) is debarred pursuant to section 306 and provided services to an applicant under an abbreviated drug application that could subject such applicant to debarment under section 306 or to a civil penalty under this section,

shall be liable to the United States for a civil penalty for each such violation in an amount not to exceed \$250,000 in the case of an individual and \$1,000,000 in the case of any other person.

**"(b) PROCEDURE.—**

"(1) IN GENERAL.—A civil penalty under subsection (a) shall be assessed by the Secretary on a person by an order made on the record after an opportunity for an agency hearing on disputed issues of material fact and the amount of the penalty. In the course of any investigation or hearing under this paragraph, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(2) AMOUNT.—In determining the amount of a civil penalty under paragraph (1), the Secretary shall take into account the nature, circumstances, extent, and gravity of the act subject to penalty, the person's ability to pay, the effect on the person's ability to continue to do business, any history of prior, similar acts, and such other matters as justice may require.

"(3) LIMITATION ON ACTIONS.—The Secretary may not initiate an action under this subsection with respect to any act described in subsection (a)—

"(A) which occurred before the date of the enactment of this Act, or

"(B) which occurred more than 6 years after the date when facts material to the act are known or reasonably should have been known by the Secretary but in no event more than 10 years after the date the act took place.

"(c) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (b)(1) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition regarding that the decision be modified or set aside.

"(d) INFORMANTS.—The Secretary may award to any individual (other than an officer or employee of the Federal Government or a person who materially participated in any conduct described in subsection (a)) who provides information leading to the imposition of a civil penalty under this section an amount not to exceed—

"(1) \$250,000, or

"(2) one-half of the penalty so imposed and collected,

whichever is less. The decision of the Secretary on such award shall not be reviewable."

**SEC. 5. AUTHORITY TO WITHDRAW APPROVAL OF APPLICATIONS.**

Chapter III, as amended by section 4, is amended by adding after section 307 the following:

**"AUTHORITY TO WITHDRAW APPROVAL OF APPLICATIONS**

"SEC. 308. (a) IN GENERAL.—The Secretary—

"(1) shall withdraw approval of an abbreviated drug application if the Secretary determines that the approval was obtained, expedited, or otherwise facilitated through bribery, payment of an illegal gratuity, or fraud or material false statement, and

"(2) may withdraw approval of an abbreviated drug application if the Secretary determines that the applicant has repeatedly demonstrated a lack of ability to produce the drug for which the application was submitted in accordance with the formulations or manufacturing practice set forth in the abbreviated drug application and has introduced, or attempted to introduce, such adulterated or misbranded drug into commerce.

"(b) PROCEDURE.—The Secretary may not take any action under subsection (a) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(c) APPLICABILITY.—Subsection (a) shall apply with respect to offenses or acts regardless of when such offenses or acts occurred.

"(d) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (a) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside."

**SEC. 6. INSPECTOR GENERAL.**

(a) AMENDMENT.—Section 702 (21 U.S.C. 372) is amended by adding at the end the following:

"(f)(1) In addition to existing authority, the Inspector General may investigate the following:

"(A) Any allegation of misconduct by employees of the Food and Drug Administration.

"(B) Any allegation of violation of section 301(t).

"(C) Any allegation of violation, or class of violations, of this Act which the Commissioner of the Food and Drug Administration has requested the Inspector General to investigate.

"(D) Any allegation of violation, or class of violations, of this Act for which the Secretary delegates authority to the Inspector General to investigate or requests the Inspector General to investigate, including—

"(i) any allegation that false or fraudulent materials have been submitted to the Food and Drug Administration,

"(ii) any allegation that false or fraudulent records have been maintained under any law administered by the Food and Drug Administration,

"(iii) any allegation of fraud, false claims, waste, or abuse relating to programs or operations administered, carried out, financed, or conducted by the Food and Drug Administration,

"(iv) any allegation of fraud in reporting of research by clinical investigators which is submitted to the Food and Drug Administration,

"(v) any allegation of an illegal sale under Federal law of a drug which is not a controlled substance, and

"(vi) any allegation of a felony violation of this Act.

In making determinations regarding any delegation of authority, the Secretary shall consider the expertise and resources available in the Office of Inspector General and in the Food and Drug Administration.

"(2) Paragraph (1) shall not be construed to preclude the Inspector General from initiating an investigation of a violation of this Act to determine if the violation is a violation described in subparagraph (A) of paragraph (1)."

(b) REPEAL.—Effective 2 years after the date of the enactment of this Act, subsection (f) of section 702 (21 U.S.C. 372), as added by subsection (a), is repealed.

**SEC. 7. INFORMATION.**

Section 505(j) (21 U.S.C. 355(j)) is amended by adding at the end the following:

"(8) The Secretary shall with respect to each application submitted under this subsection maintain and revise every 30 days—

"(A) the name of the applicant,

"(B) the name of the drug covered by the application,

"(C) the name of each person to whom the review of the chemistry of the application was assigned and the date of such assignment, and

"(D) the name of each person to whom the bio-equivalence review for such application was assigned and the date of such assignment.

The information the Secretary is required to maintain under this paragraph with respect to an application submitted under this subsection shall be made available to the public after the approval of such application."

**SEC. 8. DEFINITIONS.**

Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(bb) The term 'abbreviated drug application' means an application submitted under section 505(j) or 507 for the approval of a drug that relies on the approved application of another drug with the same active ingredient to establish safety and efficacy, and—

"(1) in the case of section 306, includes a supplement to such an application for a different or additional use of the drug but does not include a supplement to such an application for other than a different or additional use of the drug, and

"(2) in the case of sections 307 and 308, includes any supplement to such an application.

"(cc) The term 'knowingly' means that a person with respect to information—

"(1) has actual knowledge of the information, or

"(2) acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

"(dd) The term 'high managerial agent' means—

"(1) an officer of a corporation or an unincorporated association,

"(2) in the case of a partnership, a partner, or

"(3) any employee or other agent of a corporation, unincorporated association, or partnership,

having duties such that such officer, partner, employee, or agent's conduct may fairly be assumed to represent the policy of the corporation, association, or partnership, and the term includes persons having management responsibility for (1) submissions of the Food and Drug Administration regarding the

development or approval of an abbreviated drug application, (2) production, quality assurance, or quality control of any drug produced under an abbreviated drug application, or (3) research and development of any drug subject to an abbreviated drug application.".

**SEC. 9. EFFECT ON OTHER LAWS.**

No amendment made by this Act shall preclude any other civil, criminal, or administrative remedy provided under Federal or State law, including any private right of action against any person for the same action subject to any action or penalty under an amendment made by this Act.

The SPEAKER pro tempore (Mr. HUBBARD). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HASTERT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

**GENERAL LEAVE**

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

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

There was no objection.

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

Mr. Speaker, this legislation was introduced by the chairman of the Committee on Energy and Commerce and is cosponsored by every member of that committee. Its purpose is to give the Food and Drug Administration additional tools to combat serious, criminal fraud when it occurs in the generic drug industry.

Since the enactment of the Drug Price Competition and Patent Term Restoration Act of 1984, there has been a tremendous growth in the availability of generic drugs in this country, which have saved consumers and the Federal Government millions of dollars.

Unfortunately, the success story of the generic drug industry was marred when it was revealed that some generic drug company officials were paying illegal gratuities to FDA employees in exchange for preferential treatment of their drug applications, and that other companies were submitting fraudulent data in order to obtain approval of their products. Much of this corruption was revealed in an investigation conducted by the Oversight and Investigations Subcommittee of the Committee on Energy and Commerce.

H.R. 2454 is the committee's legislative response to these problems. Where there has been fraud of the type revealed in the subcommittee's investigation, the bill would give the Food and Drug Administration the authority to impose civil penalties, and to bar generic drug companies from obtaining drug approvals or from having their

drug applications processed. In more limited situations, the agency could also suspend generic drug applications that have already been approved.

After the bill was reported out of the Committee on Energy and Commerce, two changes were made which I would like to note for the record. First, in section 2 the phrase "assisting in the submission of" has been added to the new section 306(a). This conforms to section 306(b) and makes it clear that an individual who is debarred may not work on any abbreviated drug application. Second, the new section 306(f)(2)(A), also added by section 2, has been rewritten to make it clear that the Secretary of the Department of Health and Human Services or the Food and Drug Administration must terminate a temporary denial of approval of an abbreviated drug application if there is a determination that the finding supporting the temporary denial was in error, regardless of whether the investigation supporting the temporary denial has ended.

H.R. 2454 should help to restore the vitality of the generic drug industry and the American people's confidence in generic drug products. The bill is the result of a compromise worked out in the Committee on Energy and Commerce and enjoys the support of all the members of that committee. The credit for the bill goes to the distinguished chairman of our committee, Mr. DINGELL. I urge all Members to support it.

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

Mr. Speaker, I am pleased to rise in support of H.R. 2454, the Generic Drug Enforcement Act of 1991. This bill was unanimously approved by the Energy and Commerce Committee. It represents the committee's response to the generic drug scandal. For the better part of the last 3 years, the Subcommittee on Oversight and Investigations—on a bipartisan basis—has been conducting an investigation into the generic drug scandal. Most regrettably, in light of the need for lower priced medicines on the market, the subcommittee found that large segments of the industry were riddled with corruption.

The U.S. attorney for Maryland has taken action against a number of individuals and companies and has made it clear that he expects to file more criminal charges.

I think H.R. 2454 represents a fair and reasonable approach to ridding the generic drug industry of the bad actors and to restoring public confidence in the safety and efficacy of generic drugs. It provides the FDA with the authority to not accept or review applications for the approval of generic drugs if a company has been convicted of certain specified crimes. The FDA would also be able to debar individuals convicted of such crimes from participating in the development of drug applica-

tions for both generic and brand name drugs to be submitted to the FDA.

The time has arrived to pass this legislation to give FDA the appropriate enforcement tools it needs to ensure that corrupt individuals and companies will not be able to continue to defraud the public.

I appreciate the leadership and cooperation of the chairman, Mr. BLILEY, Mr. WAXMAN, and Mr. DANNEMEYER in developing this legislation. Finally, I would note that the administration has no objection to passage of H.R. 2454. I urge my colleagues to join me in supporting this bill.

Mr. BLILEY. Mr. Speaker, I rise in support of H.R. 2454, the Generic Drug Enforcement Act of 1991. I am particularly pleased that this year's version of a bill Chairman DINGELL and I first introduced last Congress has such widespread support on the Energy and Commerce Committee.

The need for tough sanctions against those who violate the law and engage in improper practices in connection with the generic drug approval process has never been greater.

Just this summer, the U.S. attorney for Maryland announced two more guilty pleas in his generic drug probe: One from a lab based in Baltimore and the other from the lab's former chief scientific officer. Both pleas were based on charges of obstructing an investigation by permitting a generic drug company executive to switch samples of a generic drug used in human testing before samples were collected by the FDA.

In addition to these two latest guilty pleas, 5 former FDA employees, 10 generic drug company executives, 1 industry consultant, and 4 generic drug companies have been convicted. The U.S. attorney recently stated again that even more criminal charges are anticipated.

Sadly enough, we learned during the course of the ongoing inquiry into this matter by the Subcommittee on Oversight and Investigations, which began in 1988, the FDA lacks sufficient authority to debar and fine those who engage in these actions, and to suspend or withdraw already approved generic drugs which are tainted by wrongdoing.

At an oversight subcommittee hearing on June 5, we learned that new generic drug approvals have slowed to a virtual crawl in the last year or more. In my view, that situation is likely to continue until a number of steps are taken, including enactment of the penalties and other enforcement measures contained in H.R. 2454.

I want to thank all parties involved for working cooperatively with Chairman DINGELL and me to come up with this consensus approach to this very important issue.

I urge my colleagues to join me in supporting this bill.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 2454, the Generic Drug Enforcement Act of 1991.

Let me begin by extending my personal thanks to my distinguished colleagues, the Honorable THOMAS J. BLILEY, the ranking Republican member of the Subcommittee on Oversight and Investigations, the Honorable HENRY A. WAXMAN, the chairman of the Sub-

committee on Health and Environment, the Honorable NORMAN F. LENT, the ranking member of the Committee on Energy and Commerce and the 39 other members of the Committee on Energy and Commerce that cosponsored this important legislation.

In 1984, Congress passed the Drug Price Competition and Patent Term Restoration Act to the Federal Food, Drug, and Cosmetic Act. This landmark legislation opened up, for the first time, the prescription drug market to meaningful competition. This law was enacted at a time when a number of the patents for the biggest selling drugs had expired, or were about to expire. Consequently, a final approval of a generic drug virtually guaranteed the successful applicant a substantial and lucrative market share of a best selling product. Unfortunately, the intense pressures generated by this extraordinary competitive environment contributed to a series of scandals in the generic drug industry.

In 1988, an investigation begun by the Subcommittee on Oversight and Investigations revealed that various companies in the generic drug industry had paid illegal gratuities to Food and Drug Administration staff members in exchange for preferential treatment of their abbreviated drug applications and that some generic manufacturers had substituted samples of the innovator's products for their own in conducting bioequivalence tests. As a result of subsequent probes by the U.S. attorney for the district of Maryland, the FDA, and the subcommittee, there have been 26 criminal guilty pleas and convictions, scores of products recalled or withdrawn, and 5 of the top 10 generic drug firms implicated in corruption, fraud, or false statements.

H.R. 2454 has been drafted to remedy this disgraceful mess. It is intended to protect the integrity of the generic drug approval process, to restore consumer confidence in generic drugs and to create a strong deterrent to future misconduct.

First, it will protect the future honesty of the system by requiring or permitting the Secretary of the Department of Health and Human Services [HHS] to debar from future generic drug approvals, for at least 1 year, those firms and individuals convicted or materially implicated in bribery, fraud, false statements or other crimes which undermine the FDA approval process.

Second, it will permit the temporary denial of generic drug approvals for up to 18 months, with one possible 18 month extension, where the Secretary determines bribery, fraud or the like has occurred.

Third, it will grant the Secretary authority to suspend the distribution of drugs of certain companies, unless those companies can prove that some or all of their drugs are untainted.

Fourth, the bill will require the mandatory withdrawal of any generic drug approval illicitly obtained and the permissive withdrawal of approvals where the company has repeatedly failed to live up to its commitments to FDA.

Fifth, it will establish a series of civil penalties for action corrupting the approval process.

Finally, it provides standby investigational authority for the Health and Human Services inspector general concerning Food and Drug

Administration matters, including drug diversion and fraud on the agency.

Undoubtedly, some generic firms will oppose this legislation, particularly those which are or will be the targets of Federal criminal investigations. However, we have received the support of a majority of the honest generic drug firms that recognize the importance of cleansing the industry of those who would corrupt the generic drug approval process.

The rapidly rising cost of drugs is severely taxing the resources of individuals and governmental entities. The American consumer has a right to safe, effective, and low-priced generic drugs. Unscrupulous individuals and, in a few cases, firms, should not be allowed to undermine the public confidence in the industry that provides us with low cost alternatives to prescription medication. It is essential that we enact legislation that would bar such individuals and firms from further participation in this important business. Therefore, I urge my colleagues to support the Generic Drug Enforcement Act of 1991.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 2454, as amended.

The question was taken.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### SILVIO O. CONTE DISABILITIES PREVENTION ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3401) to amend the Public Health Service Act to establish a program for the prevention of disabilities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3401

*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 "Silvio O. Conte Disabilities Prevention Act".

##### SEC. 2. ESTABLISHMENT OF SILVIO O. CONTE DISABILITIES PREVENTION PROGRAM.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

##### "SILVIO O. CONTE DISABILITIES PREVENTION PROGRAM

"SEC. 315. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to and enter into contracts with public and non-profit private entities for the purpose of car-

rying out programs for the prevention of disabilities and the prevention of secondary conditions resulting from disabilities.

"(b) CERTAIN AUTHORIZED ACTIVITIES.—With respect to the prevention of disabilities and conditions described in subsection (a), activities for which the Secretary may provide financial assistance under such subsection include—

- "(1) coordinating prevention activities;
- "(2) conducting demonstrations and interventions;
- "(3) conducting surveillances and studies;
- "(4) educating the public; and
- "(5) educating and training health professionals (including allied health professionals) and conducting activities to improve the clinical skills of such professionals.

"(c) REPORTS TO SECRETARY.—The Secretary may not provide financial assistance under subsection (a) unless the applicant involved agrees to submit to the Secretary such reports as the Secretary may require with respect to such assistance.

"(d) PRIORITIES.—The Secretary shall consult with the National Council on Disabilities in setting priorities to carry out this section.

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not provide financial assistance under subsection (a) unless an application for such assistance is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) LIMITATION REGARDING EDUCATION OF HEALTH PROFESSIONALS.—In providing financial assistance under subsection (a), the Secretary may not, for activities described in subsection (b)(5), obligate more than 10 percent of the amounts appropriated under subsection (k) for any fiscal year.

"(g) TECHNICAL ASSISTANCE.—The Secretary may provide training, technical assistance, and consultations with respect to the planning, development, and operation of any program for the prevention of disabilities or the prevention of secondary conditions resulting from disabilities.

"(h) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.—

"(1) IN GENERAL.—Upon the request of a recipient of financial assistance under subsection (a), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out such subsection and, for such purpose, may detail to the recipient any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request by a recipient for purposes of paragraph (1), the Secretary shall reduce the amount of payments under subsection (a) to the recipient by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(i) EVALUATION AND REPORTS.—

"(1) EVALUATIONS.—The Secretary shall, directly or through contracts with public or private entities, provide for evaluations of programs carried out pursuant to subsection (a).

"(2) REPORTS.—Not later than January 31, 1993, and annually thereafter, the Secretary shall submit to the Committee on Energy

and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year. The Secretary shall provide a copy of each such report to the National Council on Disability.

"(j) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance' means a grant or contract.

"(2) The term 'prevention' means activities that address the causes of disabilities and secondary conditions resulting from disabilities, and activities that address the exacerbation of functional limitations, including activities that—

"(A) eliminate or reduce the factors that cause or predispose persons to disabilities or that increase the prevalence of disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of disabilities throughout the person's lifespan.

"(k) AUTHORIZATION OF APPROPRIATIONS.—

For the purpose of providing financial assistance under this section, there are authorized to be appropriated \$15,000,000 for fiscal year 1992, \$20,000,000 for fiscal year 1993, and \$25,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HASTERT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

#### GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

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

There was no objection.

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

Mr. Speaker, this legislation would establish a new section within the Public Health Service Act to authorize grants for the prevention of disabilities and for the prevention of secondary conditions resulting from disabilities. In brief, this legislation would establish priorities for CDC activities in the areas of disability prevention. It would direct the use of funds for research and demonstration projects, for education of the public and training of health professionals, and for the provision of technical assistance for the implementation of those activities.

According to a 1991 study by the Institute of Medicine, "Disability in America: Toward a National Agenda for Prevention," almost 15 percent of the U.S. population, or 35 million Americans, suffer from some kind of disability. Disabilities disproportionately affect minorities—including Na-

tive Americans—the elderly, and those in lower socioeconomic groups. According to the IOM report, the national cost of caring for all of those with disabilities is approximately \$170 billion per year, including an estimated \$82 billion in Federal funds.

In response to a specific statutory mandate from Congress, the National Council on Disability conducted an assessment of Federal laws and programs serving people with disabilities, and made recommendations to the President and Congress on Legislative proposals for "increasing incentives and eliminating disincentives in [such] Federal programs." The ensuing report, "Toward Independence," was released in 1986 and identified ten national priorities, including a recommendation for implementation of a Federal initiative designed both to prevent disabilities and to coordinate disability prevention programs at the Federal, State, and local levels.

A followup study produced by the National Council in 1987 reported that disability prevention efforts in the United States are disparate and uncoordinated. Coordination of such activities, the Council argued, would increase their effectiveness. The recent IOM study reflected the findings and recommendations of the National Council and urged that disability prevention "be [made] a high priority."

Our colleague, the late Silvio Conte, pioneered efforts in the Congress to create programs for the prevention of disabilities. Beginning in 1988, he pressed for appropriations for demonstration activities in this area. In 1990, Congressman Conte introduced legislation to authorize such a program at the CDC, legislation that was the prototype of this bill. He testified before the Health and the Environment Subcommittee regarding his legislation, saying:

There has been much discussion in this Congress on what needs to be done to remove the barriers to full community participation of those with disabilities. But we must not neglect the public health needs of these people, and we must also take action to prevent those already living with disabilities from becoming further disabled.

The Conte legislation passed the House in 1990. Senate consideration was not completed by the end of the 101st Congress.

H.R. 3401 and the program it authorizes have been named in Congressman Conte's honor. The committee has done so to recognize his dedication to these efforts and his leadership in congressional support of them.

I know of no more fitting tribute to our colleague than to ensure that his work in this area becomes law and to ensure that millions of Americans who are now disabled and millions more who might avoid disability will benefit from his good works and his good heart.

I urge Members to support the bill.

□ 1230

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

Mr. Speaker, this legislation codifies in the Public Health Service Act the disability prevention program conducted by the Centers for Disease Control since 1988.

Approximately 38 million Americans suffer from some kind of disability. These disabilities fall into three categories: chronic disease—such as heart disease or Parkinsons—injury such as a spinal cord injury—and developmental disabilities—such as cerebral palsy. Secondary disabilities occur when a person with a primary disability suffers a complication or injury that causes further disability.

The main goal of the Disability Prevention Program is to prevent and reduce the incidence and severity of both primary and secondary disabilities.

Prevention of disabilities will not only save money but will enable people to continue to lead independent and productive lives.

Our colleague, Silvio Conte was an ardent supporter of this program. I am glad to support this legislation named after Mr. Conte in recognition of his support of this program.

I urge my colleagues to support this legislation.

□ 1240

The SPEAKER pro tempore (Mr. HUBBARD). Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today in support of H.R. 3401, the Silvio O. Conte Disabilities Prevention Act. I had the distinct privilege of serving with Sil Conte in this House and on the Appropriations Committee for many years. And, as I have said many times before on the floor of the House he loved, he was truly one of the finest, most committed Members of this House.

Silvio Conte had a special place in his heart and on his list of priorities for people with disabilities. He understood that our Nation would be stronger if we worked together to insure that people with disabilities were integrated as full participants in our society. He understood that the goal of equal opportunity was a priority for people with disabilities, but it was a goal that was often ignored by our society.

I want to commend Chairman WAXMAN for bringing this bill forward today. I can think of few better ways to honor the memory of Sil Conte and his dreams than this bill. H.R. 3401 establishes a permanent program as part of the Centers for Disease Control, for the prevention of disabilities. We have seen a growing awareness in our Nation for disability prevention and the need to promote a comprehensive education effort. Our Nation's experts know many ways to prevent disabilities. H.R. 3401 will allow the rest of the Nation to benefit from their expertise.

The Institute of Medicine recently published their report, "Disability in America: Toward a National Agenda for Prevention." I would like

to quote from the opening remarks by the Chair of the Committee on a National Agenda for the Prevention of Disabilities, Mr. Alvin R. Tarlov. He writes:

The time has come for the Nation to address disability as an issue that affects all Americans, one for which an investment in education, access to preventive services and technology, and the development of effective interventions could yield unprecedented returns in public health, personal achievement, and national productivity.

Chairman Tarlov's statement is certainly consistent with the goals of the Americans With Disabilities Act and H.R. 3401 is a further extension of those efforts. It is also a statement with which I agree and I believe, Sil Conte would as well. Again, I commend Chairman WAXMAN for bringing this bill to the floor and urge my colleagues to join me in supporting the Silvio Conte Disabilities Prevention Act.

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

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

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3401, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### THE ATLANTA BRAVES—TRUE CHAMPIONS, EVEN IN DEFEAT

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

Mr. DARDEN. Mr. Speaker, the 1991 baseball season is over. The World Series ended last night, and regrettably our Atlanta Braves lost. However, this has been one of the most fulfilling and rewarding years we have ever had in Atlanta because our Braves came all the way out of the cellar of the National League to go all the way and win the National League pennant.

I want to extend our congratulations to our friends from Minnesota and to the Twins for their victories in Minnesota. We would point out, Mr. Speaker, that they won in Minnesota only. The games that really counted, of course those three played in Atlanta, the first World Series games ever played there, were all won by the Atlanta Braves by overwhelming margins.

Let me say this, though: our heartiest congratulations to the Minnesota Twins, but congratulations also to the Braves. On Tuesday there will be a big parade in downtown Atlanta so we can express our appreciation to our true winners and our real champions, the 1991 Atlanta Braves.

#### NATION FACES AN ECONOMIC AND FINANCIAL EMERGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. WHITTEN] is recognized for 5 minutes.

Mr. WHITTEN. Mr. Speaker, tomorrow we are scheduled to take up the dire emergency supplemental bill—a product of six of our subcommittees. At this time, I call your attention to the fact that economically and financially as a nation we face a national emergency—a dire emergency.

Anyone who reads a newspaper or watches television or talks to one's neighbors is bound to realize our Nation is in a deep recession and judging by history it will take a real effort if we are to avoid a long drawn out depression.

Despite the fact that our Committee on Appropriations has held the total of appropriations bills \$180,800,000,000 below the recommendations of our Presidents since 1945, today we owe a debt of \$4 trillion and have outstanding guarantees of another \$5 trillion. We can work our way out of this only by increasing production and regaining our domestic markets and our normal share of foreign markets. History will decide whose fault it is—and our domestic policy of placing foreign relations ahead of the domestic economy, where we are letting our real wealth deteriorate, will figure prominently in that.

We need information, as what we must do is try to prevent an all out breakdown in our situation here at home, thus fixing the blame at least should be delayed.

Far too many people seem to forget that paper money and material wealth are two different things as any study of economics or history will show.

On every hand we read of cutbacks, reductions in force—the loss of millions of jobs. Thousands of banks are failing along with major companies, savings and loans associations, and many others who deal with real estate.

Mr. Speaker, I cannot recall a time since 1941 when the national economy has been in a more serious condition. Every newscast, every newspaper, every news magazine is filled with articles or stories on businesses closing, of employee cutbacks or furloughs, of the lack of employment because of the lack of operating capital. When a few, including some office holders, by using carefully selected statistics we have high leading officials voice optimism about the recovery.

In addition, conditions are terrible because of natural disasters—hurricanes, earthquakes, freezes, droughts, floods, tornadoes, and more recently, wildfires—which have been declared disasters by the President and the Secretary of Agriculture which affect every State in the Union. These disasters have created a dire emergency

which must be addressed to prevent a cutting back on vital ongoing programs.

Mr. Speaker, it will take time if we are to work out of the present problem. We need to get our country moving, to increase production, to again export more than we import—and we need to start now for we live in a competitive world.

As a start, tomorrow we must join together to pass the dire emergency disaster assistance bill reported out by our Committee on Appropriations.

The conditions resulting from the widespread disasters continue to get worse. There are now 40 presidentially declared disasters and an additional 68 declared by the Secretary of Agriculture. With reductions in employment, in production, and exports resulting from these disasters, when added to our mistaken policies, it is apparent that the Nation must take action. It has been over 6 months since we called attention to the problem, the facts of which are well known.

To begin to meet these problems, tomorrow we bring before the House a dire emergency supplemental to provide funds to meet the disasters which have hit the Nation since last October and to provide more funds for Hurricane Hugo damage and the 1989 California earthquake.

Recently, Hurricane Bob struck the northeast coast. To date, estimated costs for the disasters declared due to this hurricane are approximately \$52 million.

In the years 1990 and 1991, disaster declarations have been declared or are pending for 11 States in the East, 8 States in the Southeast, 8 South Central States, 11 North Central States, 6 States in the Northwest, and 6 States in the Southwest. Thus, in connection with this, it is necessary that the Congress declare these domestic needs to be dire emergencies so that other essential programs won't be reduced by sequestration as has been done to fiscal year 1991 programs which were reduced thirteen ten-thousandths of 1 percent by the Office of Management and Budget based on its own counting without the approval of the Congress.

Mr. Speaker, let me give you some examples of these disasters.

Farmers in Minnesota and Iowa were unable to plant their crops due to an unprecedented spring and summer rainfall. Furthermore, many crops which may have been planted were destroyed because of flooding.

Since early spring of this year, tremendous storms with accompanying torrential rain and winds have hit areas of the country. At one point, over 4 million acres of land in the Mississippi River Delta were inundated, destroying or damaging drainage ditches, bridges, roads, homes, and farms. Additionally, some of the worst

drought conditions of the century have affected other parts of the country.

The heavy rains that occurred in last April and early May 1991, averaged 12 to 18 inches above normal in the Yazoo basin. This flooding was more severe than in 1973 in several locations, setting modern day records, and resulted in a major flood fight activity.

Since October 1990, there have been disasters for which Federal funds are not available to meet emergency needs, resulting in calls for the National Guard and other assistance.

H.R. 3543 was reported October 17—before the disastrous fire in Oakland, CA, occurred. All the evidence is not in on the effects of that terrible fire. What we know now is that more than 25 persons have died and more than 1,800 homes have burned with damages included to roads, bridges, and the overall effect—according to the press—is estimated to be from \$2 to \$5 billion in damages. Apparently, this disastrous fire and the damages ranks with the volcano eruption in Washington, the earthquake in San Francisco, and to the Great Chicago Fire in 1871.

In addition, wildfires have damaged areas in Washington, Montana, Idaho, and Virginia.

Tomorrow, when the dire emergency supplemental is considered, I will offer an amendment that will provide additional disaster assistance for FEMA, the Corps of Engineers, the Forest Service, the Bureau of Land Management, the Soil Conservation Service, and the Geological Service to determine the needs and make recommendations to the subcommittee of jurisdiction of our Committee on Appropriations that we may mitigate the effects of the disasters and thereby help save our economy.

It is important that the bill and the amendment be approved as a dire emergency, for we must prevent cuts in ongoing programs through sequestration which would make bad matters worse.

I urge you to join us in our efforts to save the material wealth and the economy of our Nation.

□ 1240

#### THE AMERICAN BANKERS ASSOCIATION ATTACKS ITS OWN OFFSPRING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise to report a serious case of child abuse—perhaps even a case of attempted infanticide.

The coconspirators in this deed: the U.S. Treasury Department and the American Bankers Association.

Last spring, the ABA and Treasury brought their newborn child—the Financial Safety and Consumer Choice

Act—to Capitol Hill and pronounced it a future superstar. For months, the proud parents have been walking into Members' offices, displaying photos and extolling the virtues of their offspring.

Now on the eve of its graduation, we see the ABA and the Treasury Department disowning the child and attempting to throw it out into the cold. Huge multipage advertisements in the Washington Post and other publications suggest that the birth certificate should be marked "void."

Mr. Speaker, what we are seeing is another of those all-or-nothing games played all to often by the banking lobbyists. As soon as they were told they would have to be responsible parents and play by the rules, the ABA members started disowning their newest child.

Mr. Speaker, H.R. 6, which will be coming to the floor later this week, is a good bill—a solid bill that allows banks to enter into new activities with safeguards for the public, the insurance funds, and the banks themselves.

Unfortunately, a solid bill is not what the American Bankers Association wants. It wants the Congress to rubberstamp new powers, new activities, and new expansion and worry about regulation and the public interest later.

This is a sad replay of the same attitudes that the savings and loan industry brought to the Congress in the 1980's. The ABA is simply recycling the old press releases of the U.S. League of Savings Institutions. In the 1980's the Congress swallowed—hook, line, and sinker—the deregulation plans drafted by the U.S. League with not even a passing glance at the public interest or the need for a new regulatory structure.

The result now shows up every April 15 in every taxpayers' contribution to the Internal Revenue Service. And it will continue to show up for many more April 15's until we pay off between \$500 to \$750 billion of savings and loan mistakes.

Mr. Speaker, we cannot repeat these mistakes in the deregulation of the banking industry.

The legislation—H.R. 6—that we will be bringing to the floor this week will contain essential new regulatory standards and will provide the proper level of firewalls to separate volatile activities—such as securities—from the insured banks. Both the bank regulatory agencies and the Securities and Exchange Commission will have their cops on the beat to make certain that these securities subsidiaries remain separated from the publicly insured sectors of the bank holding companies.

Much of the focus in recent weeks has been on the efforts to come up with a workable solution melding the different approaches of the Banking Committee, with its jurisdiction over bank-

ing, and the Energy and Commerce Committee, with its role in the securities arena.

Mr. Speaker, I am proud of the cooperative spirit in which we have been able to deal with this issue. My fellow chairman—JOHN DINGELL of the Energy and Commerce Committee—has been extremely cooperative and has worked with me to develop an approach to the bank securities powers that will protect the public interest. The effort was difficult for both committees, but it has produced a very good legislative product that insures that this area of deregulation will have every public safeguard possible.

Like they approach everything else in this city, the pundits have attempted to turn the Dingell-Gonzalez negotiations into some kind of sporting contest with outlandish scoring systems about who won what where in the title. Leaving that game aside, I do know that there was one clear winner—the American public.

I am pleased, Mr. Speaker, that we were able to reach the decisions on this title without doing violence to the jurisdiction of either committee. Chairman DINGELL and I agreed that jurisdiction would remain status quo and that is exactly what happened.

While I take pride in the accomplishments stemming from these committee negotiations, I hope that neither the House nor the public lose sight of the fact that title IV—securities powers—was but one of six titles in the bill that will be coming before the House this week.

H.R. 6 is necessary if we are to keep the bank insurance fund [BIF] solvent and in a position to pay off depositors when banks fail. The legislation allows the Federal Deposit Insurance Corporation to borrow \$30 billion from the U.S. Treasury to keep the deposit insurance system afloat.

Mr. Speaker, H.R. 6 also contains absolutely essential new regulatory tools to protect the insurance funds—to make certain that his new \$30 billion is not wasted. For example, the bill requires that the regulatory agencies take prompt action when the conditions of a bank deteriorate. This is mandatory—no more long periods of wishful thinking while a sick bank is allowed to slip from high fever to high costs for the taxpayers. This provision will save the insurance funds billions and billions of dollars in coming years.

The legislation also puts a big dent in the age-old policy of allowing the big banks to escape the possibility that they, like their smaller brethren, will face closure or sale if they operate unsafely, unsoundly, or become unofficial wards of the State. If administered properly, these provisions can end the atrocious and unfair public policy that has been dubbed too big to fail.

H.R. 6 also gives the regulators some stiff new instructions to make certain

that resolutions of failed institutions follow the least costly route—the methods least burdensome on the American taxpayers and the insurance funds.

The bill also provides, for the first time, rational standards for the use of the Federal Reserve's discount window—the window that has been opening wide to provide low interest loans to banks. That window has been important as a source of short-term liquidity, but more and more it has fallen into a secret backdoor means of bailing out failing banks.

Ultimately, these bailouts, financed by the Federal Reserve, have cost the FDIC tons of money. The Federal Reserve, after the fact, mails the FDIC a bill for all the discount-window operations and the insurance funds and the taxpayers pay. The legislation ends this silly open-ended discount-window game and establishes specific criteria for the use of the facility.

Mr. Speaker, the legislation reported by the Banking Committee allows banks to branch across State lines, a provision that many believe will stabilize the industry and allow it to reach new markets. Such territorial expansions are not without their risks and many are anxious that the interstate entities do more than simply take deposits in new territories. It is my understanding that there may be amendments, the Rules Committee agreeing, that would strengthen community safeguards and ensure that the effect of such laws as the Community Reinvestment Act are not left behind when banks travel.

With the sequential referrals to four committees plus the basic H.R. 6, reported by the Banking Committee, the Rules Committee is obviously being given a big and difficult job in providing the vehicle to move the legislation to the floor. None of us know what amendments will be placed in order. But, Chairman MOAKLEY has done a magnificent job on the Rules Committee and everyone in the House appreciates that fact. I know the rule adopted in this instance will be absolutely fair. In 1989, we had the massive savings and loan reform legislation—FIRREA—and it, too, had multicommittee referrals. But, JOE MOAKLEY worked through that maze, allowed a representative group of amendments, and made a difficult floor situation work.

Mr. Speaker, I have made no secret of my disappointment that the Banking Committee did not adequately deal with the specific issue of deposit-insurance reform during its markup in June. Essentially, the committee left the status quo in place—allowing \$100,000 insurance for multiple accounts that could easily provide a single affluent family with insurance in excess of \$1 million courtesy of the taxpayers. This creates a tremendous contingent liability,

and I hope that the House will reconsider this issue and agree to place some limit on the multiple accounts and the ultimate liability of the taxpayers in insuring wealthy depositors.

Last week, Mr. Speaker, the American public was shocked by data collected under the Home Mortgage Disclosure Act which indicates widespread discriminatory lending practices by federally insured institutions. Nationwide, it appears that minority families seeking mortgages are rejected two to four times more often than applicants from other sectors of the population with the same income. In some cases, the disparity is much greater. I question the morality of voting this industry additional funds from the U.S. Treasury and providing other benefits while such lending discrimination exists among its members. I think we have to include provisions in this bill to correct the situation before we vote final passage. It is my understanding that our colleague, JOSEPH KENNEDY of Massachusetts, will be offering a fair lending amendment and I hope that the Rules Committee and the House will look favorably on the proposal. Mr. Speaker, I see this as a very serious issue that affects all our communities across the land and one which eats at the very fabric of a nation that prides itself on equality and equal opportunity. It cannot be overlooked, regardless of other agendas.

Again, Mr. Speaker, I urge my colleagues to ignore the confusion being sown by the American Bankers Association and the Treasury Department. We need to deal with the banking legislation this session and not postpone it while the banking industry reassembles its wish lists. H.R. 6 is a solid bill for the banking industry and the American public.

Mr. Speaker, I would like to submit the Congressional Budget Office's cost estimate for H.R. 6 as reported by the Banking Committee on July 23, 1991. It is my understanding that an amendment will be offered on the floor to address the CBO estimated outlays arising from the loan guarantee for borrowing by Rhode Island to repay deposits of failed credit unions.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 21, 1991.

Hon. HENRY B. GONZALEZ,  
Chairman, Committee on Banking, Finance and  
Urban Affairs, U.S. House of Representatives,  
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 6, the Financial Institutions Safety and Consumer Choice Act of 1991, as reported by the House Committee on Banking, Finance and Urban Affairs on July 23, 1991. The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,  
Director.

CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

1. Bill number: H.R. 6.
2. Bill title: The Financial Institutions Safety and Consumer Choice Act of 1991.
3. Bill status: As reported by the House Committee on Banking, Finance and Urban Affairs on July 23, 1991.
4. Bill purpose: H.R. 6 would make extensive changes in the deposit insurance system and in the regulation of financial institutions. These changes include procedures for prompt regulatory action when institutions are undercapitalized, more frequent examinations, and restrictions on the use of the too-big-to-fail policy. The bill also would eliminate deposit insurance coverage of certain types of bank investment contracts and would expressly prohibit U.S. government agencies from directly or indirectly providing insurance coverage for deposits in foreign branches of U.S. banks. The bill would phase out over a period of years the current prohibitions on interstate banking and on interstate branching by state and national banks, would allow commercial businesses to own banks, and would give banks new powers to affiliate with securities firms.

H.R. 6 would provide additional borrowing authority for the Bank Insurance Fund (BIF) and establish procedures to recapitalize the fund. It includes provisions that would strengthen federal supervision of foreign bank operations in the United States, mandate risk-based premiums, and restrict activities of state-chartered banks. The bill also would reduce deposit insurance premiums paid by banks and thrifts to the extent that they make qualifying investments in distressed communities and offer low-cost checking accounts for low-income persons. In addition, H.R. 6 would direct the Secretary of the Treasury to guarantee repayment of \$180 million borrowed by an instrumentality of the State of Rhode Island to repay depositors of failed credit unions.

5. Estimated cost to the Federal Government: Overall, CBO believes that enactment of H.R. 6 could save the federal government significant amounts of money, perhaps billions of dollars, over the next decade, by reforming the deposit insurance system and the regulation of financial institutions. The consequences of the legislation are, however, quite uncertain. They depend on how the regulatory agencies would implement the authorities the bill would give them and how the banking industry would respond to the new environment the bill would create. They also depend on broad economic conditions and their effects on the banking and thrift industries. Consequently, CBO cannot estimate with any precision the budgetary impact of H.R. 6.

More specifically: CBO expects that the bill's reforms of the deposit insurance system and regulatory procedures would reduce the long-term-risk to the government insurance funds by reducing the likelihood of future bank and thrift failures and by lowering the cost of resolving those institutions that do fail. The impact of these changes would depend greatly on how aggressively they are implemented by the regulatory agencies. It is possible that additional outlays would be necessary in the short term in order to achieve the long-run savings.

The additional borrowing authority for BIF would not result in additional costs to

the government because the funding would fulfill an already-existing deposit insurance liability of the government. Furthermore, CBO expects that the borrowed funds would be repaid from bank assessments over the next several years. The interest costs on such borrowings would probably be higher if BIF borrows from banks than if it borrows only from the Treasury and the Federal Financial Bank.

The reforms mandated by H.R. 6 would increase the likelihood that the funds loaned to BIF would be repaid from bank assessments and that ultimately the U.S. Treasury would not bear the costs of bank failures. Because insurance losses for savings and loan failures are being covered almost entirely by Treasury funds, reduced insurance losses on savings and loans would result in savings to the Treasury.

Additional costs to the agencies that regulate financial institutions are likely to be in the range of \$130 million to \$150 million annually once new procedures are fully implemented. Most of these costs would be covered by fees charged to the regulated institutions; the remainder would be offset reduced insurance losses.

Some provisions in the bill would affect appropriated accounts. If additional appropriations are provided for these purposes, additional discretionary spending would amount to about \$1 million a year.

**Basis of Estimate: Scoring Conventions.** The Budget Enforcement Act of 1990 excludes from pay-as-you-go calculations direct spending and receipts resulting from "full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section." The conference report on that act indicates that the intent of this provision is that "the funding to meet deposit insurance liabilities that meet existing commitments be exempt from any pay-as-you-go sequestration."

In applying the Budget Enforcement Act to H.R. 6, CBO has determined that the only provisions involving federal deposit insurance that should be included for pay-as-you-go purposes are those that change the existing deposit insurance guarantee commitment as defined in law. Thus, the exclusion of bank investment contracts from deposit insurance coverage would affect pay-as-you-go scoring. In contrast, all spending effects that would result from the additional BIF borrowing authority and the BIF recapitalization plan, all costs of implementing the new deposit insurance procedures mandated by the bill, and all changes in deposit insurance spending that would result from those procedures would not be counted for pay-as-you-go purposes.

#### SPENDING EFFECTS

**BIF Recapitalization.** H.R. 6 would increase the authority of the Federal Deposit Insurance Corporation (FDIC) to borrow from the Treasury on behalf of BIF by raising the existing Treasury line of credit from \$5 billion to \$30 billion. In addition, the FDIC would be authorized to borrow from the Federal Financing Bank (FFB) or from insured banks, but such borrowings could not exceed BIF's cash balance plus 90 percent of the estimated market value of its other assets. Any use of the Treasury line of credit would require the Treasury and the FDIC to agree on a repayment schedule and on the adequacy of assessment income to support the necessary principal and interest payment.

The CBO baseline projections have assumed that BIF is provided with the necessary resources to fulfill its deposit insurance commitments. Under these assump-

tions, CBO has projected BIF's borrowing needs to total about \$36 billion over the next few years, based on projected gross insurance losses of \$42 billion over the 1991-1996 period. Assuming an increase in the BIF premium to 30 basis points by 1993, CBO projects that BIF would be able to repay the Treasury and the Federal Financing Bank in less than 10 years.

**Overall Impact of Deposit Insurance Reform on BIF.** The bill would make comprehensive changes in the regulation of banks and other depository institutions. Regulators would be required to take various corrective action based on a bank's capitalization; as capital levels decline, increasingly stringent limitations would be imposed on the institution's actions. The federal banking agencies would establish the capitalization levels that would trigger each set of actions, but a ratio of tier 1 capital to total assets of less than 2 percent would necessitate appointment of a conservator or receiver or some other action that would better protect the deposit insurance system.

A variety of other reforms would also be instituted. They would include restrictions on the use of the too-big-to-fail policy, establishment of a risk-based assessment system, changes in accounting and auditing procedures, more frequent examinations, additional grounds for appointment of a conservator or receiver, limits on Federal Reserve discount window advances to undercapitalized institutions, standards for safety and soundness, standards for real estate lending, restrictions on activities of state-chartered banks, and additional reporting requirements.

CBO cannot project with any precision the overall impact of these provisions, because the future condition of the banking industry and the ways in which the banking regulators would implement this bill are so uncertain. We believe that the legislation would reduce long-term losses and spending by the Bank Insurance Fund—because of the requirements for prompt regulatory action, the imposition of risk-based assessments, the requirement for least-cost resolutions and more frequent examinations, and other regulatory changes.

The provisions requiring prompt regulatory action could be particularly significant. The results are difficult to predict, however, because the regulators would determine the points at which each set of actions is triggered. We expect that prompt regulatory action could reduce losses by 10-20 percent, and possibly much more, depending on how aggressively the procedures are implemented. A reduction of 10-20 percent over the 1992-1996 period would reduce BIF losses by \$2 billion to \$5 billion over this period.

We also expect that BIF outlays in the near terms, at least fiscal years 1992 and 1993, would increase as a result of H.R. 6. If prompt regulatory action leads to a speed-up in bank closures, the long-term losses may be smaller but the cash outlays for both losses and working capital would occur sooner. It is also that the requirement for least-cost resolutions would necessitate more liquidations or deposit transfers, which require more up-front cash outlays than other forms of resolution.

**Interstate Banking and Branching.** Title III of the bill would significantly relax restrictions on both interstate banking and branching. Three years following enactment, Section 301 would allow domestic bank holding companies or foreign banks to acquire any bank or bank holding company located in any state pending approval by the appro-

appropriate regulatory agency. The bill would not allow state laws to restrict such acquisitions unless the same restrictions are applied to banks and holding companies located within the state. Three years following enactment, Section 302 would allow full nationwide branch banking. National and State banks would be allowed to establish branches in any state as long as they met the filing requirements of the state. Foreign banks would be allowed to establish branches in any state subject to the approval of the Comptroller of the Currency.

These provisions would result in greater competition within the industry, which would force inefficient banks and savings associations to reduce costs on their own or be merged with an institution that would do it for them. Increased competition would likely lead to higher BIF losses in the short term, but greater efficiency and increased geographic and industry diversification of bank loans would probably lower losses in the longer term.

**Pass-Through Insurance.** Under current law, the Federal government provides insurance coverage on deposits up to \$100,000 per account. In practice, the FDIC extends full insurance coverage to much larger deposits, such as those made by pension funds or money brokers on behalf of many individuals. The FDIC views these accounts as fully insured as if each pension participant or client had placed the funds individually. The bill would reduce the scope of "pass-through" insurance by eliminating coverage of certain types of pension fund deposits, known as bank investment contracts (BICs), that allow the depositor to withdraw funds without penalty. BICs defined as uninsured deposits would not be subject to Bank Insurance Fund premium assessments. The bill would also restrict the use of brokered deposits to well-capitalized institutions.

Banks have increasingly used BICs in recent years to attract investments from pension plans. The Federal Reserve estimates that the volume of BICs outstanding at the end of 1990 was \$10.4 billion. The Congressional Research Service estimates that the overall investment contract market may be growing by \$20 billion per year and that banks may capture up to \$15 billion of that growth. Eliminating insurance coverage of some types of BICs would tend to reduce future losses to the BIF to the extent that the overall volume of insured deposits is reduced in banks that are expected to fail. Such savings would be at least partially offset by a reduction in premium income because banks would no longer pay assessments on the affected BIC deposits. Moreover, it is unclear that significant savings would occur because banks would probably attempt to alter BICs to retain their coverage or increase other kinds of insured deposits.

Disallowing the use of brokered deposits by undercapitalized institutions might reduce Bank Insurance Fund losses in the event of their failure. However, such institutions would probably shift to other investment vehicles in order to attract funds. CBO is unable to estimate the size of possible BIF savings at this time.

**FDIC Administrative Costs.** Enactment of H.R. 6 would increase the FDIC's workload in terms of supervising and regulating commercial banks. Beginning one year after enactment, the bill would require on-site annual examinations of most banks. The bill would allow state examinations to count toward this requirement in alternative years. Currently, the FDIC examines roughly 60 percent of the commercial banks under its juris-

diction each year and state examinations are used for others. The bill would also require increased administrative expenses to carry out the prompt regulatory actions required by the bill. CBO estimates these requirements will raise FDIC administrative expenses by \$2 million to \$3 million in fiscal year 1992 and by about \$5 million a year thereafter.

The bill would require regulators to determine whether a branch of an interstate bank is reasonably meeting the credit needs in its host state or market area. A review of the branch's lending practices would be required if the branch's percentage of local loans to total loans is less than half the local loan average made by all other depository institutions in the host state. If local credit needs are deemed unfulfilled, the bill would require regulators to close the branch. CBO estimates that these requirements would not significantly change the costs of bank supervision by the FDIC because such reviews are currently required under the Community Reinvestment Act of 1977.

Assessments to Recover the Cost of FDIC Examinations. Section 113 would provide authority for the FDIC to assess the cost of conducting regular and special examinations. Thrifts, credit unions, and nationally chartered banks already pay for such costs. We estimate that the FDIC could collect fees of about \$400 million annually to cover these expenses, but it is unclear whether the agency would do so.

Office of the Comptroller of the Currency (OCC). The bill would require the OCC to conduct comprehensive, annual, on-site examinations for safety and soundness. This would increase the frequency and scope of examinations for some banks. Based on information from the OCC, we estimate that the agency would spend an estimated \$25 million in 1992, \$47 million in 1993, increasing to \$54 million by 1996, to conduct more frequent examinations for safety and soundness.

In addition, Section 307 would require the OCC to evaluate compliance with the Community Reinvestment Act (CRA) for each state in which an institution has a branch. Further, each state examination would be required to evaluate information separately for each metropolitan area where an institution operates one or more branches. These examinations would be in addition to the evaluation of the entire performance of the institution in meeting its CRA requirements. For example, many large banking companies have branches in 10 or more states. The OCC would have to conduct examinations for each metropolitan area within each of these states. Additionally, the remaining non-metropolitan areas would have to be reviewed, and all this information compiled to produce a report for each state. The OCC has yet to evaluate this provision to determine the frequency or scope of additional examinations that it would conduct to comply with the statute. The OCC supervises 41 multinational banks and 259 regional banks, but the number of banks and the geographical distribution of their branches may change significantly. On a preliminary basis, we estimate that the OCC would incur costs totalling \$1 million in 1992, \$2 million in 1993, and about \$5 million annually in 1994 and each year thereafter as a result of enactment of this provision. All expenses would be recovered by raising assessments on banks, resulting in no net budget impact.

Resolution Trust Corporation (RTC). Consistent with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

(FIRREA), the Office of Thrift Supervision (OTS) has broad authority to place thrifts that are undercapitalized in conservatorships. Title I outlines rules that OTS must follow in taking prompt action to close thrifts. As a result of these changes, we expect that OTS would review capital restoration plans within a shorter time period and would initially move 85 thrifts into conservatorship more quickly than currently planned. Over the long term, OTS might take supervisory action against more thrifts than it otherwise would have.

Once a thrift is placed in conservatorship, the RTC prepares the thrift for sale or liquidation. The assumptions underlying the CBO baseline already anticipate that the RTC will be closing failed thrifts at a pace consistent with the resources available to the agency. As a result, we do not expect that the RTC would be closing institutions much earlier than we had already assumed. While CBO has not yet finished its review of the losses associated with thrifts in conservatorship, we believe that thrifts allowed to operate when their capital level is weak continue to accrue losses by selling good assets at bargain prices, securing high cost funds, or making new risky loans. If a thrift is placed into conservatorship earlier, we expect that the rate of deterioration in its net worth will slow during the time before it can be closed. If, for example, the annual rate of growth in losses in institutions that currently have tangible capital in excess of 1.5 percent and that CBO expects will need to be closed or merged in the next four years were to decline from 30 percent to 25 percent pending resolution, the RTC could save in the range of \$5 billion to \$10 billion in insurance costs relative to the CBO baseline over the 1992-1996 period.

Office of Thrift Supervision. Information from OTS indicates that the agency currently conducts annual on-site, full scope examinations at most institutions, and plans to expand the examinations that it now conducts on a limited, risk-focused basis to full-scale exams. Thus, OTS would be complying with the provisions of H.R. 6 that require annual examinations for safety and soundness in any case. We expect, however, that OTS would incur additional costs to pay for examiners, overhead and travel that would be needed to comply with the state-by-state review of compliance with CRA laws. Depending on the frequency of these exams, and given the changing environment that would result from provisions related to interstate branching and banking, it is not clear how much effort would be required to conduct these exams. On a preliminary basis, we expect the cost of these examinations to be \$1 million annually; these expenses would be recovered from fees charged to thrifts, resulting in no net budget impact.

Treasury Loan Guarantee for Rhode Island Credit Union Failures. The bill would require the Secretary of the Treasury to guarantee the repayment of up to \$180 million in borrowing by the Depositors Economic Protection Corporation (DEPCO). The State of Rhode Island established DEPCO to borrow money to repay depositors of failed credit unions that lacked federal deposit insurance coverage.

Before the Treasury could issue the guarantee, DEPCO would have to pledge to repay the borrowing using revenue received from a Rhode Island sales tax dedicated to DEPCO (and not otherwise pledged to repay other securities). Proceeds from the sale of assets and repayments of loans made by closed credit unions would also back the borrowing.

By mutual agreement, the Treasury and DEPCO would negotiate additional terms and conditions, which would include the date the guarantee would be issued and the maturity and amortization schedule. Other terms and conditions could include guarantee fees, any required credit ratings by private rating agencies, sinking fund requirements, and the designation of specific collateral.

DEPCO has no taxing power and its obligations are not legal obligations of the state. In June, DEPCO issued \$150 million in special obligation bonds, backed by revenues generated by a one-half of one percent sales tax. The Rhode Island General Assembly, through its appropriations process, must approve annually the imposition of this sales tax, which currently raises about \$30 million annually. Any revenues in excess of the amounts necessary to pay the \$150 million already borrowed and any other obligation of the state or DEPCO issued to finance the repayment of depositors' claims would have to be dedicated to pay the loan guaranteed by the Treasury. Because the bill does not specify the time period available to DEPCO to secure a Treasury guarantee, and because DEPCO has authority to issue \$150 million in additional securities under current law, the extent to which surplus revenues from the state sales tax would be available to pay the debt guaranteed by the Treasury is uncertain.

Assets from failed credit unions also would be used to repay DEPCO's borrowing. Preliminary information from DEPCO indicates that the agency has identified about \$380 million in non-performing loans and \$523 million in performing loans in the portfolio of assets inherited from failed credit unions. The characteristics of these assets vary greatly. To accurately assess the risk to the Treasury associated with its guarantee of DEPCO debt, more information would be needed about the asset quality and cash flows associated with the specific collateral that Rhode Island and the Treasury would select to repay any debt guaranteed by the Treasury.

Under the Credit Reform Act of 1990, the federal budget records budget authority equal to the subsidy cost of federal loans and guarantees in the fiscal year in which the government commits to provide the assistance, and outlays in the years in which the assistance is provided. To estimate subsidy cost, OMB and CBO usually calculate the net present value of expected late payments, default losses and interest subsidies, net of fees the borrowers pay to the federal government.

For single-purpose loan guarantees, such as this Treasury guarantee of DEPCO securities, CBO estimates the subsidy cost by comparing the interest costs DEPCO would have to pay on an unguaranteed loan to those it would incur on a guaranteed loan. In this case, CBO expects that DEPCO would receive a non-reinvestment grade rating for an unguaranteed loan, and we estimate that the subsidy cost of the federal guarantee would be about \$30 million, recorded as budget authority and outlays in fiscal year 1992. This estimate reflects that fact that the legislation would not require that the securities be investment grade, yet imposes a mandatory requirement on the Treasury to issue the guarantee. Based on information from staff at DEPCO and the Treasury, we assume that DEPCO would agree to borrow funds within one year, to pay a guarantee fee of one-half of one percent per year on the outstanding principal amount of any borrowing that has been guaranteed, and to limit the maturity of the debt to 10 years.

The bill specifies that the Congress and the President must treat any costs associated with the provisions related to the Treasury issuing the loan guarantee as emergency expenditures. If it is determined that this designation meets emergency requirements, then, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, such spending would be exempt from the pay-as-you-go requirements.

**Lifeline Accounts.** Banks and savings and loans that offer basic transaction accounts for consumers, commonly known as "lifeline" accounts, would pay one-half the assessment rate normally charged for deposit insurance on those qualifying accounts. The FDIC and the Federal Reserve would establish minimum requirements for these accounts, addressing such issues as minimum balance requirements, income eligibility, fees or service charges, and the number of withdrawals permitted. CBO has reviewed data about the size and extent of "no-frills" accounts currently provided by financial institutions. Based on this review, we expect that about 0.5 percent of transaction accounts held by commercial banks and about 2 percent of transaction accounts held by thrifts would qualify for the lower premium. The CBO baseline assumes that the premiums charged to banks for deposit insurance in 1993 will be 30 cents per dollar of assessable deposits, and that premiums charged to thrifts will be 23 cents per dollar of assessable deposits. Assuming enactment of this provision in 1991, and allowing time for implementation, we expect that BIF's receipts would be lower by \$4 million in 1993 and \$5 million in 1994 and in 1995, and that receipts to the Savings Association Insurance Fund (SAIF) would be lower by \$1 million annually beginning in 1993. The increased net outlays would not be related to deposit insurance and would therefore be counted for pay-as-you-go purposes.

**Assessment Credits for Qualifying Activities Relating to Distressed Communities.** Banks and thrifts that make eligible loans in distressed communities would receive a credit equal to five percent of the loan amounts against the premiums they pay to the deposit insurance funds. The maximum allowable credit would be 20 percent of the assessment owned in any six-month period. Banks or thrifts providing financial assistance through community development organizations would be eligible for a 15 percent credit against the premiums paid for deposit insurance, up to a maximum of 50 percent of assessments owed. The credit for each semi-annual period would be calculated based on "any increase during such period in the amount of assets of the institutions" that consist of qualifying loans and other financial assistance, as well as any increase in the amount of certain deposits, to the extent that the institution uses those deposits to make loans in that community.

The bill would establish a Community Enterprise Assessment Board, consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development (HUD), the Chairman of the FDIC, and two individuals representing community organizations. The Board would be required to publish standards outlining the scope and nature of the program.

Section 233 lists the types of loans that might be considered eligible under the program. These would include loans guaranteed by the Veterans Administration, HUD, and the Small Business Administration, conventional mortgage loans to homeowners, and numerous types of assistance targeted for af-

fordable housing or community development. No data currently exist that measure the total program level for many of these activities. Even less certain is which recipients would meet the definition of low- and moderate-income persons in distressed communities or enterprises involved with such neighborhoods.

For purposes of this estimate, we have assumed that the qualifying activities specified in section 233 would make up the pool of eligible investments. The single largest category is conventional mortgages, which account for more than 80 percent of the estimated assistance currently provided to distressed communities. Banks and thrifts originated about 70 percent of nearly \$400 billion in new home mortgages in 1990. Because the credit against insurance premiums applies to an institution's growth in assets, we have reduced the expected level of eligible new originations downward by 25 percent to adjust for refinancing of old mortgages, resulting in a potential pool of about \$200 billion of eligible loans.

While participation by individuals of low and moderate incomes varies by program, we expect an average of about 25 percent of the dollar amount of new mortgages would go to qualifying individuals. Further, we estimate that about 10 percent of those funds would be used to purchase property in distressed neighborhoods. Based on these assumptions, we expect that banks and thrifts would have about \$6 billion in eligible activity in 1991 that would qualify for a credit. The share of investments that earn a 15 percent credit is expected to grow from five percent in 1993 to 25 percent in 1995. Allowing time for the Board to develop standards, the banks and thrifts to make loans, and then premium credits to be applied to insurance premiums owed, we expect that premium reductions to BIF and SAIF would occur beginning in the second half of 1993. Premium credits, which results in outlay increases, would amount to about \$180 million in 1993, \$420 million in 1994, and \$510 million in 1995. The cumulative outlay increase through 1995 is estimated to be \$1.1 billion, which would be counted for pay-as-you-go purposes.

The Board would have the authority to change the amount of the premium credit, which might be the case if the FDIC determined that BIF would need this premium income to maintain the solvency of the fund, or if SAIF needed the premium income to repay its debt to the Financing Corporation or for other purposes. We cannot predict what adjustment, if any, the Board would make to amount of the premium credit.

**Miscellaneous Provisions.** H.R. 6 would establish a number of commissions and require several agencies to prepare reports and regulations and undertake other new responsibilities. For example, the OCC would be required to prepare 22 reports and participate in 11 studies. The agencies have not yet been able to provide CBO with enough information on which to base a detailed estimate, but it appears that the cost of these provisions may total \$2 million or more annually over the next few years. The funds would largely be subject to appropriation actions or be reimbursed from the public. These agencies most affected include the Treasury, the General Accounting Office, and the financial regulatory agencies.

#### REVENUE EFFECTS

Federal Reserve. H.R. 6 is expected to reduce revenues by increasing the supervisory costs of the Federal Reserve System. Each year the Federal Reserve remits its surplus to the Treasury, with the payment recorded

in the budget as governmental receipts, or revenue. Therefore, the additional operating costs resulting from enactment of the bill would reduce revenues. Based on analysis provided by the staff of the Federal Reserve Board, we estimate that the Federal Reserve would incur additional unreimbursed costs of \$26 million in 1992 and \$190 million cumulatively from 1992 through 1996.

Under title I of the bill, the Federal Reserve would be given specific responsibilities to take "promote regulatory action" to resolve the problems of troubled banks under its supervision. The Federal Reserve is the chief supervisor of member banks that are state chartered. If the Federal Reserve determines that one of these institutions has become undercapitalized as defined in the bill, the institution must submit a plan to the Federal Reserve to restore its capital. The Federal Reserve must then closely monitor the bank's progress under the plan. If the institution becomes significantly undercapitalized or fails to implement its plan, then the Federal Reserve must take further steps to restrict the institution's activities. If the institution falls below the critical capital level defined in the bill, then the Federal Reserve must appoint a receiver or conservator within thirty days, with the consent of the FDIC.

Title IV of the bill would give the Federal Reserve additional responsibilities to examine the newly-sanctioned relationships between banks, securities firms, and commercial businesses. The bill would replace bank holding companies with two new entities, financial service holding companies and diversified holding companies. Banks and securities firms would be able to affiliate through financial service holding companies, and commercial businesses would be able to affiliate with banks and securities firms through diversified holding companies. The Federal Reserve would be required to examine these relationships to ensure that the required degree of separation is maintained. The Federal Reserve would also process the applications of companies wishing to become financial service holding companies or diversified holding companies. In order to comply with these responsibilities, we expect the Federal Reserve would incur additional costs of an estimated \$12 million in 1992 and \$87 million cumulatively from 1992 through 1996.

The Federal Reserve also would have to increase its supervisory activities as a result of the interstate banking and branching provisions in Title III of the bill. The Federal Reserve would have to closely monitor the activities of interstate banks and branches. In addition, the Federal Reserve expects many applications from banks and holding companies to establish new branches and banks in different states.

Title II provides the Federal Reserve with new authority in the area of foreign bank supervision. The Federal Reserve is given the authority to directly examine all branches of foreign banks located within the United States, an expansion of its authority under present law. Currently, it examines branches of foreign banks only indirectly by using the reports of the Comptroller of the Currency, the FDIC, and the state regulators where possible. In addition, the Federal Reserve would examine foreign branches for compliance with consumer protection laws. The Federal Reserve estimates the additional costs related to foreign banks would total between \$25 million and \$30 million dollars in 1996. However, the Federal Reserve is expected to charge the foreign banks for the added costs associated with the examina-

tions. We assume the added costs would be completely reimbursed by the foreign banks and the net cost to the Federal Reserve of the new foreign supervisory authority is, therefore, estimated to be zero.

Title I would place limitations on the Federal Reserve's long-term lending to troubled banks through the discount window, but the estimated budget effect of these limitations in zero. Under certain circumstances specified in the bill, the Federal Reserve would not be reimbursed by the deposit insurer for discount window loans at banks that became insolvent. Based on conversations with staff at the Federal Reserve, we expect that the budget of the Federal Reserve would be unaffected by these limitations because the Federal Reserve would not extend long-term credit to banks under these circumstances.

Other Revenue Effects. The bill may affect federal revenues in addition to the effect on the Federal Reserve. The Congressional Budget Office does not estimate these effects. The Joint Committee on Taxation, which does provide revenue estimates, has not completed a revenue analysis of the bill.

6. Pay-as-you-go Considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. As discussed earlier, CBO believes that provisions in the bill affecting deposit insurance costs, including administrative expenses, should not be included for pay-as-you-go purposes unless the existing deposit insurance guarantee commitment as defined in law is changed. The elimination of insurance coverage for certain types of bank investment contracts would be such a change, but we do not have sufficient information to estimate the amount of the budgetary impact.

CBO believes that three other provisions of H.R. 6 would have pay-as-you-go implications—the loan guarantee for Rhode Island, and the premium credits for lifeline accounts and for activities in distressed communities. The budgetary impact of these provisions is summarized in the following table.

ESTIMATED PAY-AS-YOU-GO IMPACT OF H.R. 6  
(Outlay, by fiscal year, in millions of dollars)

	1992	1993	1994	1995
Loan guarantee for Rhode Island .....	30	0	0	0
Assessment credits for lifeline accounts .....	0	5	6	6
Assessment credits for activities in distressed communities .....	0	180	420	510
Total .....	30	185	426	516

The estimated revenue effect resulting from additional Federal Reserve expenses is not included for pay-as-you-go purposes because it is caused by administrative expenses related to the existing deposit insurance commitment. It is possible that there are other revenue effects of the bill unrelated to the Federal Reserve. The Joint Committee on Taxation provides such revenues estimates, but has not completed its analysis of the bill. Any such revenue efforts would be included for pay-as-you-go purposes.

7. Estimated cost to State and local government: Enactment of H.R. 6 might affect the costs of state banking regulatory agencies, but any costs or savings are not likely to be significant. In addition, DEPCO, an instrumentality of the State of Rhode Island, would receive a \$180 million loan guarantee, with an estimated subsidy value of about \$30 million.

8. Estimate comparison: None.

9. Previous CBO estimate: On September 30, 1991, CBO prepared a cost estimate for S. 543, as ordered reported by the Senate Com-

mittee on Banking, Housing and Urban Affairs. S. 543 authorized the FDIC to borrow up to \$70 billion from the Treasury, including \$30 billion to cover losses and administrative costs, but required the FDIC to repay its borrowings within 15 years. S. 543 also included provisions—similar to those of H.R. 6—that would reform deposit insurance, eliminate insurance coverage for certain types of BICs, restrict the use of brokered deposits, and strengthen regulatory and supervisory practices. CBO believes that S. 543, like H.R. 6, could save the federal government significant amounts of money, perhaps billions of dollars over the next decade, by reforming the deposit insurance system and making other changes.

CBO did not estimate any pay-as-you-go costs for S. 543. It does not include the premium credits provided by H.R. 6, and the \$180 million loan guarantee for DEPCO in the Senate bill was estimated to have no subsidy cost, because the bill expressly requires that the securities receive a triple A rating without the guarantee, that DEPCO pay an annual guarantee fee of 0.5 percent of outstanding principal, and that a sinking fund be dedicated to maintain reserves for further payments.

10. Estimate prepared by: Robert Sunshine, Mary Maginniss, Andrew Morton, Brent Shipp (226-2860) and Mark Booth (226-2869).

11. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

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#### A LOOK AT THE ECONOMY

The SPEAKER pro tempore (Mr. CARR). Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN] is recognized for 60 minutes.

Mr. DORGAN of North Dakota. Mr. Speaker, this is a time in this country when there is a lot of hand wringing, a lot of concern, a lot of pessimism, a great deal of agony about the position in which we find ourselves. There are people in this country who feel that the country is seriously off track. They see things that just do not quite line up for them. They see a country that's heavily in debt. They see a country with an economy that is in a recession. They see a country in which the rich are getting richer and the rest are getting squeezed. They see a country in which there are collapses in key industries. There is scandal. We have an S&L collapse scandal, bank failures, airline failures and a corruption scandal in the Department of Defense; 9 out of 10 defense contractors are under investigation for fraud in the 1980's. There is an ill winds procurement scandal and 60 percent of S&L scandals involve fraud.

They see the American people with a health care system that is in real trouble, with 35 to 40 million people who have no health coverage, and those who have coverage cannot afford to continue to pay the increasing bills.

They see a crime wave in which we cannot build enough prison cells to keep those in jail who ought to be in jail.

They see a rural America in tatters, small towns dying, and family farmers going broke.

They see an international trade picture that is pretty dismal with a giant trade deficit and unfair trade rules. They see education in crisis, with schools that do not measure up.

So what is wrong, what is happening, and why now? What does all this mean?

Well, I think after the last decade or so that this country has forgotten some old virtues and some timeless truths. Our leadership somehow seems to have been sending all the wrong messages, and the American people seem to have been receiving those same messages.

I remember sitting on the west front of the Capitol in 1981, the first year I came here, and listened to President Reagan's Inaugural Address. He stood there, the clouds parted on a gray day and the Sun streamed through, and President Reagan said, "Government is the problem."

Well, he believed that which he was about to assume control of was the problem, and the message was, "Get government off everybody's back. Let people do what they can do. They ought to pull themselves up by their bootstraps, become rich and successful and everything will take care of itself. Government is somehow troublesome." "We don't believe," he suggested, "in government regulation. We don't believe in controls. Hands off. No planning," he suggested.

Well, these were all the wrong messages, and this country as a result has drifted, I think, into a very dangerous position. We face some very, very tough challenges now.

About a century ago power shifted in this world. Economic power shifted from England to the United States. England was the predominant world economic power, and it shifted. You did not see a boat carry it to America. You did not see it take off in an airplane. Power shifted, and this country became the world's economic superpower, but it is shifting again. Economic power is shifting in the world again in a very certain way, and it is from here to the Pacific rim.

It is not irreversible, but it requires, in my judgment, strong leadership and assertive action to change.

With everything that is happening in the world, one would think that in the House of Representatives, in the Senate, in the White House, and especially in the homes and streets of this country this would be a time for great joy. There is wonderful news all around the world. The Berlin Wall is gone, just a footnote in history. Eastern Europe is no longer under the yoke of communism. The Soviet Union is literally coming apart. The cold war is over.

These are breathtaking events which have happened in a couple years which I did not expect to happen in my life-

time, and yet in the last 2 or 3 years all these things have happened in a manner that ought to bring great joy to all of us because it will change everything in our future for the better.

We ought to be poised, it seems to me, here in this country, to now turn our attention to the challenges here at home, but we are hip deep in problems, without much leadership.

Let me be clear. I intend to be very critical of the President, but I am also critical of us in Congress. It is not just the President's fault, in that he is the elected leader in this country, but it is also our fault because we have a responsibility in Congress to respond to leadership as well.

I am concerned about the White House. It seems to be more concerned about the next election than the next decade, more concerned about form over substance, a White House that almost incessantly refuses to be bold, to take initiatives to solve problems here at home.

Well, all of us, I think, could learn from those others around the world who are accepting the challenges given them to create their own destiny, to make the changes necessary to affect their lives.

I want to just mention something I have said before to my colleagues, because it bears repeating. We can learn from the experience of what is happening around the world, and we should, because we have forgotten some of these lessons. A joint session of Congress happened about a year-and-a-half ago. A man walked through the back door of the Chamber. He was introduced by the Doorkeeper. The Doorkeeper said, "Mr. Speaker, the President of Czechoslovakia, Vaclav Havel," and to a packed Chamber of House Members, Senate Members, the President's Cabinet, the Supreme Court and diplomats, the President of Czechoslovakia walked down this aisle and walked to the microphone behind me and began to speak. He spoke of 3 months prior to that day at midnight in his apartment in Prague, Czechoslovakia, there was a knock on the door. It was Communist secret police coming to arrest him once again. He understood the terror of arrest because he had been arrested many times.

The question for Vaclav Havel then was, "How long will I be in jail this time under the key of the Communists?"

The answer was that about 4 months later Vaclav Havel walked through that back door, not as a prisoner, but as the President of Czechoslovakia. He was in jail, out of jail, led a revolution without guns and bullets, deposed a Communist government and the military, and created freedom for the people of Czechoslovakia. He was elected President and came out to speak to us.

The lesson, it seems to me, in that speech is a lesson about the power of

an idea. An idea and a dream in Czechoslovakia and all across Eastern Europe and literally across the world, the power of an idea called freedom. He demonstrated, as it has been demonstrated in country after country, that the power of ideas represents the currency of progress. We need the power of ideas here in this country again, to put this country back on track, to build and to invest for the kids of this country, for their future to make this country number one again.

We need to change priorities. We do not need star wars. We need star schools. We do not need to be the curator of a new world order. We need to be concerned about a new economic order here in this country, and we need to do that soon.

The plan to put this country back on track is not new and it is not exotic. It is simply ideas that make sense, old virtues, timeless truths, and a little common sense.

Let me just describe some of them. First, we need a President who pays attention, who is here, not traveling, but here and pays attention to what is going on here at home and interested in solving problems here in this country.

I would like to read from today's Wall Street Journal just a couple of paragraphs. This is today's Wall Street Journal. The feature story says:

**BUSH'S SCHEDULE SHOWS HE SPENDS LITTLE TIME ON DOMESTIC CONCERNS**

(By Michel McQueen and John Harwood)

WASHINGTON.—Last month President Bush found time to sit down with leaders of 21 countries, from Micronesia to Liechtenstein. But he didn't manage to squeeze in a session with 16 GOP House members eager to discuss family leave for American workers.

Mr. Bush also personally dealt with diplomatic issues ranging from civil war in Liberia to economic problems in Peru. But he held only three meetings with individual cabinet secretaries with responsibility for domestic issues. And two of them were literally on the fly—aboard Air Force One en route to political events.

The president spoke four times with Senate Majority Leader George Mitchell—about Israeli housing loan guarantees and nuclear weapons policy. But he never discussed the issue of extended unemployment benefits with Mr. Mitchell, even as Congress moved to pass a Democratic bill while killing one backed by the White House.

September was supposed to have been the month when George Bush seized the initiative on domestic policy. Before leaving for his August vacation in Kennebunkport, the president vowed to "come back all ready to charge" against his "frustratingly negative" opponents in the Democratic-led Congress.

But a close examination of the president's activities for the month shows just how little involved he actually was on issues here at home. Interviews with some two dozen White House aides, legislators and others and a review of his schedules for the month depict a president who rarely misses a chance to dabble in international matters, but who rarely seizes a chance to take the initiative on domestic policy.

Now that is not me speaking, that is the Wall Street Journal, hardly a bastion of liberalism.

But I think they raise an important point. To put this country back on track, we need good leadership, we need a President who leads and a Congress that has the guts to follow good leadership.

We need a President who decides what is happening here at home is a priority. Second, we need a policy from the President and enough courage from this Congress to understand this country has to pay its bills. We cannot keep spending money we do not have. A lot of people do not understand the dimensions of the debt. Almost \$3.6 trillion in debt and this year the budget is out of balance almost \$420 billion. That is \$1.25 billion a day that is charged every day, 7 days a week, \$1.25 billion that is spent that we do not have.

The result is the kids are going to end up having to pay that bill. Is it tough to balance the budget? You are darned right it is tough. Is it necessary? It is absolutely necessary that this kind of dangerous, reckless, irresponsible fiscal policy stop and that we put this country back on track in this fiscal year.

One of the things that the American people believe about the Government is that it is too big and too bloated.

The third thing I think we ought to do is to trim the number of employees in the Federal Government. It is happening around the country. It is not pleasant, but it is happening. States are having to cut back a bit, cities and counties have to cut back a little bit. I think we ought to have at least a modest start here to suggest that we will trim the Federal work force. Yes, that means the work force here in this Congress as well, by 5 percent, just for starters.

The next step we ought to take, it seems to me, is common sense, but I have worked for literally three-quarters of a decade without the kind of progress I would like.

I think we ought to legislate to stop completely leveraged buyouts, the hostile takeovers, junk bonds, the orgy of greed that has attended all that activity. It is ruining this country.

The 1980's represented an unprecedented wave of greed, from Wall Street to the corporate boardrooms. And the attention was not to how can we build better products, the attention was how can we buy somebody and take them over and issue junk bonds to do it?

We have now seen the collapse of that house of cards. It is a form of economic cannibalism that, in my judgment, is ruining this country.

Now, I have gotten about four pieces of legislation enacted that, in some small ways, tend to put barriers in front of this activity; but it is not enough. We ought to flatout make that kind of activity illegal.

Fourth, what we ought to decide to do is to stop paying everybody else's bills. You know, we now pay over \$100

billion a year to defend Japan and Western European countries? We pay their defense bills. This is preposterous. These are tough, shrewd economic competitors, well able to pay us the costs of the captains and the cruisers that keep the sea lanes open so they can ship their cars to this country.

We ought to expect other countries to begin to bear their share of the burden of keeping the free world free.

As preposterous as it sounds, we now borrow money from Japan so we can provide money to France to defend France against Poland. Yes, that is as goofy as it is. And it makes no sense. We ought to tell the rest of the world Uncle Sam cannot afford to pay your bills anymore. We ought to save some money on the issue of burden-sharing by having those for whom we now provide a defense pay us the cost of providing that defense.

No, I do not want to rearm Japan, that is not the issue. I want Japan to send us every year the cost of keeping the free world free that they ought to assume as their proportionate share of the cost.

The fifth step is education. If the President and the Congress understand, and I think we should, the genesis of progress in this country will come if and when we decide that the bedrock of the foundation for progress is education.

We must dedicate ourselves to have the finest educational system in the world. That is the way America competes. That is the way America succeeds in the decades ahead.

The next point is international trade. This country cannot succeed in international trade unless the rules are fair. I am someone who believes we ought to open our markets to foreign goods. I think that is fine. I think consumers ought to have the widest possible choice when they shop. But I expect and insist and demand that when foreign governments and foreign producers send their goods to this country to be purchased by the American consumer, that the market in their country must be open to American workers and American producers who are sending goods there as well. This country should not allow countries to insist our markets be open to them, but then close their markets to us.

We just cannot work under a trade policy that allows that to continue to happen. We ought to have a golden rule of international trade. We ought to say to other countries, "We want to treat you very well. We want our markets to be open to you. But we are going to follow a golden rule here. So be sure you are real careful about what you do to our producers and our workers who are sending goods into your markets. If you expect to send goods into ours unimpeded, then make sure your markets are open to us."

You know, I am convinced we can compete, but not in markets that are closed. One of the things we must do to put the country back on track is have a farm program that works. We have had now almost a decade of a farm program that is a classic failure. In the last decade we have had a 24-percent increase in the number of Federal workers who run the farm program and a 34-percent decrease in farm population.

Now, it does not take a lot of schooling to understand that that is a failure. If your farm program is producing more people to run it because it is so god-awful complicated nobody can understand it, and you end up with a third fewer farmers, something is wrong.

We can have a much better farm program than we now have without any additional money if we simply decide we are going to target farm program benefits to family-sized farms. And that ought to be the first step, it seems to me, in trying to understand how we repair the persistent economic damage in rural America.

Finally, I think this country needs to have a national program in which the Federal Government and the private sector join to decide that we are going to build the best products in the world. We need national programs that provide incentives for product quality.

In 5 years from now, halfway around the world, someone inspects a product and sees a label that says "made in America," or "made in the U.S.A.," and they say, "You know, I know that label means this is the best I can buy," then we win. If and when it happens that we build the best products and we compete at the best prices, then we succeed in the international marketplace. This country needs to make "made in the U.S.A." a symbol of value and quality again all across the world.

We can do that, we should do that, we must do that. We will not do it while our people in industry play greed games, buying and selling each other, floating junk bonds. That is not the way you do business that works.

□ 1330

As my colleagues know, a hostile takeover cannot occur in Japan because they will not allow it. They know it is destructive. It should not happen in this country either. Our private sector ought not worry about who is behind them and whether they are going to be taken over the next day. It ought to worry about how to build a better product, and sell it at a better price and succeed in the international marketplace.

So, I think it is time to start taking care of things here at home. We need, I think, a President who parks Air Force One and who decides that this country is the priority, and we need a Congress that has the courage to join a Presi-

dent on tough policies to put the country back on track. We need American business to start working at the next decade rather than the next quarterly report. We need business and Government to stop being adversaries.

Mr. Speaker, how on earth can we succeed in competing with the Japanese, and the West Germans and others—who form private-public sector combinations to try and succeed in the international marketplace—when back in this country we have this constant adversarial relationship between business and Government? We are in exactly the same competition, business and Government. It is all one country. It is all one competition. And we are in it as partners. And the sooner we decide to stop this adversarial relationship, and join hands and understand that we need to try to help each other, the better off this country will be.

Mr. Speaker, it seems to me that the American people, as well, are going to have to make some changes. The American people are going to have to, in my judgment, decide to select the positive, rather than the negative. One cannot check out at a grocery store counter these days without understanding how seductive it is to read about scandals. But one cannot, by the same token, fail to understand how deep this country's problems are and how desperately we need citizen involvement to solve them.

Vaclav Havel did not go it alone in Czechoslovakia. When he spoke from that microphone, he told about the street demonstration in the middle of the night in Prague, Czechoslovakia. A young man climbs a street light pole and begins to read from the Declaration of Independence from America. That is pretty inspiring stuff, and that is not a government official. Those are folks in the streets. Those are people deciding to take things into their own hands.

Mr. Speaker, I think we need people in this country again to stand up and be for something, not against something. Be for something. We must, it seems to me, join people once again with the Government. This Government is supposed to be of the people, by the people, but, there has become a chasm in this country, a notion that somehow Government is not all responsive. And I understand there are lots of reasons for that, but there is no reason that it cannot be responsive in the future with a President that leads, and a Congress that has the conviction to follow, and an American people that are giving the signals about what they want for their future.

John Adams in 1776 described his commitment to his country, and I was reading it the other day, and it reminded me once again about the powerful commitment some people have made to this country and the pitiful small amount of devotion there is to

that commitment by so many others. Let me read what John Adams said, and then let me ask my colleagues what kind of commitment do we see today. John Adams in July 1776 said, as most of my colleagues will recall from this speech:

This is a time of great peril. We shall fight; we shall fight with whatever means we have. For myself, I can only say that all that I have, all that I am, all that I hope for in this life, I stake on this course. For me the die is cast. Sink or swim, live or die, survive or perish with my country. That is my unaltered resolution.

Mr. Speaker, has leadership changed so much? Is there not a reservoir of courage in this country? Among the people? In the Congress? In the White House? To decide to rise up, and stand up for and speak for solutions that put this country back on track? Toward a future that all of us can believe is a bright economic future?

Adlai Stevenson said years ago: "Trust the people. Trust their good sense, trust their faith, trust their fortitude, and trust them with the important decisions." I think we are going to see again in this country the reservoir of courage to do what is right to put America back on track, and I continue to hope, and it is the only reason I continue to serve, is that I have that kind of hope, and it never wavers, that this country, although it strays off course during 200 years of history, always rebounds back to find a center course that represents what and where the American people want this country to go.

I believe that the next year is a very critical year for us, and I believe that, if we work together, if we can stop the bickering, if we can extend the hand between the White House and Congress, if we can develop the trust between the public sector and the private sector, if we can develop the kind of pact that is necessary between those who elect us and those who serve them, I think this country can do great things in its future. I continue to hope that.

#### WASHINGTON STATE'S TERM LIMITATION INITIATIVE: THE HIDDEN AGENDA

The SPEAKER pro tempore [Mr. McDERMOTT] is recognized for 60 minutes.

Mr. McDERMOTT. Mr. Speaker, I have asked for this time in order to talk about one of the most misunderstood threats to our democratic values that I have seen in two decades of public service. A few of the world's richest men, representing no opinion but their own, are trying to hoodwink the citizens of my State, through a ballot initiative that purports to enhance democracy by limiting the number of terms elected officials can serve.

First, let me say that I understand the public's frustration with Govern-

ment. I am frustrated, too. I have grave concerns about the direction this country is going, and every day I try my best to move it in the direction I believe my constituents want. It is a frustrating process—but it is called democracy, and no one ever said it would be easy or efficient.

I also realize that it may sound self-serving for those of us who might be affected by term limits to speak against such proposals. But I am not embarrassed to oppose term limits—I am proud of my record in public service and I am willing to face any criticism from any opponent. I see no reason to apologize for seeking reelection. I have won elections, and I have lost elections, and I believe in the right and the capability of voters to make those decisions, based on each candidate's merits and record.

In fact, from my point of view, the Washington State term limit initiative will not really affect me, because I am convinced it will be found unconstitutional. It will not affect the tenure of any Member of our State's congressional delegation, because article I, section 2 of the U.S. Constitution, setting forth the qualifications for service in the House and Senate, makes no reference to the number of terms a person has already served.

That is why I agree with Speaker FOLEY that this initiative is "a legal fraud upon the public." That is why I joined with him in a legal action to remove this initiative from the ballot. Our State supreme court denied that petition because the case was not ripe for decision—the voters had not yet spoken.

I understand and respect that reasoning. If the initiative passes, I will join with others in a legal challenge to protect the rights of my constituents to decide who shall represent them in Congress. If my constituents do not agree with me about the term-limit issue, they will have a chance to tell me that a year from now, when I hope to run for my third term in Congress.

So Washington's term limit initiative will not affect my tenure here, or that of anyone else in our delegation. What does affect our tenure, and the tenure of every Member of this body and the other body, is the quality of the job we do here in Congress, representing the people who sent us here.

Here in the House of Representatives, our job performance is subject to regular and systematic review. Every 2 years we have to account for our actions, our inactions, our votes, our services to constituents, and everything else about the way we do our jobs. No one in any other occupation, any other profession, is subject to the systematic scrutiny and review we face every 24 months.

That review is necessary and appropriate, and I have welcomed it ever since my first election to the Washing-

ton State Legislature in 1970. If the people who sent me here decide that someone else should represent them, of course I will accept their decision. But I will not stand by and watch a few rightwing billionaires try to perpetrate a legal and political fraud on the people I represent.

I want to outline in some detail, for the information of the people of Washington State and of my colleagues, the parentage of initiative 553 and the campaign to enact it. Most of the information comes from the Tacoma Morning News Tribune of October 13, 1991, an article by Patti Epler and Les Blumenthal, which I will include in the RECORD after these remarks.

The story began last year in Tacoma, WA, when our colleague NORM DICKS faced a challenger in the Democratic primary. The challenger and his supporters disagreed with Mr. DICKS on some issues. But the voters of Washington's Sixth District rejected their challenge by a substantial margin, renominating and then reelecting Congressman DICKS.

But the people who could not defeat a Congressman in a fair fight back home decided it was time to change the rules of the game. The problem, they decided, was incumbency. Incumbents should not be allowed to serve too many terms, so that new people could be elected to open seats. In fact, the people could not be trusted to replace incumbents who were doing a poor job, or had been in office too long. Instead, term limits would force the voters to choose new people at regular intervals. Not necessarily better people, just new ones.

So they formed an organization called LIMIT—legislative initiative mandating incumbent terms—and filed initiative 553. I will include the text in the RECORD, but in essence it does this:

It limits the Governor and Lieutenant Governor to two terms.

It limits State legislators to three terms in the House and two in the Senate, or a combined total of 10 years in both bodies.

It limits Congressmen to three terms and Senators to two terms, or a combined total of 12 years in both Houses of Congress.

These limits are retroactive, but incumbents who have reached them on the effective date can serve one more term. That means one of our Senators, and all of our current Congressmen who are still in the House in 1994, will have to leave our present offices then.

If you think all politicians are fools or crooks, I guess it makes some kind of sense to rotate them automatically out of office. That system also saves people the trouble of actually voting. But it does nothing to improve the quality of future office-holders or the conduct of campaigns. My friend and colleague AL SWIFT has aptly called it set and forget democracy. Its premise,

as he said, "is that people cannot be trusted to make up their minds the fourth time a legislator runs."

But my purpose today is not to go through all the reasons why this initiative is bad for our State, bad for the political process, and bad for democracy. I just want the people to know who put this turkey on their plate.

The Washington State Constitution requires 150,000 signatures to put an initiative directly on the ballot. Every year, on every issue you can think of, thousands of volunteers gather signatures door to door, in shopping malls, at public events, everywhere in the State, on initiative petitions. It is a magnificent display of grassroots democracy at work.

The initiative process has given us some of our best laws—public disclosure of campaign contributions and public officials' finances, strong toxic waste liability requirements, protection of our shorelines, a higher minimum wage. These and other measures have gone onto the ballot because dedicated volunteers have taken petitions into every corner of our State and convinced other voters to sign them.

But that kind of grassroots democracy was too much of a challenge for LIMIT. They could not win a free and fair election in one congressional district, and they could not obtain enough signatures for their initiative without outside help. Luckily for them, help was available. Last spring, out-of-State money poured into Washington State for the signature-gathering effort.

And LIMIT did what no genuine grassroots citizen group has ever had to do before in our State—they paid a California firm to gather signatures, 40 cents per signature. Our State election officials are not sure whether that is illegal. It should be.

Now LIMIT is running a slick, expensive campaign to enact their initiative, outspending its opposition 3 to 1. They are trying to pass themselves off as a grassroots movement. But no initiative campaign in our State's history has received so much of its funding—95 percent—from outside the State. Most of that money, over \$530,000 pledged or received so far, is coming from an organization called Citizens for Congressional Reform, which is based right here inside the Beltway.

Citizens for Congressional Reform is a conservative group that supports terms limit efforts in many States. The group was formed in 1989 by another conservative Washington, DC, organization called Citizens for a Sound Economy. Staff members have switched back and forth between the two organizations, and some CSE staff members serve as officers of CCR. It would be fair to describe Citizens for Congressional Reform as a wholly owned subsidiary of Citizens for a Sound Economy.

Neither of these organizations will tell the press exactly where their

money comes from. But their officers and boards of directors read like a "Who's Who" of some of the largest, most powerful corporations in America, and some of the world's wealthiest men. They also include some of the leaders of the Libertarian Party, which has fielded mostly rightwing candidates in State and National elections for many years without winning a single office.

Let me tell you who these people are. First, the directors of Citizens for a Sound Economy:

The chairman of CSE is James C. Miller, III, who was director of the Office of Management and Budget under President Reagan.

Charles G. Koch and David H. Koch are the owners of Koch Industries, Inc., the second largest privately held company in the United States. I will have more to say about them later.

Richard Fink is an officer of Koch Industries.

Dirk Van Dongen is president of the National Association of Wholesaler-Distributors, a business group that opposes most of the legislation we are trying to enact in this Congress to help working men and women.

J.P. Humphreys is president of Tamko Asphalt Products, a privately held manufacturer of roofing shingles.

John Pittenger is director of the Monitor Co., a management consulting firm that advises some of the largest American and foreign corporations in the world.

David Padden is president of Padden and Co., an investment firm.

William Vandersteel is president of Tubexpress Systems, Inc. He was the Libertarian candidate for Senator from New Jersey in 1978.

Samuel H. Husbands, Jr., is a vice president of Dean Witter Reynolds, Inc., a Wall Street brokerage firm. He also serves on the board of the Libertarian Cato Institute.

Carl Pescosolido, Jr., is president of Sequoia Enterprises, a citrus packing company, and Tropicana Energy, an alternative-fuels firm.

Richard J. Stephenson is chairman of American International Hospital in Illinois.

William Law is president of Cudahy Tanning Co., a leather finishing firm.

Carl T. Holst-Knudsen is president of Thomas Publishing Co., a major business-buying-guide publisher.

James Van Meter is executive vice president of Georgia-Pacific Corp., one of the Nation's largest timber companies.

F. Kenneth Iverson is chairman of Nucor Corp., one of the largest steel manufacturers in the country.

Joseph E. Coberty, Jr., is a southern California real estate investor.

Jim Cowen is president of the Commerce and Industry Association of New Jersey, which lobbies for business interests in that State.

Citizens for a Sound Economy also has a Washington Advisory Board of big business lobbyists, and I think the public ought to know who those people are:

Peter J. Connel of Aetna Life and Casualty Co.

C.T. Howlett, Jr., of Georgia-Pacific. John R. Nelson of Philip Morris, the tobacco company.

Phillips S. Peter of General Electric Co.

Woodruff M. Price of CSX Corp.

Thomas L. Wylie of Sun Co.

Since the Tacoma News Tribune and other media exposed the role of Citizens for a Sound Economy in the Washington State term-limit campaign, two other business lobbyists have resigned from CSE's advisory board. I am afraid we have to assume that the rest of the gentlemen I have named agree that Senator GORTON, Speaker FOLEY, and the rest of our House delegation should be removed from office in 1994.

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

Mr. MCDERMOTT. Mr. Speaker, I will yield to the gentleman from Pennsylvania when I am finished making my statement.

Mr. WALKER. Mr. Speaker, I had a question about what the gentleman just said. Will the gentleman yield for a question?

Mr. MCDERMOTT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the people the gentleman from Washington just described, they are on the board of directors of Citizens for a Sound Economy?

Mr. MCDERMOTT. Mr. Speaker, the first group is on the board. The second group is the Washington advisory board.

Mr. WALKER. So the point of the gentleman is that they are guilty by association?

Mr. MCDERMOTT. They allow their names to be used.

The News Tribune and other press accounts agree that the Koch brothers are the prime movers behind both Citizens for a Sound Economy and Citizens for Congressional Reform. The president of Citizens for Congressional Reform, Wayne Gable, is the managing director for Federal affairs of Koch Industries. Who are the Koch brothers, and why do they want to limit the terms of Washington State officials?

Fortune magazine ranked Charles and David Koch as the 18th richest men in the world, worth \$4.7 billion. Their company has holdings in energy, real estate, manufacturing, and cattle. Its \$16 billion annual revenue makes it the second largest privately owned company in the United States.

Among other activities, Koch Industries is the largest purchaser of oil from Indian reservations in the country. After an investigation in 1989, the Senate Select Committee on Indian Af-

fairs found that Koch Industries had engaged in "sophisticated and premeditated theft" of oil from Indians, "stealing by deliberate mismeasurement and fraudulent reporting." Come to think of it, bankrolling a fraudulent citizen initiative is no surprise coming from people who would do that.

But I have to give some credit to David Koch—at least he was willing once to put his philosophy directly before the voters. That was in 1980, when he ran for Vice President on the Libertarian Party ticket, contributing \$1.7 million to his own campaign.

What does the Libertarian Party believe in? According to their 1980 platform, the one David Koch ran on, Libertarians support:

The abolition of Medicare, Medicaid, and Social Security;

The repeal of all taxation, starting with income taxes;

The right to discriminate in employment, housing, and public accommodations;

The abolition of all public schools and repeal of school attendance laws;

The elimination of all publicly funded services to children;

The abolition of the Environmental Protection Agency;

The repeal of collective bargaining laws that require employers to recognize unions;

Defaulting on the Nation's public debt;

The repeal of all banking regulation;

The repeal of antitrust and consumer protection laws;

Privatization of public roads and highways;

The repeal of minimum wage, child labor, and occupational health and safety laws;

The repeal of zoning laws and building codes;

Privatization of our national parks and national forests;

The repeal of campaign finance laws.

That is quite a platform. Of course, any American has a right to advocate these public policies or any others. Many Libertarians also support freedom of speech, religious freedom, civil liberties, and other values Americans share.

But the heart of their philosophy is a rightwing, antigovernment agenda that makes David Duke look like a liberal. That is why Libertarians have been so overwhelmingly defeated in every election contest they have waged.

So these Libertarians and rich businessmen share the same problem as that little group in Tacoma who filed initiative 553—they cannot win a free and fair election on the merits. So they are trying to change the rules.

One way to change the rules is to push for stronger campaign finance laws. But that would not serve the interests of the men behind Citizens for Congressional Reform and its parent, Citizens for a Sound Economy. They do

not lack money or influence in Government. They are some of the richest men in America, running some of the biggest companies, employing some of the most sophisticated lobbyists, and—yes—bankrolling the campaigns of veteran incumbents when they choose to do so.

Federal Election Commission records show that the Koch brothers and Koch Industries Political Action Committee—yes, they have a PAC of their own—contributed to 8 incumbent Senators and 16 incumbent Congressmen in the last 3 years. Only 3 of those 24 incumbents would be eligible to run for reelection, if our State initiative applied to them. Most would have left office long ago.

I do not quarrel with the right of any of these men to express their views, back the candidates they choose, and participate in the political process. And I do not quarrel with the right of people who believe in a libertarian philosophy to promote that philosophy, as the Libertarian Party does.

My quarrel is with the deceitful attempt to foist a rightwing, antigovernment agenda on the people of my State in the guise of a grassroots citizen movement to improve government. These men's policy goals—as expressed in the Libertarian platform—have never been approved by voters anywhere. So they are trying, in one State after another, to change the rules and deny the people the right to retain experienced representatives.

We in Congress know that the voters will not buy the Libertarian agenda on its merits, because we have been through elections, putting our records and philosophies in front of those voters, regularly and systematically. That is our job.

Some of us are conservative, others liberal, others moderate. Our philosophies and our records vary, but we have all presented them to the voters we represent, and those voters have given us permission to represent them for this current 2-year period. Next year, many of us will ask that permission again. Some will receive it, some will not. That is democracy. That is accountability. That is the job of a Congressman.

The out-of-State rightwing fringe behind initiative 553 has paid for a mailing to every voter. It blames the national debt, high taxes, the savings and loan scandal, the crisis in our health care system, and the failings of our schools on career politicians—not on any particular people, not on any particular policies, not on any particular decisions we or others have made in government.

I guess their message is that there are people out there who can get rid of the national debt, reduce taxes, undo the savings and loan mess, and improve health care and education, all at the same time—but these people cannot be

elected to office because the career politicians are hogging the elective jobs.

That message carries some irony when we look who is behind it.

James C. Miller III, chairman of Citizens for a Sound Economy, was Ronald Reagan's management and budget director for most of the 1980's. He presided over the tripling of the national debt and the deregulation of S&L's—but he wants Washington voters to blame those mistakes on their congressional delegation.

Dirk Van Dongen, CSE board member, testified last week in the Ways and Means Committee against any kind of comprehensive health care reform—but he wants Washington voters to blame their congressional delegation for the lack of affordable health care.

David Koch, CSE board member, ran for Vice President on a platform that called for total deregulation of financial institutions and the abolition of public schools—but he wants Washington voters to blame their delegation for the savings and loan scandal and failures in our educational system.

Make no mistake: The real agenda of the men behind initiative 553 is to cripple representative democracy and effective government, to weaken and discredit the democratic institutions our Nation's founders so carefully created. They want an America where children do not have to go to school, where the highways and national parks are privately owned, where there is no Social Security or Medicare, no minimum wage, no restriction on child labor, where monopolies can fix prices without fear of competition. Do not just take my word for it, look at their platform.

And, let us not forget, the rightwing Libertarians want to repeal all campaign finance laws, even the inadequate ones we have now. Then people like the Koch brothers could spend millions of their own money on their own candidates. Term limits would cycle those candidates in and out of public office like interchangeable robots.

If they had begun their careers in the brave new world of term limits, Warren Magnuson would have been forced out of the Senate in 1950, Scoop Jackson in 1958. TOM FOLEY would have left the House in 1970. I am glad we voters in Washington State had the power to keep those people in Congress.

After 36 years in the Senate, Warren Magnuson was defeated for reelection. He accepted defeat without rancor and came home to Seattle. He knew what everyone knows: Turnover and new blood are needed in legislative bodies. So is experience. We have both in Congress.

We have seen 405 new Members in this House since 1978. Over 60 percent of House Members have served less than 12 years. The average tenure of Washington State's House delegation is

11 years. Some Members stay a long time, because they want to and the people who sent them here want them to. Others leave quickly, because they decide to, or the people who sent them here decide to send someone else. That is what happens when you let the people decide.

Last winter, Congress made a momentous decision—to go to war in the Persian Gulf. We were deeply divided on that critical issue, but we were sincere and serious about our responsibilities. Among us are many people who served in Congress during the Vietnam war, a few who served during the Korean war, and one who served here during the Second World War. If initiative 553 had been in effect nationwide, not a single Member of either body would have been serving in Congress the last time America was at war.

It is not especially fashionable any more to quote Franklin Delano Roosevelt. And I suppose I run a risk when I invoke the name of someone who actually had the bad taste to be elected four times to the highest office in this land. But FDR used to talk about "a little group of willful men, representing no opinion but their own." He called them economic royalists. He would have recognized the little group of men who run Citizens for Congressional Reform.

When FDR was dead, his political enemies amended the Constitution to limit the number of terms a President could serve. Now their political heirs are playing the same siren song, hoping the people will act out their frustration with the deficit, with scandals, with all the hazards of representative democracy, by disarming themselves of the right to choose who will represent them in the future.

I have taken some time here, in the hope of helping the people of my State to look behind the surface appeal of term limits, to look at the real issues at stake, and the real agenda of those who are spending so much to sell them this initiative. I hope they will vote against initiative 553 next week.

Then, I hope they will vote again a year from now, either to keep my colleagues and me in Congress or to throw us out—each of us, on our record, on our merits, up against a comparison with live opponents who offer real alternatives. I can live with any result of that process, any time. It is too bad that the powerful billionaires and rightwing ideologists behind 553 cannot.

□ 1400

Mr. Speaker, I include for the RECORD the material referred to in my speech.

COMPLETE TEXT OF INITIATIVE MEASURE 553

An Act relating to term limits for elected officials; adding a new section to chapter 43.01 RCW; adding a new section to chapter 44.04 RCW; and adding a new section to chapter 29.68 RCW.

*Be it enacted by the people of the State of Washington:*

New section. Sec. 1. A new section is added to chapter 43.01 RCW to read as follows:

A person elected to the office of governor or lieutenant governor is eligible to serve not more than two consecutive terms in each office.

New section. Sec. 2. A new section is added to chapter 44.04 RCW to read as follows:

A person elected to the Washington state legislative is eligible to serve not more than three consecutive terms in the house of representatives and not more than two consecutive terms in the senate. In addition, no person may serve more than ten consecutive years in any combination of house and senate membership. Terms are considered consecutive unless they are at least six years apart. Therefore, elected legislators who have reached their maximum term limits are eligible for legislative office after an absence of six years from the state legislature. Persons who have already reached the maximum term of service on the effective date of this act are eligible to serve one additional term in either the state house of representatives or the senate.

New section. Sec. 3. A new section is added to chapter 29.68 RCW to read as follows:

A person elected to the United States congress from this state is eligible to serve not more than three consecutive terms in the United States house of representatives and not more than two consecutive terms in the United States senate and not more than twelve consecutive years in any combination of United States house and senate membership. Terms are considered to be consecutive unless they are at least six years apart. Therefore, elected legislators who have reached their maximum term limits are eligible for legislative office after an absence of six years from the United States congress. Persons who have already reached the maximum term of service on the effective date of this act are eligible to serve one additional term in either the United States house of representatives or senate.

New section. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[From the Tacoma (WA) Morning News Tribune, Oct. 13, 1991]

PUSH FOR LIMITS: IS IT THE PEOPLE OR THE POWERFUL?

(By Patti Epler and Les Blumenthal)

Term-limits campaign director Sherry Bockwinkel likes to say the movement was born in her Tacoma living room, the political offspring of a few local citizens concerned some elected officials have been in office too long.

But a closer review of Bockwinkel's group and the money behind it reveals Washington's term-limit movement is far from the so-called grass-roots effort Bockwinkel and other supporters continue to portray.

Instead, the state campaign—called LIMIT—has become an important battleground in a nationwide fight.

That effort is linked to a small group of wealthy industrialists who oppose government regulation and the country's economic policies.

Citizens for Congressional Reform, the Washington, D.C.-based group bankrolling this state's Initiative 553, already has helped push through term limits in California, Oklahoma and Colorado.

It is already active in or closely watching fledgling campaigns in many other states that may have ballot propositions by this time next year.

To date, little has been written about this obscure group. Newspaper articles in states where the reform group has been active describe it vaguely as a conservative Washington, D.C., group.

But tax documents obtained by The Morning News Tribune and other research show Citizens for Congressional Reform is a direct spinoff of a group controlled by one of the richest families in America and a handful of other Fortune 100 business executives.

They are the directors and advisers of Citizens for a Sound Economy, CCR's parent organization that started it as a special project in 1989.

Sometimes described as a "right-wing think tank," Citizens for a Sound Economy advocates a free-market economy, privatization of government entities like the U.S. Postal Service and Amtrak, lower taxes and less government.

Many of CSE's 18 directors describe themselves as conservative or "libertarian with a small l." Board members say they approved starting CCR and its term-limits efforts after the idea was suggested by CSE staff members.

"We need a turnover in Congress," says David Koch, who is chairman of CSE's educational foundation and is a director of the group.

He was the Libertarian Party's 1980 vice presidential candidate. Fortune magazine earlier this year ranked Koch and his brother Charles as the 19th richest people in the world, with a fortune estimated at \$4.7 billion.

Congress "is getting set in its ways and resistant to change," Koch said in an interview last week.

"I think there is a perception in the general public that legislators in Congress are kind of grab-baggers. They're trying to grab as much as they can out of the federal treasury to pump back to their election districts to ensure they can be re-elected forever."

LIMIT's initiative would hold the governor and lieutenant governor to two, four-year terms.

U.S. Senators would be limited to two six-year terms; state senators would be limited to two four-year terms; and state and U.S. representatives would be limited to three two-year terms.

In Washington state, CCR has become the financial and political force behind the LIMIT movement. The group has contributed about \$350,000, about 85 percent of LIMIT's campaign treasury. Paid CCR staff members have been sent to Washington to help direct the local effort, working out of LIMIT's Tacoma headquarters.

"I look at them as our best political consultants," said Bockwinkel. CCR "put us in touch with the kinds of people that can help us pull off a statewide initiative."

But it's the first time in Washington's history that so much of a campaign's money has come from a single, out-of-state source, said Paul Gillie, research director of the state Public Disclosure Commission.

And no other out-of-state contributor has had as much hands-on involvement in controlling a state initiative campaign as CCR seems to be exerting on LIMIT, he said.

CSE and CCR officials won't say exactly where they get their money and won't provide documentation of income. They say much of their funding comes from hundreds of thousands of individual contributors who are members of the groups.

And neither group will say whether CSE funnels cash to CCR.

But some experts following the term-limit phenomenon aren't convinced the movement is the populist undertaking its supporters make it out to be.

"It's ludicrous to believe the term limits movement is strictly a grass-roots campaign," said Thomas Mann, director of governmental studies for the Brookings Institution, a liberal Washington, D.C., think tank.

He said he believes a network of conservative groups is clearly behind term-limit efforts across the country, riding a wave of public sentiment against politicians.

"This is not a spontaneous uprising by the public," Mann said.

"It's a powerful combination of activist fund raising and organizing with a somewhat hidden agenda combined with a public distaste for Congress.

Citizens for Congressional Reform is just one of a number of tax-exempt, special-interest groups affiliated with Citizens for a Sound Economy.

Others include the Tax Foundation, which analyzes state, local and federal tax policies, and Citizens for the Environment, which actively opposed last year's strengthening of the federal Clean Air Act.

Citizens for a Sound Economy groups also fought last year's budget agreement between Congress and the White House, calling it a "disaster for taxpayers," and more recently opposed pay increases for senators.

CSE is headed by James C. Miller III, a former Reagan administration budget chief and probably the most visible of the group's officers.

The staff switches frequently between CSE and CCR.

Mary Ann Best, CCR's current executive director, was recently the membership director for CSE. Paul Beckner, the previous CCR executive director, is a board member of CSE and now CSE's executive director as well as president of CCR.

Richard Fink, now a Koch employee and CSE director, said CSE was really his idea and he asked the Kochs for financial help, which they gave.

But other CSE directors say it is the Koch brothers who provide much of the impetus behind CSE and its spinoffs.

David and Charles Koch run Koch Industries, which has holdings in energy, real estate, manufacturing and cattle and generates annual revenue of \$16 billion, according to the Wichita Eagle, a daily newspaper that closely follows the Kochs' business and social lives.

It is the second-largest privately held company in the United States, according to financial articles.

The company came under fire in 1989 for what the Senate Select Committee on Indian Affairs called "sophisticated and premeditated theft" of oil from Indians.

The committee concluded Koch Oil, the largest purchaser of Indian oil in the country, "is the most dramatic example of an oil company stealing by deliberate mismeasurement and fraudulent reporting."

The committee estimated that, over three years, the oil firm acquired more than \$31 million worth of oil it didn't pay for.

Two other brothers, Frederick and William, sued David and Charles Koch in 1989 because they didn't like the "right-wing" political organizations to which David and Charles were giving huge sums of family foundation money.

According to newspaper reports of the case, foundation records showed that at one

time Charles Koch was giving about half the foundation's money to Libertarian groups.

Charles Koch and David Koch, who said he no longer supports the Libertarian Party, are directors of CSE and its educational foundation, a separate but related, tax-exempt entity.

According to 1990 tax returns, a Koch Industries-registered lobbyist was president of CCR and its separate educational foundation. Fink, another Koch Industries lobbyist, is director of CSE and its educational foundation.

"Charles Koch was the main motivating force" behind CSE, said William Vandersteel, a CSE director who is president of Tubexpress Systems Co. Inc., a North Bergen, N.J., enterprise.

He said CSE's foray into term limits through CCR was discussed at CSE board meetings and received the "blessings" of the board.

F. Kenneth Iverson, chairman of Nucor Corp., one of the nation's largest steel makers, is an active CSE director.

He describes himself as a conservative Republican businessman and all but a heretic in the steel industry because he opposes measures designed to protect the industry from foreign competition.

"I'm a great believer in term limits," said Iverson. "My frustration is that in many ways they (members of Congress) seem more interested in getting elected than in doing what is good for the country."

Forced retirement of politicians is a notion that is catching on nationwide, thanks in part to the support and encouragement of CCR.

CCR contributed \$280,000 to the group backing California's initiative, according to election records on file in that state.

And CCR has so far kicked in \$350,000 to Washington's movement.

Some term-limit campaign managers in other states say they expect considerable financial help from CCR to roll in next year, as their initiatives move closer to a vote.

"They called us and we've been talking to (CCR)," said Bob Bell, an Anchorage engineer who is spearheading the term limits movement in Alaska. "The impression I got is that once they get done with Washington, Alaska will be the next big step."

Bill Long, campaign manager for Citizens for Limited Terms, an Arizona group, said CCR staff members have visited Arizona and helped his group draft a new initiative.

"I would hope they might come in and help us (financially) later on," Long said.

Sherry Bockwinkel, Washington's LIMIT campaign manager, recalls it was CCR that first contacted members of her group and offered financial help as well as political advice.

She said Gene Morain, LIMIT's treasurer, had donated money to the Colorado and California campaigns and ended up on a CCR mailing list. It was through that mailing list that Morain and Bockwinkel first heard about a national term-limits conference CCR sponsored last fall in San Jose, Calif., she said.

Bockwinkel said CCR began pouring money into the LIMIT campaign earlier this spring. Besides sending staff members to help organize the office and to give political advice, CCR also paid experienced signature-gatherers to collect signatures on LIMIT's petitions.

The group needed 150,001 valid signatures by early July. It turned in more than 250,000 by that deadline, making it the fourth highest number of signatures gathered in a state initiative drive.

But critics contend it was the "buying" of signatures—with CCR's money—not grass-roots support for the idea of term limits that got the initiative on the ballot.

Bockwinkel won't deny that without CCR's money and expertise LIMIT might have fallen short of signatures.

"I think they certainly supported the grass-roots effort we had going," she said. "I think we certainly had difficulty getting the word out during the gulf war."

But CCR's heavy involvement was enough to sour one of term-limits' most ardent supporters.

Dale Washam, a Tacoma political activist who for weeks campaigned heartily for LIMIT, left the campaign in July because, he said, he didn't like the way the out-of-state group was taking control of the local process.

This was not a grass-roots thing in no way, shape or form," Washam said recently. "It was a bucks-for-hire thing."

Washam said he took his concerns to LIMIT leaders. But, he said, campaign leaders didn't seem to care where they got their funding, and even the steering committee had CCR-paid staff members on it.

"Having CCR come in and buy an initiative process in this state I think is wrong," said Washam.

"We should turn around and boot 'em right out. If we allow big money to come in and influence this, then we've lost a lot."

Bockwinkel said anyone was allowed to sit in on the steering committee meetings and that CCR staff members were present. In a recent interview she said she did not know much about CSE, had only generally heard of the Koch brothers and did not know specifically where CCR gets its money.

Bockwinkel has always aligned herself more with the political left than with the conservative businessmen who are now supporting term limits. Bockwinkel last year was an outspoken supporter of Tacoma's human rights initiative and worked on the campaign of Democratic peace activist Mike Collier in his unsuccessful primary challenge of U.S. Rep. Norm Dicks.

Bockwinkel said she sees nothing odd about her new political allies. "I think that points to the broad spectrum of support this movement speaks to," she said.

Still, Washam isn't the only term-limits backer who doesn't like the idea of CCR seizing control of the process.

Frank Eizenzimmer, manager of Oregon's L.I.M.I.T.S. campaign, is a big CCR fan. But, he said, he's been hesitant to accept CCR donations.

"When they come in, they call the shots," he said. "If they make contributions, they want things done their way."

Monday: How term limits would affect the state and its lawmakers.

#### WHO'S BEHIND TERM LIMITATION DRIVE

These industrialists and economic conservatives back campaigns in Washington and other states:

#### Citizens For a Sound Economy Board of Directors

James C. Miller III, CSE chairman, Former director of the Office of Management and Budget in the Reagan administration; co-chairman of the Tax Foundation, a group affiliated with Citizens for a Sound Economy that monitors and analyzes tax and fiscal policies on the federal, state and local levels.

Charles G. Koch, Chairman of Koch Industries Inc., Wichita, Kan. Koch Industries, primarily an oil and gas firm, is the second largest private company in the world. Koch

was one of the founders of the Cato Institute and continues to serve on its board of directors.

David H. Koch, executive vice president of Koch Industries Inc. Brother of Charles Koch, David lives in New York and ran for vice president on the 1980 Libertarian Party ticket, contributing almost \$1.7 million to the campaign. He is on the Cato Institute board of directors.

Richard Pink, vice president for government and public affairs of Koch Industries Inc., in Washington, DC. Also a registered lobbyist for Koch Industries. Pink is a former economics professor at George Mason University, Fairfax, Va.

Dirk Van Dongen, President of the National Association of Wholesale Distributors, Washington, DC. A conservative group called the Tax Reform Act Coalition, which supported the effort to overhaul the tax code in the mid-1980s, operates out of the association's office.

J.P. Humphreys, president of Tamko Asphalt Products, Joplin, Mo. Tamko is a privately held company that manufactures roofing shingles. Humphreys' wife, Etheimas, is a member of the Cato Institute board of directors. The institute is a public policy research organization that believes in limited government and individual liberties.

John Pittenger, director of the Monitor Co., Cambridge, Mass. Monitor is a management consulting firm that develops corporate strategies for Fortune 100 companies and their international equivalents.

David Padden, president of Padden and Co., a Chicago investment firm. Padden serves on the Cato Institute board of directors.

William Vandersteel, president of Tubexpress Systems Inc., a New Jersey firm developing a new mode of underground transportation known as a pneumatic capsule pipeline system. Vandersteel ran for U.S. senator in New Jersey as a Libertarian in 1976.

Samuel H. Husbands Jr., a San Francisco-based vice president of the nationwide brokerage firm Dean Witter Reynolds Inc., Husbands is also on the Cato Institute board of directors.

Carl Pescosolido Jr., president of Sequoia Enterprises, an Exeter, Calif., citrus packing house, and Tropicana Energy, a Texas-based alternative fuels company.

Richard J. Stephenson, chairman of American International Hospital, Zion, IL.

William Law, president of Cudahy Tanning Co., Cudahy, Wis. Cudahy processes raw hides from meat packing plants into finished leather.

Carl T. Holst-Knudson, president of Thomas Publishing Co., New York. The company is a major publisher of business buying guides, including the Thomas Register of American Manufacturers.

James Van Meter, executive vice president and chief financial officer of Georgia Pacific Corp., Atlanta. Georgia-Pacific is one of the leading forest products companies in the nation.

F. Kenneth Iverson, chairman of Nucor Corp., Charlotte, N.C. Nucor is the seventh largest steel maker in the nation with sales of \$1.5 billion in 1990.

Joseph E. Coberty, Jr., a private real estate investor from Rancho Santa Fe, Calif., who said he has holdings mostly in Southern California.

Jim Cowea, president of the Commerce and Industry Association of New Jersey, Paramus, N.J. The association represents several thousand medium to large businesses predominately in northern New Jersey and is

involved in lobbying and legislation designed to protect the state's business climate.

*Citizens for a Sound Economy Educational Foundation*

*Board of Directors*

David Koch, chairman, Richard Fink, J.P. Humphreys, Charles Koda.

Walter Williams, professor of economics at George Mason University, Fairfax, Va. Williams joined the economics faculty at George Mason in 1981. Before coming to George Mason, he was on the economics faculty at Temple University.

Robert Tollison, director of the Center for Public Choice, George Mason University, Fairfax, VA. The Center for Public Choice, led by Nobel Prize winning economist James Buchanan, analyzes the relationship between economics and politics. Researchers are not involved in developing public policy. "People here don't write papers on why taxes should be high or low," said Tollison. "They write papers on why taxes are what they are."

*Citizens for a Sound Economy Washington Advisory Board*

Randolf H. Aires, vice president, governmental affairs, Sears, Roebuck and Co.

Peter J. Connell, vice president and Washington counsel, Aetna Life & Casualty Co.

C.T. Howlett, Jr., vice president, governmental affairs, Georgia-Pacific Corp.

John R. Nelson, vice president, corporate affairs, Philip Morris USA.

Philips S. Peter, vice president, corporate government relations, General Electric Co.

Woodruff M. Price, vice president, government relations, CSX Corp.

Robert H. Scheerschmidt, vice president, government affairs, Xerox Corp.

Thomas L. Wylie, vice president government relations, Sun Company, Inc.

*Citizens for Congressional Reform Foundation Officers*

Wayne Gable, president. Managing director of federal affairs for Koch Industries and a registered lobbyist for the company. Gable also is listed as president of Citizens for a Sound Economy and president of its educational foundation.

Dan Witt, vice president. One of the highest paid staffers at CSE, Witt is listed as director of the Tax Foundation.

Paul Beckner, secretary-treasurer. Beckner also is secretary of CSE's educational foundation. He was executive director of CCR until earlier this summer.

*Citizens for Congressional Reform*

Wayne Gable, president.

Roger Ream, vice president. Another CSE staffer, Ream is listed as assistant secretary to the board of CSE. He is developmental director for CSE's educational foundation.

Paul Beckner, secretary-treasurer.

**THE AMERICAN CONGRESS, A PRIVILEGED GROUP**

The SPEAKER pro tempore (Mr. CARR). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I have another topic to discuss, but I was interested in the remarks a few minutes ago. Of course, I did not get a chance to ask a question because the gentleman yielded back his time.

I do find it somewhat puzzling that about 40 years ago we decided in this

country that guilt by association is not a very good standard on which to run government. It was called "McCarthyism."

I am increasingly disturbed that the leftwing in this country is moving further and further toward McCarthyism. We just heard a whole exposé here of term limits and it was said that anybody that was for term limits has to be associated with the platform of the Libertarian Party. That is just absolutely nonsense, and I hope that anybody who listened to the remarks understands that there are many people who are in favor of term limitations for politicians that do not subscribe to the various platform provisions of the Libertarian Party.

I also find it interesting, since some years ago when we tried to associate some Members of this House, namely Democratic Members of the House, with their own party's platform, they thought that was a horrible example of people attempting to tie them to something that they did not necessarily agree with. Yet the gentleman from Washington has, I think, done an outrageous thing in suggesting that people who think that maybe some politicians ought to be moved out of office after they have served a period of time somehow are with the Libertarians. But he is not here to answer now. I am sorry for that. I had hoped to have a couple of questions.

What I am going to talk about today relates to this whole business of throwing the politicians out of office though. It relates to what has been going on in Congress and specifically what has been going on in the House of Representatives and the U.S. Senate with regard to the way that we ignore the laws that we write for others and expect others to obey.

President Bush, the other day, reflected upon this himself. And I think he made a couple of points that are very, very relevant. I am going to quote here from President Bush's speech of the other day.

The President said:

I served in Congress. I have a great respect for Congress. I know the incredible pressure and difficulty of working there. But public faith in Congress is absolutely vital for our form of government.

I offer these suggestions then in the spirit of constructive criticism. Congress ought to follow the same laws that it imposes on everyone else. More than a dozen laws apply to the executive branch but not to Congress. Most of these laws apply to everyone in America, except Members of Congress.

Congress does not have to comply with the Equal Pay Act of 1963. It does not have to follow title 7 of the Civil Rights Act of 1964, a title that prohibits sexual discrimination and discrimination on the basis of race, color, sex, religion and national origin. It doesn't have to obey the provisions of the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act.

I would wager that the American people do not know that Congress has exempted itself

from the sexual harassment laws private employers and the executive branch must obey.

He went on to say:

Well, you see, when Congress exempts itself from the very laws it writes for others, it strikes at its own reputation and shatters public confidence in government. These exemptions encourage special interest groups to press then for reckless regulations knowing that Congress might adopt such laws it won't feel the sting of these laws. This practice creates the appearance in reality of a privileged class of rulers who stand above the law. That is precisely the way Congress is being perceived in America today. Congress is seen as a privileged class that has no relationship to what is going on in the rest of the country, and in fact, does not even obey the laws that it writes for other sectors of our society.

□ 1410

How did Congress react to this? Well, Roll Call, the newspaper of Capitol Hill, has a headline in today's paper. It says "Congress Is Quick To Return Fire After Bush Blasts 'Privileged Class of Rules.'"

Of course Congress returned fire. It hits at precisely what Congress fears the most, that the American people are going to find out what has really been happening in the U.S. Congress.

The Wall Street Journal, in an editorial, points out that the reactions of the leadership of the Congress were to be expected, but were somewhat interesting. They said, and I quote, "Look at the reactions of TOM FOLEY and GEORGE MITCHELL. The House Speaker dismissed most of the President's speech as 'absolute nonsense.' The Members, he said, are 'close to the people.'"

Yes, the Members may be close to the people in terms of trying to figure out what it is they have to do to get re-elected politically, but the fact is that Congress has grown very far apart from the people in terms of what people are expected to do in society, and what the expectations are on Congress. That is the reason why President Bush issued his challenge to go beyond those things which we have been doing and to bring ourselves under the laws that we expect others to obey.

President Bush said, according to the Wall Street Journal, and I am quoting from the Wall Street Journal again,

President Bush challenged Congress to bring itself under all of the laws it imposed on the rest of the country, but from which it exempted itself. Last year, the Senate voted on this matter, and before exempting itself again, 63-26, from the Civil Rights Act and the disabilities law.

Now, one of the people in the U.S. Senate who thought that this was something that the Senate should do made this kind of explanation as to why the Congress should exempt itself.

He said, and I quote:

This is the Senate. It is not subject to the same rules and laws as a manufacturing plant in New Hampshire or a farm in Iowa.

Well, the question for Congress is "Why not? Why should not we be ex-

pected to behave ourselves in the same way we would expect a manufacturing plant in New Hampshire or a farm in Iowa to behave?"

Well, the explanation that comes from some of my colleagues is that one cannot expect Congress to do this because, after all, there is a separation of powers, and you cannot have Congress under the rule of the executive branch. The executive branch might use that power irresponsibly.

I suppose that there is some truth to that. But then the real question for us is, if we do not want that, perhaps we should include in all of the laws we pass a section which brings us under the coverage of the law and does so in a way that does not necessarily involve the executive branch.

We do not do that. In fact, on several occasions, we have had to fight very hard to get such provisions. And what we find is that when Congress has done such things, the fact is that we do not do a very good job of obeying, even so.

A couple of years ago we were able to get passed in law a provision putting Congress under the minimum wage law. Now, you would think that might be something that Congress could possibly live with. No. We put ourselves under the provisions, but then the committee of Congress that was given the jurisdiction on how to implement the law basically exempted everybody on Capitol Hill from its provisions. They said that all of these people serve in functions that are not covered by the minimum wage law. Therefore, Congress really does not have to obey. We have coverage, supposedly, on fair employment practices.

This is one thing that the leadership of the Congress pointed to after President Bush made his criticism of our failure to obey the civil rights law. They said, "That is not really true." I am now quoting from the Roll Call newspaper of today with regard to remarks made by the Speaker of the House. This is quoting from Roll Call:

Foley responded that the House is indeed subject to the legislation that Bush cited in his speech.

Foley referred to the House Office of Fair Employment Practices [OFEP], which is in charge of enforcing the sexual harassment and other discrimination laws. When asked if the House could be trusted to police itself, Foley responded, "Many of our Members \* \* \* feel that the enforcement mechanism is more effective and more responsive than the EEOC."

The EEOC refers to the Equal Employment Opportunity Commission.

Well, that, I am sure, is what the Speaker believes. Roll Call newspaper has a little different view of that, however. If you will go back to the editorial page, what you find is that Roll Call looked into that particular contention. They said, and I quote:

The Office of Fair Employment Practices, which handles staff complaints in the House, have publicly issued rulings in only two

cases, neither of them very significant. It stubbornly refuses to tell the Hill community what it is doing, even in terms of numbers. But from all outward appearances, it is doing very little.

Now, if we do contend that we obey the laws that other people have to obey in this particular instance, because we have our own mechanism, why is that mechanism so ineffective? Well, it is ineffective because Congress wants it to be ineffective. Congress has made a determination that it will be outside of the scope of the law. Therefore, even when we bring coverage under the law, the chances are that the law will be rendered ineffective by the performance of the Congress itself.

It is clear to me that Congress not only does it with regard to some of the laws that were mentioned by President Bush, but in a whole host of other things, too. For instance, going back for a moment just to the civil rights charge, some of the Members, again quoted in the Roll Call newspaper today, were talking about the civil rights law. They seemed to think that it is working fine.

Mrs. SCHROEDER, the gentlewoman from Colorado, was quoted as saying that the charge that the President made that Congress exempts itself from the law, "It's baloney," Representative PAT SCHROEDER said of the President's charges. "He knows better than that. His own Secretary of Labor [former Representative Lynn Martin (R-Ill.)] helped draft the Fair Employment Practices Act," which created OFEP in 1988.

Yes, the Secretary of Labor helped to draft it and got it put in. The question is what is being done to enforce it. Where is the enforcement mechanism for the laws that Congress is supposed to be obeying?

What we do know is that Congress does not put itself under very many laws, and what we also know is that Congress does not obey the laws that it is covered by.

I am going to give you one example today that I am personally familiar with. Back in 1988, the same time that Mrs. SCHROEDER is claiming that we had OFEP put into place, we also passed another bill that applied to the country. In this particular instance, however, because of my insistence, it also applied to the U.S. Congress. It was the drug-free workplace law.

Now, what we said to the country was that if you are going to get Federal money, you have to maintain a drug-free workplace. You have to have a policy which assures that there is a drug-free workplace where Federal contracts are being implemented.

Here in Congress, we also implement that law for ourselves, supposedly. At least, the language was there. It was included in the law. It said that any office that did not have a drug-free workplace policy in place, any office on Cap-

itol Hill—Members' offices, committee offices, whatever—if these did not have a drug-free workplace law, they would have their funds cut off. There would be no more money out of the Federal Treasury for their allowances, their official expenses. They were out of money if they did not have a policy.

Now, what was involved in doing this policy? What you had to do, you had to put something in writing indicating how you were going to implement drug-free workplace policies. It is a specific demand under the law for the Congress. Everyone in Congress is supposed to be obeying, or they are outside the course of the law. The law is very clear. It applies to Congress in this case.

□ 1420

I checked the other day to find out how many offices on Capitol Hill have come into compliance, understanding that this has been the law of the land now for 3 years, 3 years. Do you know how many offices on Capitol Hill are in compliance out of the 435 offices on the House side? One hundred fifty offices. That means that more than half of the Members of Congress have not yet brought themselves into compliance with the drug-free-workplace law despite the fact that it has been an obligation for 3 years.

This is what we do? This is what we call responsibility? You can bet that if some working Joe or some employer out in the country has been in violation of the law for 3 years, there is going to be somebody coming after him, but not in the U.S. Congress. In fact, we have had a difficult time even getting anybody to say that they are willing to bring about compliance. In the first instance, when we passed a law which is basically ignored, no one paid much attention to it. Finally, after a good deal of prodding by myself and some other colleagues, the House Administration Committee basically issued a letter saying, "Yes, everybody has to be in compliance, but we are not going to enforce it."

So we went to people like the clerk of the House that has the administrative duties for the overall operation of the House, and we said to them, "Are you going to do something?" They said, "What we will do is we will serve as a repository. If anybody wants to file their policy with us, we will serve as a repository for those filings, but we are not going to enforce anything. In fact, we are not even going to release the names of who has filed and who has not. These will be secret files that we will keep."

Now, Congress is not very good at keeping some secrets when it comes to the Clarence Thomas case and so on, but when it comes to keeping the names of the Members who have not filed drug-free workplace policies, it is a state secret, and, believe me, it is closely held.

The fact is that is all that is in place.

I was a little disturbed by that. So last year when the legislative appropriations bill was going to come to the floor, I drafted some language and basically what it would have done is it would have made the Speaker of the House the enforcing officer of the drug-free workplace policy and would have had him, first of all, determine who was in compliance and who was not, and then have forced those people who were not in compliance to either come into compliance or lose their money.

The Speaker was not terribly enthusiastic, I gathered, about the language that I had drafted. I understand that. It was pretty tough language. I have no quarrel with the Speaker on that. He wanted me to sit down with House counsel and work out some compromise language that would implement the policy, but do so in a way that was a little less stringent than what I had put into the legislative appropriation.

What we decided on was that we would come up with language, and the Speaker himself would issue a policy. The Speaker was true to his word on that. I worked with House counsel. We came up with language that I think was very appropriate, and the Speaker himself, the Speaker of the House of Representatives, issued a letter to all Members of Congress and to all committees telling them they had to come into compliance with the law.

I guess maybe it helped some. At the time that the Speaker's letter came out, about 100 offices on Capitol Hill were in compliance. Today it has come up to 150. So the Speaker got about 50 people to come on board.

Folks, this is the law of the land. We are talking about something which is absolutely a mandate upon Members of Congress, and yet more than half the Congress has said, "No, sir, I am above the law. I do not care what the Speaker says. I do not care what the law says. I do not care. I am above the law. I am elected to the Congress, and I, in my arrogance, have decided that I am better than the law, and I do not care."

Now, if you wonder why the country gets disgusted with the Congress, it is that they perceive that that attitude is real. They perceive the fact that when you have Members of Congress who do not obey the laws they write for others and specifically exempt themselves from that kind of law that they are arrogant, and that is what the President was referring to.

But the arrogance goes much further when they even disobey and completely ignore the laws that they are required to have as a part of their own personal structures, as a part of their own personal lives. They ignore those, too, and it is no wonder that the public then becomes very disturbed, and well the public should.

In fact, on the Drug-Free Workplace Act, there have been Members quoted

in the press as saying, "I do not care what the law says. I am not going to obey it. I, in terms of my office, think my people are drug free. I do not have to have a policy," and so on.

There is no business in America that can get away with that. If the drug-free workplace policy applies to your business, you have to have it in place even if you know all of your employees, and you know that all of them are drug free, you do not have the option of saying, "I do not like the law, and I am not going to obey it." You obey it, or you pay the penalty.

In Congress, that is not the case. No one enforces the law. In Congress they say, "I do not like it, and I am not going to obey it," and no one does anything.

I have got to tell you that when the American people start screaming for things like term limits, they start screaming about the fact that Congress is not doing its job right, and that something has gone drastically wrong in Washington, there is good cause to believe that. Congress is, as the President said the other day, an institution that does look like a privileged class. The President said that this practice creates the appearance and reality of a privileged class of rulers who stand above the law. That is the reality.

There are many in the Congress who have decided that they are truly above the law, that the law does not apply to them whether it is the drug-free workplace law, whether it is the civil rights law, whether it is the discrimination laws, whether it is the laws that apply to the disabled; Congress has, in these people's opinions, no need to obey the laws we put on others. That is wrong.

It is about time that either Congress ceases being a privileged class of rulers without conscience about the things that it does, or it gets replaced.

The term-limit idea and lots of other ideas out there are people looking for ways to replace what they believe is an institution gone astray. The President joined in that the other day. The President said that it is about time to end this idea of privilege on Capitol Hill and bring the people who serve in Congress back close to the people who populate the country.

I think the President was right, and I think for members of the House leadership, members of the Democratic leadership of this House, the Democratic leadership that has controlled this House for almost 40 years to blast back suggesting that there is nothing wrong on Capitol Hill, that everything is going fine, that they are, in fact, obeying the laws when the facts speak otherwise is just plain nonsense. The Democrats in Congress need to be held accountable for the fact that Congress has gone astray.

Every Democrat who serves here elects the leadership of the Congress. When the leadership is too blind to see

that something has gone wrong, then all Democrats need to be held accountable for the fact that Congress is in bad shape.

Well, I think that this headline, "Congress Is Quick To Return Fire After President Bush Blasts Privileged Class of Rulers," tells you a lot about the situation. The American people understand that there is a privileged class of rulers today called the Congress, and the fact that Congress is unwilling to admit the obvious and try to do something to correct it, I think, is an indictment in and of itself.

#### 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. HASTERT) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 60 minutes, today.

(The following Members (at the request of Mr. DORGAN of North Dakota) to revise and extend their remarks and include extraneous material:)

Mr. WHITTEN, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HASTERT) and to include extraneous matter:)

Mr. LEWIS of California in three instances.

Mr. BROOMFIELD.

(The following Members (at the request of Mr. DORGAN of North Dakota) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. MAZZOLI.

Mr. TORRICELLI.

Mr. BROWN in 10 instances.

Mr. ROE.

Mr. LEHMAN of Florida.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 680. An act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes; to the Committee on Energy and Commerce.

#### ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that

that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 470. An act 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, IN, and

H.J. Res. 360. Joint resolution making further continuing appropriations for the fiscal year 1992, and for other purposes.

#### SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 192. Joint resolution designating October 30, 1991 as "Refugee Day."

#### A BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval a bill and joint resolutions of the House of the following titles:

On October 23, 1991:

H.R. 972. An act to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.I.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians;

H.J. Res. 340. Joint resolution to designate October 19 through 27, 1991, as "National Red Ribbon Week for a Drug Free America;

H.J. Res. 360. Joint resolution making further continuing appropriations for the fiscal year 1992, and for other purposes; and

H.J. Res. 470. Joint resolution 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, IN.

#### ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 29, 1991, at 12 noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2251. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-88, "District of Columbia Regional Airport Authority Act of 1985 Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2252. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. Act 9-90, "Closing of a Public Alley and Abandonment of an Easement in Square 488, S.O. 86-267, Act of 1988 Covenant Modification Temporary Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2253. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-89, "Board of Education Special Election Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2254. A letter from the Chairman, Jacob K. Javits Fellows Program Fellowship Board, transmitting the third report on the Jacob K. Javits Fellowship Board, pursuant to 20 U.S.C. 1134i; to the Committee on Education and Labor.

2255. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Forces' proposed lease of defense articles to the Sweden (Transmittal No. 01-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2256. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting text of ILO Convention No. 170 and recommendation No. 177 concerning safety in the use of chemicals at work as adopted by the International Labor Conference at its 77th session, at Geneva, June 25, 1990, pursuant to article 19 of the Constitution of the International Labor Organization; to the Committee on Foreign Affairs.

2257. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting text of ILO Convention No. 171 and recommendation No. 178 concerning night work and the protocol of 1990 to the Night Work (Women) Convention (Revised) 1948 (No. 89) as adopted by the International Labor Conference at its 77th session, at Geneva, June 26, 1990, pursuant to article 19 of the Constitution of the International Labor Organization; to the Committee on Foreign Affairs.

2258. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2259. A letter from the Director, Federal Judicial Center, transmitting a report on court-annexed arbitration in 10 district courts (1990) along with a resolution presenting the legislative recommendations of the Center's board on court-annexed arbitration, pursuant to 28 U.S.C. 651 note; to the Committee on the Judiciary.

2260. A letter from the Director, United States Information Agency, transmitting a draft of proposed legislation to transfer the au pair program from the U.S. Information Agency to the Department of Justice; to the Committee on the Judiciary.

2261. A letter from the Commandant, U.S. Coast Guard, transmitting a report on alternatives to double hulls in tank vessel design, pursuant to 46 U.S.C. 3703a note; to the Committee on Merchant Marine and Fisheries.

2262. A letter from the Administrator, Small Business Administration, transmitting the 1990 report on minority small business and capital ownership development, pursuant to Public Law 100-656, section 408 (102 Stat. 3877); to the Committee on Small Business.

#### 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:

[Pursuant to the order of the House on Oct. 24, 1991, the following report was filed on Oct. 25, 1991]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3508. A bill to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; with an amendment (Rept. 102-275). Referred to the Committee of the Whole House of the State of the Union.

[Submitted Oct. 28, 1991]

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2896. A bill to authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes (Rept. 102-276). Referred to the Committee of the Whole House on the State of the Union.

#### 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. SWIFT (for himself, Mr. GEPHARDT, Mr. BONIOR, Mr. HOYER, Mr. ROSE, Mr. DERRICK, Mrs. KENNEDY, Mr. LEWIS of Georgia, Mr. ANNUNZIO, Mr. PANETTA, Ms. OAKAR, Mr. CLAY, Mr. GEJDENSON, Mr. KOLTER, Mr. FROST, Mr. MANTON, and Mr. KLECZKA):

H.R. 3644. A bill to provide that, in making payments from the Presidential Election Campaign Fund, including the Presidential Matching Payment Account, amounts estimated to be transferred to the fund during the fiscal year before the fiscal year of the Presidential election shall be taken into account; to the Committee on House Administration.

By Mr. ANDREWS of Maine (for himself and Ms. SNOWE):

H.J. Res. 365. Joint resolution to designate the Provasoli-Guillard Center for the Culture of Marine Phytoplankton as a national center and facility; to the Committee on Merchant Marine and Fisheries.

#### MEMORIALS

Under clause 4 of rule XXII,

304. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the National Guard; to the Committee on Armed Services.

#### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 371: Mr. EWING.  
H.R. 661: Mr. HUNTER, Mr. LENT, Mr. PACKARD, Mr. KASICH, Mr. LOWERY of California, and Mr. RICHARDSON.

H.R. 673: Ms. UNSOELD.  
H.R. 710: Mr. MARKEY and Mr. ENGEL.  
H.R. 856: Mr. LEHMAN of Florida.

H.R. 1200: Mr. PASTOR, Mr. SANGMEISTER, Mr. TRAFICANT, Mr. McDERMOTT, Mr. SOLOMON, Mr. PARKER, Mr. STUDDS, and Mr. TRAXLER.

H.R. 1354: Mr. Bacchus.  
H.R. 1663: Mr. LUKE and Mrs. LLOYD.  
H.R. 1751: Mr. BLILEY and Mr. CAMP.  
H.R. 2089: Mr. BORSKI.

H.R. 2410: Mr. BOEHNER, Mr. LIPINSKI, and Mr. TAUZIN.

H.R. 2470: Mr. STALLINGS.  
H.R. 2565: Mr. PETERSON of Florida, Mr. DWYER of New Jersey, Mr. COSTELLO, Mr. GILLMOR, Mr. MAZZOLI, Mr. FISH, and Mr. CLAY.

H.R. 2675: Ms. NORTON.  
H.R. 2898: Mrs. UNSOELD, Mr. DIXON, Mr. KANJORSKI, Mr. FISH, and Mr. POSHARD.

H.R. 3049: Mr. GILMAN.  
H.R. 3070: Mr. WASHINGTON, Mr. HYDE, Mr. HALL of Texas, Mr. TAUZIN, Mr. CONYERS, Mr. WELDON, and Mr. WHITTEN.

H.R. 3098: Mrs. COLLINS of Michigan and Mr. FAZIO.

H.R. 3142: Mr. WILLIAMS, Mr. HUTTO, and Mr. HENRY.

H.R. 3209: Mr. BOUCHER, Mr. HOYER, and Mr. GILMAN.

H.R. 3220: Ms. SNOWE.  
H.R. 3349: Mr. SOLOMON and Mr. BLAZ.  
H.R. 3457: Mr. ZIMMER.

H.R. 3473: Mr. WILLIAMS, Mrs. UNSOELD, Mr. HUGHES, Mr. LAGOMARSINO, Mr. LEVINE of California, and Mr. MURPHY.

H.R. 3545: Mr. DELLUMS, Mr. KOLTER, and Ms. NORTON.

H.J. Res. 177: Mr. KILDEE, Mr. MFUME, Mr. ALEXANDER, Mr. SCHULZE, Mr. ZIMMER, Mr. ECKART, Mr. DWYER of New Jersey, and Mr. TOWNS.

H.J. Res. 237: Mr. SKEEN.  
H.J. Res. 312: Mrs. MINK, Mr. DYMALLY, Mr. MOORHEAD, Mr. SCHULZE, Mr. SISISKY, Mr. McGRATH, Mr. DUNCAN, Mr. BENNETT, Mr. GREEN of New York, Mr. PARKER, Mr. BRYANT, Mr. MARKEY, Mr. KENNEDY, Mr. CARPER, Mr. QUILLIN, Mr. KOPETSKI, Mr. LEVIN of Michigan, Mr. WAXMAN, Mr. McDERMOTT, and Mr. PAYNE of Virginia.

H.J. Res. 328: Mr. LOWERY of California, Mr. MFUME, Mr. TRAXLER, Mr. BURTON of Indiana, Mr. ANDREWS of Texas, Mr. FOGLIETTA, Mr. KANJORSKI, Mr. SLATTERY, Mr. SWETT, and Mr. LANTOS.

H.J. Res. 343: Mrs. BYRON, Mr. ESPY, Mr. FROST, and Mr. McGRATH.

H.J. Res. 354: Mr. LENT, Mr. FORD of Tennessee, Mr. OWENS of Utah, Mr. BROWDER, Mr. BLILEY, Mr. SMITH of Florida, Mr. MRAZEK, Mr. ESPY, Mr. GUARINI, Mrs. ROUKEMA, Mr. HARRIS, Mr. PAYNE of New Jersey, Mr. CONYERS, Mr. MILLER of Washington, Mr. SKEEN, Mr. HORTON, Mr. LEHMAN of Florida, Mr. COUGHLIN, Mr. PAXON, Mr. McMILLEN of Maryland, Mr. KOLTER, Mr. EVANS, Ms. NORTON, Mr. EMERSON, Mr. CLEMENT, Mr. WALSH, and Mr. McGRATH.

H. Con. Res. 168: Mr. APPELEGATE, Mr. CAMP, Mr. JACOBS, Mr. GEJDENSON, Mr. MURPHY, and Mr. McGRATH.

H. Con. Res. 192: Mrs. LLOYD, Mr. COX of Illinois, Mr. SKEEN, Mr. McCLOSKEY, Mr. ZIMMER, Mr. JOHNSON of South Dakota, Mr. KOLTER, Mr. CAMPBELL of California, Mr. ANDREWS of Maine, and Mr. RIGGS.

H. Con. Res. 212: Mr. ANNUNZIO and Mr. DONNELLY.

#### AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3489

By Mr. MAVROULES:

—Page 17, line 11, insert after "use" the following: "shall be made by the Secretary in concurrence with the Secretary of Defense and".

Page 34, line 3, insert "(i)" after "(B)".  
Page 34, line 11, strike "consult with" and insert "seek the concurrence of".

Page 34, insert the following after line 12:  
"(i) If the Secretary and the Secretary of Defense are unable to concur on a determination under clause (i), as such disagreement is determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of any such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the matter so referred. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this clause, shall be deemed by the Secretary to constitute concurrence in the actions proposed by the Secretary regarding the determination under clause (i)."

Page 34, line 14, strike "(B)" and insert "(B)(i)".