Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

SENATE—*Wednesday, October 30, 1991*

(Legislative day of Tuesday, October 29, 1991)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by BOB GRAHAM, a Senator from the State of Florida.

PRAYER

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

Let us pray:

And he shall judge among many people, and rebuke strong nations afar off; and they shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up a sword against nation, neither shall they learn war any more.—Micah 4:3.

God of peace, justice, and righteousness, we pray for the meeting in Madrid. Grant to each representative the desire, the wisdom, and the courage to make a strong stand for peace in the Middle East as they negotiate a struggle 4,000 years old. Help those who seek peace to acknowledge the limitations of human efforts at their best and to recognize the reality that God alone can bring peace. Despite their diversity in religious beliefs, give them grace to look to the God of Abraham who reigns in righteousness.

We thank You, Father in Heaven, for the untiring efforts of Secretary Baker. We pray Your protection upon him, his staff, and every participant against evil intentions of terrorists who are prepared to prevent peace at any cost. Cover the meetings with Your grace and love.

We pray in the name of Jesus, Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 30, 1991.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that I may be permitted to use as much of my leader time as I may consume.

The ACTING PRESIDENT pro tempore. The Senator has that right. The Senator from Maine, the majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, today during the period for morning business, two Senators are to be recognized to address the Senate for 10 minutes each. When the period for morning business closes at 12 noon today, the Senate will resume consideration of S. 1745, the civil rights bill, at which time the bill will be considered under the terms of a unanimous-consent agreement entered late last night and printed on page 2 of today's Calendar of Business.

In view of the agreement and the time limitations contained in that agreement, Senators should be aware that the votes on amendments could occur in fairly rapid succession and that four rollcall votes are possible.

Upon disposition of the civil rights bill, it is my intention to bring up the conference report accompanying H.R. 2686, the Interior appropriations bill.

Once that conference report is before the Senate, Senators are again notified—I am now notifying them and they therefore should be aware—that rollcall votes are possible relative to any amendments which may be offered to amendments in disagreement to the conference report.

Therefore, Mr. President, during today's session Senators can expect a number of rollcall votes to occur relative to the civil rights bill and to the Interior appropriations conference report.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators BOREN and LEVIN permitted to speak therein for up to 10 minutes each.

The Senator from Oklahoma.

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

CONGRESSIONAL REFORM

Mr. BOREN. Mr. President, I am continuing today a series of speeches that I pledged to make on the floor, coming to the floor each and every week until Congress begins to move in a meaningful way toward reform of this institution, which is so badly needed.

All of us from time to time reflect about those things that give meaning and purpose to our lives. I think most of us, when we really sit back and think about what we want to do with our lives, come to the conclusion that it is very important, if one is to feel satisfied and productive in individual life, to be a part of something that is bigger than one's self. That is certainly true for those of us who have the privilege of serving in the U.S. Senate.

We cannot walk into this Chamber without a realization that we are part of an institution and a political process set forth in our Constitution that has served this country so well for so long, that is a cause more important than the political success of any individual

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

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or the personal success of any individual that is a part of this institution. We have a tradition in this Chamber of writing in the desk drawers of the desks that are all around this floor. If you pull open the drawers of any desk, you will find chiseled inside the names of those Senators that have used these desks in the past.

I have been privileged since I have been a Member of the Senate, to use a desk in which, when I opened the drawer, I found the name of Harry Truman inside. I have a desk now in which, when I open it, I find the name of T.P. Gore, the first Senator from my State at the time of statehood, the only totally blind Senator to ever serve in this Chamber; the name of Richard Russell, great leader of the Senate, after whom the Russell Building was named because of his devotion to this institution, to its vitality. There are the names of Clay and Webster and Calhoun. There are the names of other Presidents of the United States that have served in this body. There are the names of LaFollette and Taft and Humphrey and other great Senators of both parties who have made contributions to this institution for many years.

Mr. President, what a privilege it is to be a part of a cause and a process, the representation of the American people, the holding together of a sense of community and the sense of social fabric in this country, a cause far more important than the personal interests of any of us.

The circumstances we now face call upon us to have a renewed sense of loyalty to that constitutional process, a renewed sense of our duty as trustees of this institution to keep it strong and great.

Over the last few years and, even more, over the last few weeks, events have taken place which have obviously, if we are to believe the public opinion polls—and I say to my colleagues if we would go home and talk to the people themselves—shaken the confidence of the American people in this institution. The warning signs are clear for all of us to see, if we would simply heed them.

I can quote a letter I received from one of my constituents from Muskogee, OK, a couple weeks ago. I come, after reading that letter, to a full understanding of the depth of the concern of people in this country about the well-being of this institution. I want to share with my colleagues a few of the comments made by my constituent and fellow citizen from Muskogee. He said:

> I can tell you for a fact that "mainstream America," the ones who are paying the bills, are disgusted with the Government and its actions. I am in a position to hear people from most all walks of life, political persuasion and occupations and the one thing nearly all agree on is, "I am disgusted with this Government, all of it, and things need changing, drastically in Washington."

We are well aware of the timeworn proposed remedy, "vote the rascals out," but this just isn't possible with the great advantage an incumbent has for reelection. (A condition brought about by elected officials in their own self-interest.)

We need to listen to these warning signs and signs of discontent across the country. The people are not wrong to have these feelings. They have been echoed by editorial writers across this country. The New York Times just this Monday, for example, in an editorial entitled "Congress Spiraling Downward," said the following:

> It's scarcely news that Americans are disenchanted with Congress and politicians generally. It is news when two-thirds of the people think that politicians are corrupt.
>
> According to a New York Times/CBS News Poll taken after the House banking scandal and the Senate's embarrassing Clarence Thomas hearings, only 29 percent of Americans say they like the way Congress is handling its job. More devastating was the response when people were asked whether politicians generally were "financially corrupt" or "honest." Only 34 percent said: honest.
>
> The need to restore integrity to political life is obvious. And the best place to begin is at the top, with a massive overhaul of Congress's odious system of campaign financing. The honesty question wasn't aimed specifically at members of the House and Senate. But there's little doubt that the sense of self-indulgence Congress conveys is a huge factor.
>
> If the polls are right, the public would welcome almost any reasonable alternative to business as usual. If Congressmen genuinely care about their institution, and not just themselves, they have no choice but serious reform.

Mr. President, several of us in this Chamber have joined together to make a proposal just as we did in 1947 when the Monroney-LaFollette committee was created, a committee of limited duration which operated without a huge paid staff with the voluntary help of citizens who wanted to contribute something to their country.

It is time for us once again to make such an effort, to look at a major overhaul and reform of this institution so that we can hand it on to the next generation as it was given to us, strong, and meaningful, committed to solving the real problems of this Nation, committed to getting America ready to meet the challenges of the next century, committed to handing on a heritage to the generation that will follow us that will not be diminished but enhanced because of our own sacrifices. I want to thank and commend 15 Members of the Senate who have joined together in making this proposal.

I had a very good conversation this past week with Chairman WENDELL FORD, a Senator from Kentucky, chairman of the Rules Committee, who has assured me that within the constraints of time—because it will be difficult this fall to have more than perhaps an introductory hearing on this subject—that in a timely fashion the Rules Committee will allow hearings and seriously look at the proposal which we made.

I want to name the other Senators who have joined with Senator DOMENICI and myself, and with Congressman HAMILTON and Congressman GRADISON on the House side, in bringing this major proposal to reform Congress. They include Senators SIMON, SEYMOUR, CHAFEE, GRASSLEY, LUGAR, NUNN, LOTT, KOHL, MCCAIN, SPECTER, GRAHAM of Florida, REID, and PRYOR.

I thank those Senators for joining with us in this effort and I hope many others in this body will join in cosponsoring our proposal. Sixty-one Congressmen have now sponsored it on the House side. Yesterday, 20 freshmen Members of the House called a meeting and held a press conference to urge the Speaker to act on that side.

There are already those who have devoted themselves to making improvements in this institution, and their efforts should not go unnoticed.

I want to call attention specifically to the efforts of Chairman FORD, chairman of the Rules Committee, who has worked long and hard to reduce the costs of Congress and to make Congress more efficient. For example, because of his efforts and the initiative he has taken as chairman of the Rules Committee to reduce the mass mailing cost by Members of Congress, this year those costs will be under $10 million, whereas in 1986 the cost for Senate mass mailing and official mail exceeded $35 million. It is movement in the right direction. He deserves credit for moving us in the right direction.

Now it is my hope that all of us on both sides of the aisle in the U.S. Senate can join together and have effective action to look at a major overhaul of this institution, and do it with our colleagues in the House and not wait. We must not wait any longer. Those of us who care about this institution, those of us who came here and ran for office, because we wanted to make a difference in this country, because we wanted to contribute whatever we could to making this country better, to strengthen our economy, provide educational opportunities for our children, and for protecting the national security of our country, those of us who came here wanting to be part of an institution where we could make a contribution must be part now of an effort to recraft, rebuild, and revitalize this institution so that we will have the opportunity to weigh in on the major problems that are confronting us.

I see the distinguished President pro tempore of the Senate has just come on the floor. For years, for a decade, he has been the historian of this Senate as no other Member has, and he has called for meaningful and comprehensive campaign finance reform.

I just quoted that letter from the constituent of mine saying we must have change, saying it is unfair, be-

cause Members of Congress under the current campaign system the way we finance our campaigns have an advantage to stay in office. I just quoted the New York Times editorial on the need for campaign finance reform. The distinguished Senator from West Virginia when he was majority leader called for a record number of votes trying to end filibusters so we could have acted several years ago. The current majority leader of the Senate, the Senator from Maine, has continued that effort in a meaningful way.

Could I ask unanimous consent for 1 additional minute, to conclude, from my colleague from Michigan?

Mr. LEVIN. Mr. President, I am happy to yield to my friend, the Senator from Oklahoma, an additional 3 minutes.

Mr. BOREN. Mr. President, I thank my colleague. We must not wait. The Senate has passed S. 3, a campaign finance reform measure that is now pending in the House. We must not allow this Congress to end without action on the other side of the Capitol so that early next year we can get together, House and Senate together, and work out a compromise measure.

The distinguished minority leader is on the floor, Senator DOLE. He has indicated a great desire to try to fashion a bipartisan compromise after action in the House. It is time for us to move when the average Senate winner of a campaign spends $3.8 million getting elected. When the political action committees give 77 percent of all their millions of dollars of contributions to incumbents, when incumbents have an 8-to-1 spending advantage in campaigns, it is time for campaign finance reform. We want to restore the confidence and trust of the American people in this institution. We must move on this issue among others to show that we really mean business about the reform. We must not rest until we get action.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BOREN. Yes.

Mr. BYRD. Mr. President, when you go to the Scriptures, you find support for what the Senator is saying. The Scriptures say a love of money is the root of all evil. That applies here.

When we think about the time that Senators have to spend running all over this country, raising campaign funds for the next election, to pay off the debt for the last election, if they want to remain in public service, it takes them away from the Senate, and it takes them away from the committees.

The Senate has lost its soul. It is not like it was when I came here 33 years ago. We do not have the debates that we used to have. We do not go into matters on this floor like we used to when I first came here. The reason is the money chase. Members cannot stay here and do their work. Raising campaign funds is a full-time job.

I thank the Senator for his continuing contributions to the effort to make the Senate the body that it once was. To do that we have to get rid of this campaign financing evil. The love of money applies in politics as well. It is the root of all evil.

Mr. BOREN. Mr. President, I thank my distinguished colleague. As I say, he is the historian of the Senate, and in many ways is the conscience of the Senate.

I say again to my colleagues who are listening, join with us in the reform effort. Join with us in cosponsoring the concurrent resolution.

I say to my colleagues in the House, please pass campaign finance reform before the year is over. We are the trustees of this institution. If we do not take care of it, no one else will.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for 10 minutes.

Mr. LEVIN. Mr. President, I am happy to yield to my friend, the Senator from Kansas, the Republican leader, Mr. DOLE.

Mr. DOLE. I will take about 3 minutes. I thank the Senator. I appreciate it.

Mr. President, I want to speak a minute on the Madrid talks that are underway.

MADRID TALKS BEGIN

Mr. DOLE. Mr. President, the cliche says that a picture is worth a thousand words. If that is so, the pictures today from Madrid—pictures of Arabs and Israelis, together around a table—those pictures speak eloquently of the historic nature of these talks.

For more than four decades, the nations and people of that region have lived with war, and violence, and hatred, and suspicion. Today, they begin to talk about peace.

President Bush's opening remarks struck exactly the right note; or, to be more precise, exactly the right two notes: hopeful, but realistic.

The President stressed that this is a unique opportunity; the kind of opportunity that another American President, in another era, talking about another situation, called the last, best hope for peace. If these talks finally fail, a unique chance for real peace, at a unique point in world history, will be lost.

He put the monkey squarely on the backs of the delegations and delegates gathered in Madrid. It is up to them to put aside prejudice and propaganda, and sincerely explore the possibilities for peace. It is up to them to give peace a chance. The fate of their children and grandchildren is in their hands.

The President stressed that the goal of this Conference must be a real peace, not short-term, Band-Aid palliatives. A real peace means binding treaties, formal diplomatic relations, mutually beneficial economic relations. A real peace means security for Israel, and for all the other nations of the region. A real peace means justice for the Palestinians, and all the other people of the region.

President Bush reminded everyone, too, that successful negotiations require not just posturing and propaganda, but real give and take. Compromise. Giving something to get something. All sides have to give. All sides have to get. Otherwise these talks will not work, and there will be no peace for anyone.

Finally, the President talked frankly about the tough tasks ahead. Today is a day of great hope; but it must also be a day for realism and determination. These talks will not be easy. They will not be quick. They will not produce peace tomorrow, or next week, or next month.

This is a marathon, not a sprint. And we all better be ready to go the full 26 miles of this marathon—and then be ready to go the extra mile for peace.

I am convinced President Bush is ready. Ready to provide the same kind of steady, sure leadership that catalyzed this Conference. Ready to do that for as long as it takes.

I hope the delegations and delegates in Madrid are ready. I hope they brought plenty of luggage, because they are going to be at it for a while.

And I hope the Congress is ready, too. Ready to back the President in this great effort at peace—just as we did earlier this year in a time of war. Ready to let him do his job, as President, without the "benefit"—and that is in quotes—of incessant second-guessing, and Monday morning quarterbacking. And without allowing ourselves to become a lobbyist for any side, against our own President, if things do not go quite right.

Mr. President, this is a historic and hopeful day. I know every Senator joins me in congratulating President Bush on the diplomacy which has brought us to this point, and on his fine speech. And I know that every Senator joins me in challenging all of those gathered in Madrid to live up to the critical responsibility that history has placed on them, and to make these talks a success.

STATUS OF THE HIGHWAY BILL AND UNEMPLOYMENT BENEFITS

Mr. DOLE. Mr. President, there are no holds on the Republican side on the so-called highway bill. There was some indication that somebody is holding it on this side, and they cannot go to conference. There are no holds on this side.

Second, I confirm that there have been some preliminary discussions on working out some of the unemployment benefits, something that would be paid for. It does not have to be any

precise plan. Whether it is anybody's plan, if it is paid for, I think it is something we can all look at with some encouragement. And, hopefully, if that can be resolved yet this week, it would be good news for America's unemployed, and I think it would indicate that the President was right when he said, "Send me a bill that you can pay for, and I will be prepared to sign it."

There have been no negotiations to date. There have been a lot of preliminary discussions and small meetings. I do not know the details, but I can indicate that at least there is some hope that this matter may be resolved very quickly.

Mr. President, I thank the Senator from Michigan, and yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. LEVIN. Mr. President, I understand that I have been given 10 minutes, and I ask unanimous consent that I continue to be allowed 10 minutes as in morning business.

Mr. DOLE. I would be happy to yield some of my leader time.

The PRESIDING OFFICER. Morning business will be extended as necessary to provide the Senator from Michigan 10 minutes during morning business.

THE ISSUE OF RACE

Mr. LEVIN. Mr. President, since its founding, our Nation has struggled with the issues of race. Just down the hall from here in the old Supreme Court chamber, Justice Tanney ruled that Dred Scott was not a person within the meaning of our Constitution. We have come a long way since then, but we still have a long way to go.

I live in a city divided by race in a country still bedeviled by racial stereotypes and fears, and people willing to exploit them. Americans watch as Los Angeles cops assault a black American with nightsticks and racial epithets. Marion Barry blames his ills on a racist plot. David Duke inflames racial fears and resentments in his campaign to become a Governor. Al Sharpton is a different kind of opportunist using the same kind of rhetoric. Wielding gasoline and matches, they express shock at the fire and sadness at the ashes, and some people even believe them.

Meanwhile, people of good will struggle to advance the unity of the Nation. The issue we face is how to live together, how to overcome discrimination without discriminating against other Americans, and how to assist the victims of bigotry without creating other victims.

One way we have sought to do that is to distinguish between quotas and affirmative action. Most Americans, of all races, oppose quotas for a number of reasons, not the least of which is that Americans basically oppose privilege and preference. This country was born with a distaste for one person having unearned privileges over another. We are, as a result, as democratic as any country in the world.

But we also are aware that we must correct the continuing after-effects of prejudice and discrimination by reaching out affirmatively to their victims. The balance between acting affirmatively while avoiding preferences is particularly difficult to maintain in tough economic times, when the pie is shrinking and opportunities are fewer for all.

This economic situation is ripe for those who are willing to exploit old racial fears and hatreds for political purposes. David Duke is doing that as we meet today. But anyone who uses race for political gain, even if less crassly than David Duke, helps to foster the atmosphere in which the David Dukes can operate.

I am afraid the earlier debate surrounding this civil rights bill has contributed to that. It helped create the political environment in which a David Duke could prosper. By simplistically labeling the civil rights bill a quota bill, President Bush did a disservice to America. The President now says it is no longer a quota bill. But it never was a quota bill—never. Never. The bill's chief sponsor, Senator DANFORTH, says this new compromise bill is not substantially different from the bill the President called a quota bill.

To listen to the White House, one would have thought this civil rights bill was a quota bill and nothing but. That charge was wrong on two counts.

First, because the bill never provided for quotas. Even its opponents had to acknowledge that. Instead, they argued the bill might lead employers to adopt quotas. But the bill's sponsors never intended it that way and said so publicly and repeatedly. Intent is critical in statutory construction as well as in political affairs. The sponsors explicitly, month after month, said this bill was not intended to produce quotas and in fact was antithetical to quotas.

The second reason the quota charge was wrong was that it ignored the other widely supported civil rights protections in the bill. The disputed language was but one part of the bill whose other provisions are aimed principally at giving ethnic minorities and religious minorities and women the remedies for discrimination which are available to racial minorities.

Why should an Italian-American discriminated against because of his name receive a lesser remedy than a black-American discriminated against because of his race? Why should a Jewish-American discriminated against because of her religion receive less of a remedy than an Asian-American discriminated against because of her race? They should not, and the bill begins to remedy these wrongs.

It also corrects many other injustices in ways that have broad support. For instance, a recent Supreme Court opinion held that the 19th century statute barring employment discrimination applied only to hiring and not to discrimination on the job. This bill overturns that overly narrow interpretation of the law. It will also give women claiming to be discriminated against because of their sex the same right to a jury trial as someone claiming to be discriminated against because of race.

Why then was a bill that had so many such provisions enjoying broad public support wrongly labeled by the White House a quota bill? And why was a bill whose supporters explicitly rejected any intent to allow quotas erroneously labeled as a quota bill? The answer is clear and disturbing: for political gain.

Anyone has a right to express a difference of opinion on an issue. If the President believed one provision of the bill would result in quotas, he had the right to say so. But instead of debating the specific provision, the President labeled the entire bill a quota bill for political purposes. It was the simplistic labeling—quota bill and the constant harping on that label for political gain which was so harmful.

By characterizing the whole bill as a quota bill because of one debatable provision, racial fears and resentments were exploited for political benefit. The decision to use race as a wedge issue is an ugly decision. Some of the President's men saw quotas as a realignment issue. If people believed the Democrats were for quotas, they thought, it might help Republicans. But the Nation pays the price of racial politics. When the race issue which has faced this Nation since its inception is exploited for political purposes, the Nation is hurt. Long after the elections are over, the resentment remains.

A few weeks ago I voted against Clarence Thomas for a number of reasons which I keenly felt. But one of the aspects of his background that appealed to me—and I indicated this at the time—was his willingness, as a conservative, to tell conservative audiences some things they did not want to hear. As much as Thomas opposed both affirmative action and quotas, he warned conservatives against harping on them because of the damage they do to the country. For instance, in a 1988 speech to a conservative organization, Judge Thomas said "Think * * * of the tone you set for the entire community when you ceaselessly attack affirmative action or quotas." Regardless of how one feels about Clarence Thomas, these words ring true.

Most of us learned long ago not to challenge other people's motives and intent. Few of us are pure. But on this issue, we must scrutinize each other's intentions, and even our own. The first rule learned by new doctors is: Do no harm. The first rule that American

politicians of any political party should accept is: Do not use racial fears for political gain. Our leaders must not use the explicit or implicit language or symbols of racial division. When we do, the negative message seeps down to American streets and neighborhoods.

Our President, particularly, must set the tone. I hope that when the President signs this civil rights bill, he will put more than a new law on the books. I hope he will set a new standard for political campaigns. I hope he will make clear that his administration and his campaign will not use racial wedge issues.

I hope he will follow the lead of Republicans like JACK DANFORTH who have courageously warned the country that using race issues politically is an explosive mixture for our Nation and that a party cannot hope to gain at the country's expense.

Our Nation is indeed one nation indivisible. But our people can be divided by demagogues like Al Sharpton and David Duke. We need to bring Americans together. Challenges such as the increasing financial squeeze on middle-class Americans, the loss of jobs to unfair foreign trade practices, crime, poor schools, and unaffordable health care cannot be solved by a divided nation. These problems do not just affect one group in society; they affect us all. And we need to work together to solve them. The solutions are even harder to achieve when divisions are sown purposely for the selfish gain of individuals or factions.

We continue to grope our way to racial harmony and equality. Hard as we try, we make mistakes. We are not always perfectly logical in trying to remedy past injustices, but the effort is surely worth it. We are much stronger as a people when we work to increase our tolerance and respect for each other, to perfect our unique American pluralism, and to reject the efforts of those who would divide us.

I thank the chair, and again I thank the Republican leader, and yield the floor.

JEWISH HERITAGE TOUR

Mr. SPECTER. Mr. President, recently, a group of congregants from the Washington Hebrew Congregation of Washington, DC, ventured on a Jewish heritage tour of Eastern Europe and the Soviet Union. Their purpose was to examine the remnants of Jewish culture and the status of Jewish communities as they confront uncertainty and change in that part of the world.

The welfare of Jewish life in Eastern Europe and the Soviet Union is of a special interest to me because it is a part of my own heritage. My parents came to America from Russia to escape virulent anti-Semitism. My father came here in 1911 from a small village, Batchkurina, fleeing oppression from the czar. My mother came from an area of Russia-Poland—the territory has been traded back and forth—at the age of 5 in hope of a life free of persecution.

I believe it is important that the issue of anti-Semitism and future of Jewish life in Eastern Europe and the Soviet Union be carefully monitored. Although we can rejoice over the demise of communism in the region, it is imperative to remember the nefarious pasts of nationalistic movements in these countries. Accordingly, I am pleased to share the attached letter submitted by Mr. Herb Ascherman which eloquently summarizes the findings of the Jewish heritage factfinding tour and alerts us to the challenges still faced by Jewish communities almost five decades after the Holocaust.

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

DEAR SENATOR SPECTER: Thank you for kindly inviting us to share with you our experiences from our recent trip to Eastern Europe and the Soviet Union.

As you know, before World War II, hundreds of Jewish communities existed in the cities and villages of Eastern Europe and the Soviet Union. The Jews of Eastern Europe had their own vernacular language, Yiddish; their own theater, literature, and music. They raised up scholars, artisans and artists of the highest caliber. These communities founded and maintained communal and charitable organizations and religious academies. For generations the Jews of Eastern Europe preserved and transmitted to their children a rich religious heritage and a vibrant culture.

During the Holocaust, all of this changed. Six million Jewish men, women and children were murdered. Hundreds of Jewish communities were completely destroyed. Jewish culture nearly vanished. Only a handful of Jews remain in Poland, Czechoslovakia and Hungary. Of the larger Jewish community in the Soviet Union, thousands have emigrated to the U.S., to Israel, and to other countries.

This past summer, Rabbi Joseph Weinberg of Washington Hebrew Congregation in Washington, D.C., led a small group of his congregants on a Jewish heritage tour of Eastern Europe and the Soviet Union. There we found two disquieting, but related phenomena: the memory of Jewish life in Eastern Europe and of the Holocaust is being systematically erased; and antisemitism continues to exist in these countries, and may grow as the economic and political situation of these countries becomes more difficult.

Poland, in particular, has done little to acknowledge the destruction of its Jewish community in the Holocaust or the complicity of many of its citizens in the Nazi atrocities. At the Auschwitz-Birkenau concentration camp, the movie which introduces the tour of the camp makes no mention of the fact that Birkenau was built specifically for the extermination of Jews. At numerous sites in Poland where Jewish communities were wiped out, the monument, if there was one at all, indicated that "Poles" were killed rather than Jews. Where the Jewish nature of the victims was noted, the complicity of the local population was passed over.

The truth that Jews were killed in the Holocaust because they were Jews is glossed over. Worse, the thousand-year history of Jews in Eastern Europe, the flourishing culture and the many contributions of Eastern European Jews to their countries of residence, is completely ignored. One can walk through towns and villages which had prosperous Jewish communities before the war, and not know that Jews had ever been there.

As Americans, the open existence of antisemitism which we experienced in these countries shocked us. Incredibly, this poison is found most often in the very countries with the fewest Jews, most notably in Poland, where approximately 5,000 Jews remain from a prewar population of 3.3 million. Synagogues are defaced, and valuable religious objects are stolen. Swastikas mar the monument in Warsaw marking the place where Jews were loaded into boxcars for the trip to the concentration camps. Several members of our group were personally confronted with antisemitic remarks or actions during our trip.

For example, when we visited the few remaining remnants of the Warsaw ghetto, located in the midst of a residential district, people came out of their houses to glare at us. Later, in a fine Warsaw restaurant, the pianist entertaining evening diners stopped in the middle of a song at the sight of us and began to play "Hava Nagila", a Jewish folksong. Whispers of "Jude! Jude!" and angry stares followed us to our table.

Our guide at Auschwitz was a very articulate and well-educated young lady. She told us that the Poles "never really liked the Jews, but we didn't want to murder them." In Prague, Czechoslovakia, the thirty-five year old leader of the Jewish Federation asked us to send Hebrew books and history books, and radiated enthusiasm about rebuilding a Jewish community for his young children. When asked privately how he could be so positive about the future in the light of the history of his country, he answered simply, "It can never happen again!" His hope for the future, in the shadow of past hatred and destruction, was very moving.

The Jews still living in those countries, of course, face antisemitism every day. In Poland, one of our guides publicly stated that most Poles tried to help Jews in World War II, in the Warsaw Ghetto, and that there was little antisemitism there today. Privately he told one of our group that he had changed his Jewish name for a Polish one, and he expressed fear for his safety because his great-grandmother was Jewish.

Through our discussions with Jewish community leaders in each country we learned that, while antisemitism exists in all of them, there are differences from place to place. In Poland, the elderly leaders of the Jewish community told us that only age kept them from attempting to leave. However, in Hungary the Jewish community is vital and striving to grow. In Czechoslovakia, there is hope. And in the Soviet Union there is hope mixed with fear. Some of the people we spoke with in the Soviet Union are willing to wait, to see if the emergence of democracy and pluralism would make a viable Jewish community possible. Others are convinced that they must leave in order to give the children the opportunities for higher education and better jobs that are closed to them in Russia.

The tremendous changes that have taken place in Eastern Europe may lead to greater freedom and opportunity for all the citizens of those nations. However, the period of transition is a difficult one. The Jews in Eastern Europe know that historically, times of high unemployment, economic unrest, and political upheaval have led to heightened antisemitism and scapegoating of the Jewish community.

The best way to fight antisemitism, or any bigotry, is through education, through understanding. Without a thorough reconstruction of Jewish memory in Poland, for example, the people of Eastern Europe will never be able to understand what was lost. Nor will they be able to come to terms with their part in its destruction. The most meaningful acknowledgement of the history of Jewish suffering in Eastern Europe, however, is not erecting more memorials to the dead. It is the support of a living Judaism. The Jews of Eastern Europe are now trying to reclaim their heritage and educate themselves about their tradition. The spark of Jewish life in Eastern Europe must be carefully nurtured, and protected from the winds of antisemitism which may sweep that region in this time of change. If it is allowed to die, then Hitler will have won. The loss of this rich religious and cultural heritage would impoverish us all.

Signed:

Herbert Ascherman, Dorothy Ascherman, Rabbi Arik Ascerman, Mr. Paul Mason, Rabbi Einat Ramon, Dr. Robert B. Wagner, Alane Youngentoub, Gene Youngentoub, Dr. Dolph Zeller.

BOSTON'S MAYOR RAY FLYNN

Mr. KENNEDY. Mr. President, the August 26, 1991, issue of City & State magazine contains an impressive article praising Mayor Ray Flynn of Boston for his numerous accomplishments.

Like many other cities, Boston has been confronted over the past decade with numerous economic and social challenges. Mayor Flynn has spent the past 8 years as mayor successfully guiding Boston through these trying times. Much of his success can be attributed to his personal dedication to the people of the city and his perceptive understanding of their needs and aspirations. His roots run deep in Boston, and he is an effective, respected and compassionate leader on the wide range of issues that matter to the people.

Mayor Flynn's outstanding ability and his enduring commitment to public service have been recognized not only by the citizens of Boston, but also by his colleagues in city halls across the country. He currently serves as President of the U.S. Conference of Mayors, where he is an eloquent spokesman for all the Nation's cities.

I believe that all of us in Congress will be interested in this important article on Mayor Flynn, and I ask unanimous consent that it may be printed in the RECORD.

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

[From City & State magazine, Apr. 26, 1991]

WHERE IS FLYNN? HE'S EVERYWHERE!

(By Ellen Perlman)

WASHINGTON.—Looking for Raymond L. Flynn, mayor of Boston?

Don't start at City Hall.

Try the basketball courts at a neighborhood park. Or a hearing room on Capitol Hill. Or a high school.

An Irish pub. The scene of a fire. A marathon. A conference somewhere in the United States.

Since Mr. Flynn, 52, seems capable of functioning on only four to six hours of sleep a night, he has the stamina to go just about everywhere. And so he does.

In June, he was on stage conducting the San Diego Pops, flailing a baton in a stunt that sent gales of laughter through a crowd of mayors gathered for their annual meeting.

In early August he was in Hyannis, Mass., with a group of mayors planning a march on Washington. They seek to prevent federal cuts of urban and children's programs.

This fall in particular, he needs all the hours the days and nights offer. He is carrying out dual roles: president of the U.S. Conference of Mayors and two-term mayor of Boston on the re-election trail.

His popularity remains high among most of Boston's electorate, and observers say it is unlikely he'll be defeated in the fall election.

Mr. Flynn is running on his eight-year record. When his administration took charge in 1984, he set out to end a 10-year series of budget deficits. He has produced a balanced budget for the last six years.

The mayor is credited with easing racial tensions in the city, integrating public housing, getting developers to contribute to housing for the homeless as a condition for building, and elevating the city's bond rating from one of the lowest in the country to a relatively healthy. A by two major rating agencies. That means five upgrades in six years.

"He has done an excellent job of managing the city's resources," said J. Chester Johnson, president of Government Finance Associates Inc., financial advisers to Boston and other cities and counties.

"Overall, he's done a good job," agreed Samuel R. Tyler, executive director of the Boston Municipal Research Bureau, a business-supported watchdog agency. "In the earlier years it was easier to do that. Lately, it's been tougher, but he's made the decisions necessary to maintain a surplus."

More recently, he took on reform of the public school system.

"Public education is in a shambles," the mayor said. "The school system has failed the kids."

Few in the city disagree that the current school board has created an environment fraught with racial tension and internal bickering. But many were against Mr. Flynn's drive to change to a seven-member board appointed by the mayor from a 15-member elected body.

"If there is going to be true education reform, (board members) can't just be 'yes' people for the mayor, they can't just be an extension of the mayor's City Hall family," said Joyce Ferrisbough, president of the Black Political Task Force, a 13-year-old political action group.

Some say the mayor's desire for an appointed school board was a power play good for beefing up his resume. But others say he must be sincere about reform. Otherwise, he'd be crazy to take on the high-risk responsibility for what has been an intractable problem.

"It's something other mayors in the past have not wanted to do," Mr. Tyler said. "He's willing to be held accountable."

"People said it was a power grab," agreed Ellen Guiney, the mayor's education adviser, "but it's very risky and I admire him for it."

The general public, minorities, state legislators—all will be scrutinizing Mr. Flynn's actions as well as the school board's performance.

So why, Ray?

He said he couldn't stomach the deterioration anymore: "If we don't succeed, I'm going to be severely criticized, no question about it. The easiest thing in the world is to turn around, walk away and see the school system continue to fail. I couldn't do that any longer."

School board members simply were issuing their positions as stepping stones to higher political offices, said Mr. Flynn, who has a master's degree in education from Harvard University in Cambridge, Mass.

Ms. Guiney suggests a more personal reason for tackling the problem.

SON OF A LONGSHOREMAN

The son of a longshoreman father and scrubwoman mother, Mr. Flynn deeply believes education gives poor children opportunities. He carries that concern to the national arena. One of two new committees created under his direction at the U.S. Conference of Mayors is aimed at education and family. The other deals with communications.

Conference members are thrilled to have such a high-visibility, indefatigable advocate for cities as president of their group, particularly in the year leading up to a presidential election.

"He'll breathe fire into this organization," maintained Mike Brown, conference spokesman.

He hasn't wasted much time, either. The conference dispatched a Flynn-signed letter to President George Bush Aug. 4 asking for the opportunity "to brief you" on the cities' priorities. The mayors want urban issues highlighted on the presidential campaign trail.

"We can't allow candidates for president every four years to give the so-called urban agenda pitch and walk away, never to hear from them again," Mr. Flynn said.

But the mayors said the same thing during the 1988 presidential campaign, to no avail. Willie Horton eclipsed the debate on urban issues. The electorate chose a president whose forte is foreign affairs.

In the ensuing years, city problems have escalated.

Mr. Flynn talks wistfully of the days of yore when powerful mayors such as New York's John V. Lindsay and Chicago's Richard J. Daley carried clout in Washington—clout that needs to be revived.

"When they spoke, their voices were listened to and usually responded to with support from federal officials on down. The mayors' goal is to make sure strong voices for urban America cannot be ignored," Mr. Flynn said.

HEAVY ON THE NATIONAL SCENE

Even before he stepped into the conference's presidential role, the mayor was in overdrive on the national scene. He made trip after trip in Washington to castigate members of Congress for not doing enough for the cities on drugs, homelessness, crime, jobs, education.

When everyone else's workday ends, the former Providence College basketball star from Irish Catholic South Boston often can be found on a bar stool hoisting a Guiness with the working man or singing melancholy Irish ballads by the piano into the night.

He's also familiar with the dawn, when he has been known to run the quiet streets and find a different shift of constituents to converse with.

This very public officeholder has been praised and condemned for his affinity for press coverage.

"Mr. Flynn, as we know, is a media kind of mayor. He attracts the national press," said J. Thomas Cochran, executive director of the U.S. Conference of Mayors.

That tendency can be a powerful tool for getting out the organization's and the major's agenda.

But the local media, at least, often are irked if they get drawn into what they call publicity ploys—such as when the major turns up at the scene of a fire and helps pull people out of buildings while cameras click.

They've called him "media-hungry," accused him of pursuing the press "like a heat-seeking missile," claimed he has toiled over the weekends to generate news coverage for a Monday (usually a slow news day).

Democratic Councilman Tom M. Menino laughs at the criticism.

"Ray Flynn has probably the best political instincts in the city," he said.

Few in city politics question the mayor's concern for Boston and its residents. Most praise his financial management of a city that, granted, went through boom years and high growth but has maintained its financial balance even as the economy has soured in recent years and state aid has vaporized.

The mayor has made some tough choices. He directed, for instance, that youth programs be spared the budget ax while some administrative departments were cut more than 20%.

Along the way, he has brought his constituency into the process, spelling out that effective financial management will save Boston, not rampant spending and not preservation of every program, said Mr. Johnson.

When the revenue runs out, the spending stops according to mayoral directive.

"I don't know how many times I've heard him say, 'I won't spend money I don't have,'" remarked Barbara S. Gottschalk, director of the budget and program evaluation office.

Mr. Flynn's administration has been commended for establishing an office of capital planning and producing a five-year capital plan. He has had business leaders conduct a review of city government management.

In the mid-1980s, the city has put into place a performance-based management review system. Reports on departments' effectiveness come out quarterly and annually.

Of the 1,428 criteria evaluated in fiscal 1990, about 65% "met or exceeded the promised level of service," according to the most recent annual report.

Mr. Tyler said such accountability is something not many cities have. He hopes Boston government will further the effort with even stronger measurement standards.

DEALING WITH URBAN WOES

Like any big-city mayor, Mr. Flynn still has plenty of urban ailments to deal with—crime, a police force frequently in trouble, racial tension that endures, poor schools, and persistent drug, hunger and homelessness problems. But by most measures, Boston has come a long way under Mr. Flynn's leadership.

In June, he tantalized the press with the notion that some mayor or other should run for president and then suggested he wouldn't be the worst qualified.

He has since backed off, since dallying with presidential politics may not be the wisest thing they do so close to a mayoral election.

Besides, he'd have to get up pretty early in the morning to visit all the neighborhoods in America.

Yet, with all that energy, several political observers warn not to count Mr. Flynn out of the national political scene. It's obvious that the hoop-shooting marathoner out of blue-collar Boston is tempted to go for the glory.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,419th day that Terry Anderson has been held captive in Lebanon.

TRIBUTE TO DR. HATTIE BESSENT FOR 16 YEARS OF PLACING MINORITY NURSE INTERNS ON CAPITOL HILL

Mr. INOUYE Mr. President, I rise in tribute today to Hattie Bessent, Ed.D, R.N., deputy executive director of the Ethnic and Racial Minority Fellowship Programs at the American Nurses' Association [ANA].

As the director of the ANA's Minority Fellowship Programs, which assist nurses working on their doctorates in mental health disciplines, Dr. Bessent has successfully negotiated for approximately $3.5 million to sustain two important fellowship programs.

Speaking of Dr. Bessent's work, Dean Gloria Smith of the Wayne State University School of Nursing has said that "Dr. Bessent is a visionary who has used her extraordinary talents to create an outstanding legacy for minority nurses. Through her work, she has developed a cadre of highly qualified specialists and researchers in mental health and the behavioral sciences who are particularly dedicated to working with ethnic racial minority populations and communities." Dr. Bessent's programs have assisted more than 225 nurses from the Asian, black, Native American, and Hispanic communities. Funds provided by the ANA Minority Fellowship Programs enabled the minority nurses to receive doctoral training in the behavioral sciences and in clinical psychiatric nursing programs.

Dr. Bessent's efforts have been far-reaching and extensive. She is often called upon by her colleagues in the university academy, for her expertise in administrative issues, research and methodology trends, and in developing minority content in nursing curricula. She serves the academy and minority nurse fellows in another vital way by recruiting potential faculty for schools of nursing and for the 50 State nursing associations. When funds were available, she also helped nurses working on their baccalaureate and master's degrees in a variety of nursing specialties.

Dr. Bessent's accomplishments to date have been most impressive. Her work for the ANA's Fellowship Programs began in 1977 with two Federal grants; since then she has received approximately $3.56 million from the National Institute of Mental Health for periodic renewals of the grants program. In late 1983, the ANA Baccalaureate Completion Scholarship Fund was established as a 5-year initiative and placed under the aegis of the Minority Nurse Fellowship Programs.

Dr. Bessent has also obtained considerable financial support for her fellowship programs from the private sector. For example, in both 1985 and 1988, the W.K. Kellogg Foundation approved 3-year grants to provide leadership training for minority women in mental health-related fields. In 1985 Dr. Bessent also assumed directorship of the Allstate Nursing Scholarship for American Indian and Alaska Natives, which previously had been administered by the American Indian/Alaska Native Nurses' Association. The Allstate Foundation has been funding the program since 1975.

Presently, Dr. Bessent is administering three grant programs funded by both the private and public sectors, all of which support and further the education advancement of our Nation's minority communities.

Mr. President, since 1975, 225 black, Native American, Asian, Hispanic, and Native Hawaiian nurses have received fellowship support through ANA programs for their doctoral training in the behavioral sciences and clinical psychiatric nursing. They have matriculated at more than 50 institutions of higher learning across our Nation, including schools in Hawaii and Puerto Rico. Further, 125 of the nurses have earned doctorates and are actively teaching, conducting research, and providing clinical services for our Nation's minority populations.

One of Dr. Bessent's finest accomplishments has been the development of the Minority Legislative Fellowship Programs on Capitol Hill. Since 1977, the Legislative Internship Program has given 57 minority nurses a firsthand experience in understanding the relationship between our Federal health care policies and the political process.

The innovative Legislative Internship Program allows the participants to directly observe the relationship between our Federal health care policies and the political process. They are prepared to be involved actively in the legislative process as individuals and as members of various nursing organizations.

My office has hosted a number of minority nurse interns, and I can attest that the individuals selected by Dr. Bessent have consistently demonstrated enthusiasm, professionalism, and outstanding leadership capabilities. They have contributed important insights into the value of our Nation's Federal health policies to those who are most in need. As many of us know, Dr. Bessent works tirelessly with agencies to give her interns a full appreciation of the legislative and administrative processes. Dr. Bessent's students are a tribute to her own compassion and dedication.

Hattie's activities are not limited to Capitol Hill nor to the Federal Government. She also participates in numerous site visits to nearly 50 universities

across the Nation where her nurse fellows have been enrolled. Her site visits have in turn served as recruiting trips for new applicants and provided her with opportunities to consult on such diverse topics as minority content in nursing curriculums, administration and management curriculums, assertiveness training, and the importance of networking and mentoring. She also provides an important job placement service, identifying prospective employees for a wide range of accredited schools of nursing and the 50 State Nurses' Associations, and publishes four monographs, and a newsletter publicizing the successes of the Minority Fellowship Program. The newsletter and monographs are sent to all accredited schools of nursing throughout the country.

Dr. Bessent is a highly respected leader in the fields of psychiatric nursing and educational psychology. As an educator, she has lectured on cultural aspects of the delivery of mental health services, and conducted research in the mental health aspects of the development of young children in longitudinal studies. She has taught diverse courses in the mental health of the young, personality development, approaches to mental health therapy, curriculum development and nursing research. She has also participated in numerous conferences addressing the delivery of mental health services to minority patients and discussing nursing and minority cultures.

Further, Dr. Bessent has accomplished a series of firsts for herself, for people of her race, and for her profession. She was the first black nurse to head a hospital psychiatric unit in her hometown; the first black person to work at Vero Beach Hospital as a laboratory and x-ray technician; the first black person in the South to receive a Federal career teachers grant; the first black nurse in Florida to receive a doctorate; the first black person to receive a diploma as a mental health consultant from Tulane University; and the first black nurse in the South to receive a fellowship from the American Council on Education for an administrative internship.

Dr. Bessent was the first black nurse in the South to be inducted as a member of Phi Delta Kappa; Sigma Theta Tau, for nurses; Phi Lambda Theta, for educators, and Phi Delta Kappa. Dr. Bessent is also a member of Delta Sigma Theta Sorority. She was the first black woman and nurse to become a faculty member of the University of Florida at Gainesville; the first black woman to receive tenure in the Florida State University system; and the first black person to become dean of the Graduate School of Nursing at Vanderbilt University.

She was appointed by President Carter as the only black member of the Presidential Task Force for a Friendship Treaty to China, and served as the only black nurse on the Presidential Commission on Mental Health. She was also invited to participate in conferences in New Zealand and Egypt where she presented papers discussing her work on homelessness and runaway youth. Today she is the only black professional nurse deputy executive director on the staff of the American Nurses' Association.

Among her other honors are the Meritorious Distinguished Alumna Award, the highest award given an alumnus, from Florida A&M University in 1980, which also awarded her the first honorary doctorate it had ever conferred on a woman. Dr. Bessent is listed in "Who's Who Among Black Americans," and "Contemporary Minority Leaders in Nursing." He latest article, "Postdoctoral Leadership Training for Women of Color" was published in the September–October, 1989 issue of the Journal of Professional Nursing.

In citing the work of Dr. Bessent, Dr. Beverly Malone, a former minority fellow and current dean of North Carolina's Agricultural and Technical State University School of Nursing says, "Dr. Bessent creates an environment that facilitates and supports the strengths of minority nurses. She is a humanitarian, an able administrator, and an incredible fundraiser. She is a fighting spirit with a clear sense of mission, whose work has broken many barriers and made the nursing profession a broader and more diverse place for many people to stand." She has dedicated her entire professional life to assisting others, be it patients, families, or nurses.

Mr. President, I am pleased today to honor Dr. Hattie Bessent and her minority fellowship recipients and to commend Dr. Bessent's sincere efforts on behalf of our Nation's citizens. She has been an outstanding role model for both her professional colleagues and for future generations of minority students. She has displayed impressive expertise and knowledge of the legislative process and demonstrated the positive long-term consequences of being actively involved in the political process. Her legislative internships have enabled many leaders of tomorrow to assist actively in bettering the health care of our citizens. Very few can match her accomplishments and dedication.

RESURRECTING THE MIDDLE EAST PEACE PROCESS

Mr. LEAHY. Mr. President, the peace treaty signed by Egypt and Israel 13 years ago was a historic event, and an act of great political courage. President Carter staked his personal reputation on the success or failure of those negotiations, as did President Sadat and Prime Minister Begin. Despite great opposition within their own countries, they embraced a unique opportunity for peace that had long eluded them.

History recounts how fleeting these opportunities are, and how often they are lost for lack of courage or initiative, lost perhaps forever.

The Middle East peace conference is one of these historic times.

Despite our great hopes and expectations, the Camp David accords did not signal the beginning of a comprehensive peace between Arabs and Israelis. Over the years the Middle East peace process has come to represent little more than the memory of Camp David. The intifada was the latest manifestation of how little peace was left in the process.

Suddenly, all of that has changed. The Soviet Union is no longer a super power. Iraq's military might has been crippled, as has the myth of Arab unity. Regional conflicts around the globe are ending. And this week, Arabs and Israelis will take the first tentative step toward each other across a bridge spanning a chasm formed by half a century of hatred and distrust.

President Bush and President Gorbachev have opened the Middle East Peace Conference in Madrid, culminating a marathon effort in diplomacy by Secretary Baker. It is a historic opportunity for solving what is unquestionably the most dangerous regional conflict of all. The outcome of this Conference has enormous stakes for the entire world.

President Bush and Secretary Baker deserve to be commended for their skillful diplomacy and their stubborn perseverance in overcoming obstacle after obstacle to reach this point. Now, it is up to Israel and the Arab parties themselves to take advantage of an opportunity so hard won and so easily lost.

Mr. President, the Middle East is a safer place today because of the military defeat of Iraq. But it is all too clear that Iraq's defeat did not bring peace to the Middle East.

It would be unforgivable if after the United States sent half a million men and women into war to defeat Iraq, and after all the dramatic changes in the world that have created this opportunity for peace, we and the Arabs and Israelis did not do everything possible to get a constructive dialog started which might lead to real peace.

That is why I supported delaying action on the Israeli loan guarantee issue. President Bush said he needed to defer debate on that issue to make this historic Peace Conference possible. Congress heeded his request.

Our expectations must be kept at a realistic level. If this process is to succeed, it will be long and arduous, requiring patience and determination from all participants. We cannot become so discouraged that we abandon this cause, for this chance may not

come again in our lifetime. It is important that we persevere.

The formal Conference will be difficult. That is to be expected. Each side will restate extreme positions, that are as familiar to us today as they have proved irreconcilable in the past. But the real test will be whether the parties can proceed to discussion of underlying interests. Face to face negotiations with the Arab parties has been sought by Israel for more than 40 years, with United States encouragement and backing.

As Prime Minister Shamir said, "we have to begin because * * * without negotiations, we will never get peace."

My best wishes go to President Bush, to Secretary Baker, to Prime Minister Shamir, and all the other participants in the Peace Conference. All sides have shown restraint just in getting this far. They must keep in their minds a larger vision of what peace—real peace—could mean to this region.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

CIVIL RIGHTS ACT OF 1991

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will resume consideration of S. 1745, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1745) to amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Danforth/Kennedy amendment No. 1274, in the nature of a substitute.

(2) Grassley modified amendment No. 1287 (to amendment No. 1274), to establish the Office of Senate Fair Employment Practices in order to protect the right of Senate employees, with respect to Senate employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age or disability.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Hampshire is recognized for purposes of offering an amendment. There will be 30 minutes of debate equally divided and controlled in the normal form.

The Senator from New Hampshire.

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

I believe it would be proper to wait until the managers have arrived rather than do this in their absence.

I make a parliamentary inquiry. If I should declare the absence of a quorum, will we still have 30 minutes equally divided from the time the debate starts?

The ACTING PRESIDENT pro tempore. There will be 30 minutes equally divided when the debate commences, which will occur at such time as the Senator offers the amendment.

Mr. RUDMAN. I thank the Chair.

In light of that, I think it would be good to have the managers and possibly the majority leader here, so I will suggest the absence of a quorum.

Mr. ROBB. Mr. President, will the Senator withhold?

Mr. RUDMAN. I withhold.

Mr. ROBB. Mr. President, if not out of order at this point, I would like to address the Senate on the bill itself in the absence of the managers before we get started on the amendment to be offered by the Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I certainly have no objection to that. The majority leader has set the order up for 12 o'clock. Obviously, people are not quite ready. I do not know how long the Senator desires to speak, but I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Virginia is recognized.

Mr. ROBB. Thank you, Mr. President, and I thank my friend and colleague from New Hampshire.

Mr. President, I rise in support of the Civil Rights Act of 1991. I am, of course, pleased that the President has now agreed to support the bill, that he has now acknowledged that the bill does not require quotas. I am glad that we have been spared a repeat of last year's acrimonious debate. And I am pleased that we will not have to go another year with remedies for employment discrimination severely weakened.

Sadly, those remedies are still needed. Great challenges still face religious, racial, and ethnic minorities and women in our society. Human nature has not yet advanced to the point at which individuals are measured by their humanity and not their gender or skin color. Achieving such a society requires the full measure of intellectual creativity and resources of every Member of this body and, indeed, all Americans.

That is why it is especially unfortunate that the President and the Congress have been distracted from that challenge by the fuss over this one relatively modest bill. For all of the heat generated by the bill, it is not a breakthrough; indeed, it is largely restorative in nature. This act restores the civil rights remedies which were taken away in the late 1980's by the new majority on the Supreme Court, and it gives to women, religious minorities, and the disabled the right to sue for damages when they have been intentionally discriminated against.

The President's current position on the bill, while certainly welcome, merely confirms what most informed observers of the debate knew all along—and that is that quotas were largely irrelevant. Any legitimate concerns about quotas were resolved, in my view, before the civil rights bill ever reached the floor of the Senate. In fact, if I thought the Civil Rights Act was really a quota bill, I would have strongly opposed it because I believe that mathematical formulas are counterproductive and demeaning.

I hope that the stake has been driven through the quota issue once and for all. It arose because opponents didn't like a bill which increased the number eligible for damages, but they simply couldn't come out and defend a system with the existing inequities. So they began talking more and more about quotas. They took an issue of employment law, which is fundamentally an issue of employers versus employees, and turned it into an issue of worker against worker. An issue involving employee suits against employers was twisted into an issue of black workers taking the jobs of white workers. And in doing so, opponents found an issue that worked politically.

Mr. President, even the House's addition of language explicitly forbidding quotas wasn't enough to placate those opponents, and much of the American public to this day thinks the proponents of this bill are trying to push quotas.

So where did this quota argument come from? It came out of a section of the bill which involves so-called disparate impact cases. These cases are brought when an employer hires disproportionate numbers of white or male applicants from the qualified applicant pool. In the landmark case of Griggs versus Duke Power, a unanimous Supreme Court found that the civil rights laws prohibited employer practices which had the effect of discriminating and were not justified by business necessity. Under Griggs, an employer's requirement that employees have a high school diploma to shovel coal, a practice which disproportionately screened out black applicants, was struck down as unrelated to business necessity. Griggs, then, had nothing to do with giving minority groups preferential treatment; it had to do with removing discriminatory barriers which were unrelated to job performance.

This act seeks to lift an unreasonable burden from the backs of women, religious minorities, and the disabled. In 1989, the Supreme Court unilaterally disposed of 18 years of case law when it overturned Griggs in the case of Wards Cove Packing versus Atonio, and shifted the burden to employees of proving that discriminatory practices are not significantly related to a legitimate business objective. Clearly, that burden is virtually impossible to meet.

There has been something of a consensus from the beginning that we

needed to return to the old Griggs standard. That is to say, when a disparate impact is shown, and an employment practice can be identified as responsible for that impact, the burden shifts to the employer to show why the employment practice is justified by business necessity.

The problem was that Griggs was not a tightly written opinion. It contained at least six different articulations of the "business necessity" standard. So the opponents chose the definition most favorable to employers; the proponents adopted the one most favorable to employees. When the civil rights bill was first introduced in February 1990, it was argued—plausibly, in my judgment—that the standard adopted did more than merely restore Griggs and was so tough that a few employers might throw up their hands and resort to quotas in order to avoid litigation.

But that problem was dealt with in May of 1990 when I joined Senator DANFORTH and several other Senators in suggesting to Senator KENNEDY language which sought to restore the Griggs standard. Senator KENNEDY agreed to make the changes, and long before the bill even hit the Senate floor, the legitimate quota issue was resolved.

Why, then, was such a flap created about quotas? In part, because the quota bill charge was accepted by the media as a focus of debate without examination of its accuracy. As commentator Michael Kinsley has pointed out, "Not one television or newspaper discussion in 20 on the quotas controversy has troubled to point out that Bush's alternative bill would also shift the burden of proof to the employers." Nor is it often pointed out that the Griggs decision, which was the law for almost two decades, placed the burden of proof on the employer.

A perfect illustration of the problem appeared in this morning's Washington Post. In an op-ed column entitled, "It Was a Surrender to Quotas," Rowland Evans and Robert Novak make the same mistake many others have made. They say: "Exposure of up to $300,000 in damages will require employers to avoid lawsuits by establishing quotas for racial minorities."

Well this just isn't accurate. First of all, the damages section applies to individual cases of intentional discrimination—where the statistical makeup of the workforce is irrelevant. Second, even if damages were somehow linked to quotas, that would argue that the bill would result in quotas for women, the disabled, and religious minorities, not racial minorities, as stated in the column. Racial minorities may sue for unlimited damages now, with or without this bill.

When the issue is so racially charged as quotas, we have an even greater responsibility to get the basic facts right.

In a sense, the President and Congress have been in heated agreement about the problem we were trying to solve. And the heat was generated by the emphasis on differences between our plans rather than the broad commonalities, on argument rather than agreement, and on partisanship rather than policy.

The underlying substantive debate, all along, was not about disparate impact or quotas but about damages in cases of intentional discrimination. Should women be allowed to sue employers in cases of intentional discrimination, the way minorities currently can? That prospect is what had employers up in arms. Not quotas, but damages. I happen to support giving women, disabled Americans, and religious minorities the same scope of remedies available to those who suffer racial discrimination, and will support such subsequent legislation when it is offered. The current hierarchy of remedies simply makes no sense. Under existing law, a black woman can sue for damages for racial discrimination, but if she suffers gender discrimination, she's out of luck. Discrimination is wrong, and is not more or less so depending upon the demographics of its victim.

Earlier this month, the public's consciousness was raised dramatically on the issue of sexual harassment. To the extent that anything good came of that unfortunate episode, it was that with the help of Senators WIRTH and MIKULSKI and others, the focus returned to the true essence of the bill: Whether women, religious minorities, and disabled Americans should be treated equally under the law. And, now, we have a bill. It is not a perfect bill by any means. It does not give women equal remedies. But it moves in the right direction, and the divisive language of quotas is, at least for the moment, behind us.

The passage of this legislation is important: It strikes out at discrimination in meaningful ways. But clearly, greater challenges lie ahead. We're going to have to be able to capitalize on the new willingness of both sides to move forward, to mount what Martin Luther King called the second phase of the civil rights revolution, which unites people of all colors and empowers them to realize their full human potential.

This bill is a springboard to greater achievements. It is not an end; it is but a beginning upon the long road to a society in which people are defined not by gender or race, but solely on their capabilities. I look forward to working with Senators KENNEDY, HATCH, DANFORTH, WIRTH, MUKULSKI, and others in going forth with this important task.

Mr. President, I thank you. I thank my colleague from New Hampshire for allowing me this particular time.

I yield the floor.

If no current Senator is seeking recognition, I suggest the absence of a quorum.

Mr. RUDMAN. Will the Senator withhold?

Mr. ROBB. The Senator does withhold.

The PRESIDING OFFICER (Mr. GORE). The Senator from New Hampshire is recognized.

Mr. RUDMAN. Mr. President, it is my understanding, under the previous order, we will now have 30 minutes for debate on the amendment which I am about to offer.

The PRESIDING OFFICER. The Senator is correct.

Mr. RUDMAN. I have checked with the majority leader and it is his wish that we proceed. Senator DANFORTH, I see, is on the floor. Senator GRASSLEY, who is on the floor, is a cosponsor of the amendment now pending.

AMENDMENT NO. 1290 TO AMENDMENT NO. 1287

(Purpose: To require the President or a Member of the Senate to reimburse the appropriate Federal account for any payment made on their behalf out of such account for an unfair employment practice judgment committed under the provisions of this title by the President or Member of the Senate not later than 60 days after the payment is made)

Mr. RUDMAN. So, with that, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 1290 to amendment No. 1287.

At the end of the pending amendment, add the following:

SEC. . PAYMENTS BY THE PRESIDENT OR A MEMBER OF THE SENATE.

The President or a Member of the Senate shall reimburse the appropriate Federal account for any payment made on their behalf out of such account for an unfair employment practice judgment committed under the provisions of this title by the President or Member of the Senate not later than 60 days after the payment is made.

Mr. RUDMAN. Mr. President, before I address this particular amendment, in light of the very interesting and full debate of the underlying constitutional issue, this morning I would just like to read into the RECORD from the Federalist, Madison No. 51, the following statement:

* * * In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of others. * * * It is equally evident that the members of each department should be as little dependent as possible on those of the others for the emoluments annexed to their offices. * * * But the great security against a grad-

ual concentration of the several powers in the same department consists of giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of the attack.

No one has ever said it better and no one ever will, on the doctrine of separation of powers and particularly as we are concerned with the speech and debate clause.

My amendment is a very simple amendment. It provides that the President and Members of this body shall reimburse the Federal Government for any payments made to an individual where the President or the Senator was found guilty of engaging in discrimination or sexual harassment. If the President or a Member of this body discriminates against someone on the basis of race or sex or engages in sexual harassment, should the American taxpayer be forced to pay the tab? That is the issue before us. The underlying Grassley-Mitchell amendment, although it attempts to put Members of the Senate and the President in the same position as the average taxpayer, nonetheless fails by requiring the final bill to be paid by the taxpayer.

Last night the majority leader argued that the pending amendment may be unconstitutional, and I assume he was referring to the immunity clauses of the Constitution. But, of course, the underlying amendment is obviously unconstitutional, so, at very best, it is a matter of degree. I would say that the real question is, if we are going to roll the dice on this constitutional question as I expect we are going to, should we roll the dice at the taxpayers' expense or should we roll the dice at our own expense? This amendment ensures that we roll the dice on our own expense.

Last night, in an exchange with my distinguished friend from Maine, the majority leader, he mentioned the fact that companies pay damage awards, not individuals. Of course, that is a neat shorthand, but it just defies practicality. In my State, as I suspect in his and most of our States, many businesses are sole proprietorships, small family corporations, small partnerships employing a few hundred people or less. And if there is a judgment it comes out of the pocket of the owners of that business. As a matter of fact, if a judgment were held against a major U.S. corporation, it eventually comes out of the pockets of the owners; that is, the stockholders. So, obviously, to say that if a Member of this body is involved in discriminating against a person because of gender, national origin, or age, that somehow the taxpayer should reimburse us for our misdeeds and mischief defies any logic.

Of course, the argument was also made that when the head of a Federal agency is sued with a successful outcome by plaintiff, then, in that event, the Federal Government pays. That is true. But, of course, if the Secretary of Defense is named in an action because of something that some subordinate did, 20,000 people removed from the Secretary, it is unlikely and it just does not happen that the Secretary is aware of the event complained of, and, thus, the Federal Government properly pays the resulting judgment.

Let me make it clear that in this amendment if a staff member or a committee director or one of the supervisors of the various service departments discriminates, then the Federal Government will, in fact, pay. That is the corporate model. But if a Member of the Senate is guilty of discrimination over the small number of people that we employ, then we in fact should be liable. I hope that this amendment serves the interests of making sure that we truly have some leverage here, and that we are really going to attempt to obey these laws. The best way to obey these laws is to have the threat out there that, if you do not obey the laws, it is your pocketbook that will reimburse plaintiff, not that of the already overburdened American taxpayer.

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

The PRESIDING OFFICER. The Senator from New Hampshire has 9 minutes remaining; 15 minutes in opposition will be controlled by the majority leader.

Mr. RUDMAN. I thank the Chair and I presently yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. RUDMAN. I yield 5 minutes to my distinguished colleague from Maine.

The PRESIDING OFFICER. The distinguished senior Senator from Maine.

Mr. RUDMAN. I am surrounded by my colleagues from Maine this morning.

Mr. COHEN. Mr. President, a journalist turned novelist, Allen Drury, wrote some years ago:

> (T)he Senators of the United States, so human, so certain and so confused, so noble and so petty, so statesmanlike and so expedient, so wonderfully representative of their own human, likeable, certain, confused, noble, petty, statesmanlike, expedient country, will of necessity play a great and vital part. That they and their colleagues in the House will play it as the country would is certain, for here on the Hill, in a way that is the wonder and strength of America, they are the country.

He was writing about a time and place which may no longer reflect the country. We are supposed to mirror the people that we represent. And yet, according to the polls that were cited by my colleague and friend from New Hampshire last evening, that no longer seems to be the case. There is great discontent in this land. There is great anger and frustration because people see their dreams evaporating. They see the chance for their children to have a better opportunity for the future disappearing and they see their prosperity shrinking.

Part of that is due to the perception of what takes place here in Washington, the check-kiting, the restaurant tabs over in the House, the Thomas hearings here in the Senate. They are symbols of something that the American people feel has gone terribly wrong.

Basically, I think, it is because we in public office from the Presidency to the House of Representatives, and perhaps even down to the State level, have not been honest with the American people. We have held out false promises. We have told them that they could prosper while plundering their savings, they could achieve success without discipline and sacrifice, and all we needed to do was to take the shackles off the entrepreneurs in this country, to deregulate our economy. Let the economic Darwinian forces loose from the Government cages and all would be well.

And, what we have witnessed has been the S&L scandal, the Ivan Boeskys, the Mike Milkens, and others, who have walked away with millions while we prayed at the altar of mammon. Now we are in dire economic straits, and we are not sure there is a way out. There is, of course, but it is one that is going to come with pain and sacrifice and the deferral of gratification, and the restoration of a sense of a commonweal or the common good. But that is going to require that we level with the American people and we deal with them candidly and no more campaign spins and that we let them, above all, know that we are in this ship of state that is taking on water right along with them.

That brings me to the point of accountability. The purpose of the amendment offered by my colleague from New Hampshire is to establish accountability. Under the amendment as written, there is no penalty imposed on a Member who engages in wrongdoing. It is another form of congressional immunity, as such. So, for us to stand here in the Senate saying we are finally going to take action which reduces this privileged palace to ordinary human dimensions, that makes every Member of the Senate and the President subject to the same rules and regulations, obligations, and responsibilities that the average American businessman and businesswoman is subject to, is simply not accurate. It is not accurate and it is not a fair representation. Because, if we engage in wrongdoing, if we discriminate based upon race or sex or some other factors, if we engage in harassment, we do not have to pay. We just send the bill to Uncle Sam.

Now, that is something I think the American people will not see as an hon-

est attempt to reduce office holders to a level of equality.

So, if we are going to attempt to tell the American people we are with them, that we are going to remove privileges, that we are not going to act in a way that is inconsistent with the rules and obligations that they have to respond to, it seems to me we have to insist that when we do wrong we have to be held accountable in a fashion comparable to that of the average citizen.

There is no equal accountability under the Grassley amendment as written. Perhaps political accountability, in that if we were to engage in such conduct, the voters would throw us out of office the next time. But that seems to me to be little consolation to the American people for us to say that if a judgment is awarded—be it $50,000, $100,000, $150,000—to just send the bill to Nicholas Brady and he will take care of it, and dock the American people for the costs.

I hope that my colleagues will join the Senator from New Hampshire and support this amendment.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. MITCHELL. Mr. President, I yield myself such time as I may use. Does the Senator from Iowa want some time? I will yield 5 minutes to the Senator from Iowa now.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in opposition to this amendment. I think it is a very difficult amendment to speak against from the standpoint of the way the Senator from New Hampshire approaches it, because he wants to make it look like we are being inconsistent.

The Senator from Maine just spoke about consistency, asserting that there will not be any accountability. What is very important about our amendment, Mr. President, the Grassley-Mitchell amendment, is that we are totally consistent—totally consistent. That is the basis of the amendment: that employees of the Senate who are harmed will receive fairness and equity as employees of the Federal Government, the same treatment employees in the Defense Department or employees in any other department of our Government receive.

The Grassley-Mitchell compromise is designed to ensure that employees of the Senate who have their civil rights violated have the same remedies for that discrimination as employees in the Federal sector and the private sector. There is not some new approach carved out in our legislation just to protect Senators or to treat us differently than any other people in a like situation in the Federal Government.

These remedies of Government employees that I speak of include the right to secure and to collect judgments against their employing institution for acts of discrimination by officers or fellow employees of the institution. Employees of the Senate should have rights equivalent to employees in the Federal sector and the private sector who are already covered by title VII. An employee of the Federal sector who is discriminated against by a fellow officer of the Federal Government has, under existing law and under the language of the pending bill, a cause of action against the employing institution—an agency or an arm of the Federal Government. When a person wins a money judgment against any Federal agency, the judgment is paid out of the Federal Treasury. The United States Code has specific provisions for the appropriation of necessary amounts from the Treasury in these cases where there has been discrimination for awards, settlements, interest, and costs assessed against an employee of the Federal Government.

On this issue, I see no reason why the Senate should be treated any differently than any other arm of the Government of the United States. So from that standpoint, I tell the senior Senator from Maine, there is total consistency on the part of our amendment. Employees must be assured, Mr. President, of the certainty of their ability to collect a judgment against their employer in the event they are damaged by an employer in violation of a law. Consequently, the Grassley-Mitchell compromise tracks the existing civil rights laws in allowing judgments against the Senate for acts of its employees which violate the civil rights laws and then allowing the payment to be appropriated from the Treasury.

It may be that a disproportionate number of the Members of the Senate are blessed with the financial means to pay large damage awards. That is not true of all Members of the Senate. It is not true of most officers and employees of the Senate. It is not true of most people who are employed anywhere in the Federal Government who could likewise have a charge of discrimination filed against them. To ensure that victims of discrimination within the Senate have the same ability to be compensated for their losses as employees in the Federal and private sector, we must grant these employees the right to recover.

As my colleagues know, I am not a Senator who is quick to reach into the Federal purse and spend the taxpayers' money. I do not believe that allowing employees of the Senate to collect judgments from the Treasury for discriminatory acts against them by individual Senators will place a significant burden on the public fisc. Perhaps the proponents of the Rudman amendment expect individual Senators to be successfully sued for discriminatory employment practices on a regular basis. I think it is more likely to be a rare occurrence, because I am confident that Senators currently conduct themselves in conformity with the law, and I know they will continue to do so.

If there really is a problem with allowing money judgments to be collected against the Senate, than perhaps we should question the wisdom of allowing actions for money damages generally. The pending bill significantly expands the availability of money damages, compensatory and punitive, as a remedy for violations of the civil rights laws. It would allow plaintiffs to collect judgments from the Treasury for discriminatory acts by officers and employees of the Federal Government. If a Senator is truly concerned about the burden on the taxpayer, I urge him to abrogate the liability of the taxpayers for discriminatory conduct throughout the Federal Government, not just in the Senate,

The fact is, Mr. President, that the taxpayers always bear the costs of discrimination. They may bear the cost through the expenditure of public funds in payment of a judgment against the United States, or in increased prices of the products of private defendants who are financially exposed to judgments under the civil rights laws. If we enact compensatory and punitive damages as a remedy for violations of the civil rights laws, we are effectively concluding that the cost of discrimination should be primarily borne by the party most capable of keeping such conduct from recurring. In order to ensure that the Senate is an institution devoid of discrimination, we must require the Senate to pay for any discrimination it tolerates on the part of its Members, officers, or employees. I urge my colleagues to protect the rights of employees of the Senate by voting against this amendment

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. RUDMAN. How much time would the Senator like?

Mr. CHAFEE. Two minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I rise in support of the amendment of the distinguished Senator from New Hampshire. Let us just take an example. Let us say there is a gender discrimination case that is brought by a woman complainant or a sexual harassment case. She brings her complaint. She goes through the steps and is awarded compensatory damages. She collects from the Federal Government. There is no waiting around for her. She collects.

That was one of the points that was raised last night: Should she have to wait until the Senator comes up with the money? No. She collects. She collects from the Federal Government.

The point we are discussing now is whether the Senator who is judged directly responsible should reimburse the

Federal Government. This is different. But the distinguished majority leader last night made a splendid case, as he always does. He is extremely persuasive, and he pointed out that we are proceeding in a different fashion, and he did not want to hear any further talk about being exactly like the private sector. So we accept that.

In other words, in a way this is the Mitchell amendment, if I might say. I am not sure he would agree with that. So we are providing here that the Senator who is responsible, and indeed he has to be directly responsible, reimburses the Federal Government. What is the matter with that? Should the taxpayers pay for the transgressions of a Senator? Of course not. And those who vote against the amendment of the distinguished Senator from New Hampshire are saying let the taxpayers pay the burden.

I might say, we are not exactly an underprivileged class around here. Last I knew, everybody was getting paid $125,000 a year. So we are not picking on some poor, penniless Senator.

So, Mr. President, I do hope—I know my time has expired—I do hope all my colleagues will support this very worthwhile amendment.

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

Mr. MITCHELL. Mr. President, this amendment can be summed up in two words. It is a poison pill amendment, poison pill intended to kill the underlying amendment and to have no provisions affecting Senators or Senate employees.

The Senator from New Hampshire has been very open, very aggressive, very persuasive in his arguments against any efforts to subject Senators or Senate employees to this type of provision. Having failed to have it declared unconstitutional, he now comes up with an amendment which will be politically embarrassing for a Senator to vote against in the hopes that he can so burden this provision with an unpalatable amendment that the Senate will then vote the whole provision down.

I understand, accept, and respect his position, but I say to my other colleagues who spoke who, with such piety, have told us why we have to get the Senators involved, this is the height of inconsistency, the height of inconsistency to say you are going to support this amendment because you want more coverage for Senators when the obvious purpose of this amendment is to kill any coverage for Senators. That is what this is. It is being offered by the same Senator who told us last night that there should not be any coverage; that it was unconstitutional. Having failed in that effort, now he comes forward with a poison pill.

And we have Senators here saying they are for more coverage for Senators when the whole objective of this is to have no coverage for Senators. I think if the American people can see through anything they can see through this transparency.

Second, Mr. President, we are told that there is no accountability. Well, section 219 of this Grassley-Mitchell amendment reaffirms rule XLII of the Standing Rules of the Senate. A Senator found guilty may be expelled from the Senate. That possibility exists. A Senator may be censured. A Senator may be subject to other disciplinary action. I say that is accountability. Are Senators here unconcerned about the possibility of being censured, or punished, or expelled from the Senate? Is that not something of accountability? I think it is. I respectfully disagree.

Third, this amendment, according to the Senator from New Hampshire himself, sets up two completely different standards. If the Senator is the subject of the action, he or she must repay any judgment. If any other Senate employee is the subject of such action, he or she need not. And but for the president every single member of the executive branch is permitted to have the Government make the payment and is not required to reimburse it.

Well, if it is good for the Senators and the President, why is not it good for everybody else? Why the double standard? We have heard a lot of talk about treating everybody the same. Yet we now heard an argument in favor of creating a double standard.

Now, Mr. President, let us be clear on this. Most of these cases involve back pay. That is what we are dealing with. Back pay, pay that is already paid by the Government. An American citizen listening to this debate might think that the Senator from New Hampshire, the Senator from Maine, and the Senator from Rhode Island pay their staffs themselves. Everybody knows they do not do that. The Government pays their staffs. And so if the Government is paying their staffs, and an action involves back pay of a person, what is wrong with the Government making that payment? We have yet to hear that. Perhaps these Senators in their zeal to be treated in a certain way will now volunteer.

Mr. COHEN. Will the Senator yield?

Mr. MITCHELL. They will now volunteer to pay their own staff salaries and thereby relieve the taxpayers of that burden. That is the logical extension of the argument being made here, and they can demonstrate that this is not just rhetoric; they are serious about this. They are going to pay their staff salaries. Just as they do not want the Government to pay if there is back pay, they can pay their staff salaries now.

Is the Senator rising to volunteer?

Mr. COHEN. Will the Senator yield? What I want to ask the Senator, my friend, does the Government pay for harassment of an employee? While the Senator confined it simply to back pay, this includes also the prospect of harassment. I do not think it is fair for Senators to say, well, let us just stick the taxpayer with the bill for a judgment for sexual harassment.

Mr. MITCHELL. And as we all know the overwhelming majority of suits brought under these laws have been back pay suits. Harassment suits are a rarity, so we ought not to be legislating on the rarity and ignoring the rule.

Mr. COHEN. That may very well change.

Mr. MITCHELL. Now, Mr. President, I have a couple more points I would like to make.

First off, let us make it clear that with respect to the private sector, title VII provisions of the 1964 Civil Rights Act prohibiting discrimination do not apply to companies with 15 employees. The Americans With Disabilities Act provisions do not apply to companies employing less than 25 persons. So all of this talk about how somebody out there in the private sector is going to get stuck with this, pay it himself, if the Senators are having the Government do it, it does not apply to the majority of companies because they are exempted from the provision of these laws based upon size.

Mr. President, I am going to repeat—I want to reserve a little bit of time to close—I want to repeat, this is obvious. This is a poison pill amendment. A Senator who does not want any coverage of Senators whatsoever, a Senator who wants to accept the argument made by the Senator from New Hampshire last evening that there should not be any coverage of Senators whatsoever, ought to vote for this amendment because that is the purpose of this.

It is plainly and obviously intended to defeat the majority effort and to have no coverage of Senators whatsoever. And that is the point of view that as a rationale, a force of argument—and in fact 22 Senators voted with the Senator from New Hampshire last night—those 22 Senators would be consistent in voting for this amendment. But those Senators who profess to want Senate coverage and who make all these statements about it ought to be more and then vote for this amendment, they are in fact saying one thing and doing another, because this is an effort, clear, unmistakable, to kill the underlying provision, to accomplish today what the Senator from New Hampshire could not accomplish last night.

I respect him for his openness about this. He does not want this provision. He has said no. But that is different from the other arguments which have been made which have not been to kill the thing but somehow to improve it. This is the kind of improvement that

will produce a corpse of this provision, and that is what Senator GRASSLEY and I do not want.

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

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I compliment the esteemed majority leader. I knew him as a Federal judge. I knew him as a U.S. Federal District Attorney. He has demonstrated advocacy of a remarkable fashion, because I do not think he really believes what he just said. And I say that with respect.

Mr. MITCHELL. That kind of respect I can use less of.

Mr. RUDMAN. Mr. President, let me just make a couple of points. Obviously, the majority leader understands that the Senate is presently covered by all of these bills. We have a process. My amendment is a new way to handle it. And my objection has never been to having these rights available.

My objection is a very narrow one, and one which someday soon will be constitutionally upheld I believe, and that is that we ought not to have cases go to Federal courts. That is my only argument with this. The rest of this is fine. We ought to do exactly what was in one of the original proposals with all of the in-house appeals, judgments, and so forth.

There is no question in my mind that that is the position that is held by many here, although I would say that there has been some concern expressed.

Finally, I would only make this observation. It is true that I want this to fall constitutionally. The majority leader is absolutely correct. There is no question that my amendment might aid in doing that. I agree with him. And that certainly, as I said in my statement, was one of my reasons for offering it.

But my overriding reason for offering it is simply this. If we are going to roll the dice constitutionally, let us roll it on our own pocketbooks. Let us not roll it on the taxpayer's. That is why I am offering it. It will either rise or fall. But if it should rise, then I believe we should be in error. I thank the Chair.

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

The majority leader has 2 minutes 20 seconds.

Mr. MITCHELL. Mr. President, I have 2 minutes left. Although I am reluctant to do so because of the incisiveness of his argument in opposition to me, I will yield 30 seconds to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the majority leader.

I just want to say once again he has demonstrated this extraordinary ability to present a brilliant case on behalf of terrible facts and situation.

Let me just say, he has characterized this as a poison pen. I voted against the Rudman amendment last evening. I want to see something take place, but I want to see something fair take place, and I do not think the taxpayers should bear the freight.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, it is a poison pill amendment. The author has acknowledged he does not want this thing to pass. Those are not my words; those are his. So, if a Senator votes for this, he is voting to kill any provision as contained in the Grassley-Mitchell amendment. It is not often that the author of the amendment and the principal opponent agree on that. So if the Senator from Rhode Island casts a vote for this amendment, he is in effect saying he does not want any coverage for Senators.

That is what the vote is saying.

Mr. CHAFEE. That is the way the Senator characterized it.

Mr. MITCHELL. As opposed to what the speech is saying because that is the obvious intent, it is the stated intent, it is the acknowledged intent of the author of the amendment.

Mr. President, I just want to repeat, we have a very serious problem. We are trying to accomplish coverage of Senators and their employees to provide protection for the employees similar to that accorded to other persons under law and to do it in a manner consistent with the Constitution.

Now, obviously this is a middle ground. Senator RUDMAN is coming at this provision from one side. As soon as we dispose of this amendment, Senator NICKLES is going to come at it from the other side. We are seeing an effort to defeat this coverage from both sides. I say, Mr. President, that the best thing we can do is to adopt the Grassley-Mitchell amendment.

It is fair and responsible way to deal with the serious problem. It provides protection to the employees in a manner that is consistent with the Constitution.

I will say that any Senator who votes for this amendment is saying by that vote that he or she does not want any coverage of Senate employees, period. He is trying to kill it. And he will kill it if this is adopted.

I urge my colleagues not to adopt the amendment.

Mr. DURENBERGER. Mr. President, I oppose the amendment that extends the liability for violations of our civil rights laws to individual Senators. I think it is an unprincipled amendment that constitutes bad policy, and therefore, I urge my colleagues to vote against it.

The Rudman amendment, which is a second degree amendment to the Grassley civil rights congressional coverage amendment, makes individual Senators liable for violations of our civil rights laws. Under the Rudman proposal, a Senator that intentionally discriminates against a Senate employee would be personally liable to that employee.

Because the underlying Grassley amendment provides for compensatory damages, as well as traditional title VII remedies such as back pay, the Rudman proposal is far reaching, indeed. And it results in a truly ironic outcome where Senators will be required to live up to responsibilities that we do not impose on the private sector.

The Grassley amendment is designed to require the U.S. Congress to live by the same civil rights laws that the rest of the country must live with. I have stated time and again that I support efforts to make Congress comply with legislation that applies to the private sector, and that is why I am cosponsoring the Grassley initiative.

But in the private sector, supervisors, managers, principals, and coworkers are almost never personally liable for their discriminatory conduct in the workplace. Instead, persons forming a business incorporate under the laws of the State where the business is located. The result is that victim of discrimination sue their corporations, and not individual supervisors.

Mr. President, under the Rudman amendment, we would expose individual Senators to liability, even though Senate staffers are U.S. Government employees—Senate employees. Senators do not pay the salaries of Senate staffers, and Senators should not be considered the employers of Senate staffers.

I will vote against this amendment, and urge my colleagues to join me.

Mr. WOFFORD. Mr. President, as I indicated last night in my statement on the amendment of the Senator from Oklahoma, I feel strongly that if an individual Senator violates our civil rights laws, the money to right that wrong should not come out of the pocket of the American public. I strongly object to the provision in the amendment offered by the distinguished majority leader and the Senator from Iowa which says that if a Senate employee sues for employment discrimination and wins, the taxpayers may foot the bill.

I support the amendment of the Senator from New Hampshire.

Mr. WARNER. Mr. President, late last evening, I actively participated in the debate of the issues raised by Senator RUDMAN as objections to Senator GRASSLEY's amendment. While I support the Grassley amendment, I was concerned by the provision which would have imposed a financial risk on the taxpayers to foot the bill for monetary damage awards adjudicated against a Senator who is found, after due process, to have violated the law. And further, what would happen in the event an injured party, who prevails in

establishing entitlement to damages, is unable to collect should a Senator be financially insolvent

Senator RUDMAN has modified his amendment to directly address my concerns. Senator RUDMAN'S amendment now ensures that a prevailing injured party will be able to collect an adjudicated claim.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I move to lay the Rudman amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa to lay on the table the amendment (No. 1290) offered by the Senator from New Hampshire to amendment No. 1287.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

The result was announced—yeas 22, nays 75, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—22

Akaka	Grassley	Mitchell
Boren	Hatfield	Nunn
Bradley	Inouye	Pryor
Burdick	Johnston	Sarbanes
Cochran	Kennedy	Sasser
Cranston	Lautenberg	Simon
Durenberger	Lieberman	
Gore	Lott	

NAYS—75

Adams	Dole	McCain
Baucus	Domenici	McConnell
Bentsen	Exon	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Fowler	Moynihan
Bond	Garn	Murkowski
Breaux	Glenn	Nickles
Brown	Gorton	Packwood
Bryan	Graham	Pell
Bumpers	Gramm	Pressler
Burns	Hatch	Reid
Byrd	Heflin	Riegle
Chafee	Helms	Robb
Coats	Hollings	Rockefeller
Cohen	Jeffords	Roth
Conrad	Kassebaum	Rudman
Craig	Kasten	Sanford
D'Amato	Kerry	Seymour
Danforth	Kohl	Shelby
Daschle	Leahy	Simpson
DeConcini	Levin	Smith
Dixon	Lugar	Specter
Dodd	Mack	Stevens
Symms	Wallop	Wellstone
Thurmond	Warner	Wirth

NOT VOTING—3

Harkin	Kerrey	Wofford

So the motion to lay on the table the amendment (No. 1290) was rejected.

AMENDMENT NO. 1290 TO AMENDMENT NO. 1287

The PRESIDING OFFICER. The question now occurs upon the amendment of Senator RUDMAN.

AMENDMENT NO. 1290, AS MODIFIED

Mr. RUDMAN. Mr. President, before final action on this amendment, I have discussed this with the majority leader and with the distinguished Senator from Iowa. One of the Members of the Senate made a very good suggestion on grammar in this amendment. And if the parties would like to look at line 6 of the amendment, it says "made on their behalf."

I have a modification here which inserts the words "made on his or her behalf," which makes it much more specific in nature.

I ask unanimous consent that I be allowed to modify the amendment.

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

The amendment is so modified.

The amendment (No. 1290), as modified, is as follows:

At the end of the pending amendment, add the following:

SEC. . PAYMENTS BY THE PRESIDENT OR A MEMBER OF THE SENATE.

The President or a Member of the Senate shall reimburse the appropriate Federal account for any payment made on his or her behalf out of such account for an unfair employment practice judgment committed under the provisions of this title by the President or Member of the Senate not later than 60 days after the payment is made.

Mr. RUDMAN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Hampshire [Mr. RUDMAN].

The amendment (No. 1290), as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order of the Senate, the Senator from Oklahoma [Mr. NICKLES] is recognized to offer an amendment.

AMENDMENT NO. 1291 TO AMENDMENT NO. 1287

(Purpose: To allow employees of the United States Senate to have access to jury trials and punitive damages on the same basis as such rights and remedies are available to employees in the private sector)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself and Mr. SPECTER, proposes an amendment numbered 1291 to amendment No. 1287.

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

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

The amendment is as follows:

(a) on page 14, line 9, after "compensatory" add "or punitive";

(b) on page 14, beginning on line 19, strike "The hearing board shall have no authority to award punitive damages.";

(c) on page 14, line 21, redesignate subsection "(i)" as subsection "(j)" and insert after subsection "(h)" the following new subsection:

"(i) Notwithstanding any other provision of this act, a Senate employee may be awarded punitive damages on the same terms and conditions as such damages may be awarded to an aggrieved individual in the private sector.";

(d) on page 17, beginning on line 5, strike all of paragraph (3); and

(e) on page 17, beginning on line 13, strike all through page 19, line 3, and insert the following in lieu thereof:

"SEC. 209. CIVIL ACTION BY EMPLOYEE OR APPLICANT FOR EMPLOYMENT FOR REDRESS OF GRIEVANCES; TIME FOR BRINGING OF ACTION.

"(a) Within thirty days of receipt of the decision of a hearing board, or of the Select Committee on Ethics (or such other entity as the Senate may designate) upon an appeal from a decision or order of a hearing board, on a complaint of discrimination based on race, color, religion, sex, national origin, age, handicap or disability, brought pursuant to this title, or after one hundred and eighty days from the filing of a formal complaint with the Office or the notice of appeal with the Select Committee on Ethics (or such other entity as the Senate may designate) upon an appeal from a decision or order of a hearing board until such time as final action may be taken by the hearing board, an employee or applicant for employment, if aggrieved by the final disposition of his or her complaint, or by the failure to take final action on his or her complaint, may file a civil action as provided in 42 U.S.C. 2000e–5, in which civil action the Senate or an employing authority of the Senate that employs the employee shall be the defendant.

"(b) The provisions of 42 U.S.C. 2000e–5(f)(3)–(5), 2003e–5(g), 2000e–5(h), and 2000e–5(j), as applicable, shall govern civil actions brought hereunder. The remedies and jury trial rights made available to private complainants and executive branch employees under section 5 of this Act shall be equally available to any Senate employee bringing an action under this section.

"(c) Notwithstanding any other provision of this act, in a civil action a Senate employee or an executive branch employee may be awarded punitive damages on the same terms and conditions as such damages may be awarded to an aggrieved individual in the private sector.".

The PRESIDING OFFICER. The Senator from Oklahoma is recognized, and under the previous order, the time allocated is 30 minutes equally divided between the Senator from Oklahoma and the designee or the majority leader, at his preference.

The Senator from Oklahoma is recognized for up to 15 minutes to dispose of his amendment.

Mr. NICKLES. Mr. President, the amendment that I offer this morning on behalf of myself and Senator SPECTER would fill a couple of voids where under the amendment that we have before us by Senator MITCHELL and Senator GRASSLEY. The Mitchell-Grassley

amendment exempts Congress from two vital sections of the underlying bill. If we pass this amendment we will have exempted the Senate from jury trials, and we will have exempted the Senate from punitive damages.

I asked the question, Why, last night, in debate, and frankly, I do not think we were really given a good answer. I will ask that question again later. But I might start this debate by again looking at the Federalist Papers, No. 57 written by James Madison.

I heard my colleague, Senator RUDMAN, today quoting the Federalist Papers, issues 1 and 2, dealing with separation of powers also written by James Madison. I will read. He said, talking about the House of Representatives:

> * * * restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of society?

He goes on and says:

> I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America—a spirit which nourishes freedom, and in return is nourished by it.
>
> If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

In other words, it is Madison who not only talked about separation of powers, but also said it is inconceivable that the Congress would pass a law on the people, the masses, and exclude themselves.

Mr. President, last night I had an amendment that would have included several laws that Congress has excluded itself from for decades. Some people believed my amendment was reaching too far. My good friend and colleague Senator HATCH said my amendment should be taken care of on another bill or another vehicle. I understand that. I understand the concerns of some people that this might enter into some areas that might hurt the compromise.

But now we are talking about the civil rights bill that we have before us. The bill does a couple of things in the private sector that the Mitchell-Grassley amendment does provide for the Senate. It says under title VII that cases of unintentional discrimination are going to be decided by jury trials. We have not had jury trials in title VII cases before in the private sector in America. We do now under this compromise bill, but we do not for the Senate. And I might mention, as drafted, the Mitchell-Grassley amendment does not do it for the executive branch either. The executive branch agreed they should be covered and so should we. I will submit a letter for the record from the White House on this subject. If jury trials expansion is such a needed benefit we should have it apply to the Senate as well as on the private sector.

Also, the amendment that we have before us provides for compensatory damages for employees of the Senate, but it does not provide for punitive damages. As my colleagues are aware from the debate that has transpired over the last several days, if not the last 2 years, one of the big debates was whether or not we are going to have jury trials for these discrimination cases and whether or not we are going to have punitive damages.

I will just compliment the majority leader, who insisted on the expansion and was successful. So now the private sector is going to be subjected to jury trials. They are going to be subjected to punitive damages. Well, if they are, why are we not?

Why in the world do you want to pick up a headline tomorrow that says the Senate exempts itself again? Because that is exactly what we are doing.

Some people have said, the Senate did not exempt itself. We have judicial review in the Mitchell-Grassley amendment which goes directly to the circuit court of appeals. However, it bypasses the district court, the lower level court. Therefore, it bypasses jury trials and forbids punitive damages. My amendment would correct that inequity.

I do not go in and rewrite the structure. The mechanisms of the Mitchell-Grassley proposal prior to judicial review remain the same. My amendment only applies to the Senate and administration similar to the Mitchell-Grassley amendment. I do not touch the House, as some people have mentioned. However, I believe the Congress as a whole should live under it.

But I have tried to make my amendment applicable to the amendment before us. There is no constitutional argument that can be raised against this amendment. Several of my colleagues raised the constitutional argument last night, I think quite incorrectly so. They attempted to expand the speech and debate clause to say that the Congress is exempt from any laws that it passes. This is not what Madison says; that is not what the Constitution says. And that is not constitutional. And, frankly, I believe it is inappropriate to raise it now because, in the amendment that is offered by Senator MITCHELL and Senator GRASSLEY, there is judicial review.

I have judicial review, except I seek to provide the same judicial review for the Senate that the bill provides for the rest of the private sector. A judicial review that individuals may go to the district court, have trial by jury, and be awarded punitive damages if they succeed. That is what the rest of America is going to have under title VII. If that is so good for the rest of America, let us have it apply to the Senate as well. And if punitive damages are good for the business community then they should be good for the Senate.

And so, again, I compliment my friend and colleague, Senator GRASSLEY, because he has fought for the right of full judicial review. He did not get all that he sought in the negotiations. The majority leader mentioned there is a lot of give and take. Unfortunately, this was given. And so the rest of the Nation will have jury trials and punitive damages in cases of intentional discrimination but the Senate will not.

So if we do not pass my amendment, we are saying the Senate again is above the law. The Senate will be covered by the same law. We are not going to have the same procedures and remedies as everybody else. I have not attempted to change the internal enforcement mechanism through the hearing review panel and the Ethics Committee. I am simply ensuring that a complainant in the Senate has the same right to go to a district court and have a jury trial just like every other American instead of just to the appellate court for review. I think that is only fair. I do not think the Senate should exempt itself as we have done under the so-called Mitchell-Grassley amendment.

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

Mr. MITCHELL. Mr. President, I yield 3 minutes to Senator DOLE.

Mr. DOLE. Mr. President, just let me address this issue as I understand it. I do not quarrel with the distinguished Senator from Oklahoma. I know the effort he has made and will continue to make on this issue. I do not think this will be the last debate on how we ought to be covered, how broad we ought to be covered, and under what rules we ought to be covered.

But the facts are, in this particular case, these issues were addressed and an agreement was reached between the majority leader and the distinguished Senator from Iowa [Mr. GRASSLEY]. And many of us, on the basis of that modification, who had some questions about the original Grassley approach, said, "OK, I will support the Grassley approach, as modified by the distinguished Senator from Maine, Senator MITCHELL." That is precisely where we are.

I am not going to debate the merits or demerits of the arguments of the Senator from Oklahoma, because I think he makes some good points. But we did make an agreement here just

last night. Just last night we made an agreement. And now we want to change the agreement. We want to go back and say, well, we did not mean what we voted on last night even though we all understood what Senator MITCHELL and Senator GRASSLEY had in mind. Senator GRASSLEY gave up some things he did not want to give up. He backed away from a couple of things. But in the final analysis, my view is the Grassley amendment, as modified, will pass by a wide margin.

And, so, without quarreling with my friend from Oklahoma, Senator NICKLES, I just say we have made an agreement. We are going to revisit this issue. This is not the last time we are going to talk about coverage of Congress. I see this amendment as something that has already been talked about. We have already had a discussion of it. We have agreed that we are going to support the Grassley amendment, as modified, and that is precisely where the Republican leader comes from. So I am going to vote against the amendment of the Senator from Oklahoma.

Mr. MITCHELL. I yield 3 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I understand what is going on here. Many Members of this body get a little bit tired of us imposing what really have been onerous and burdensome laws on everybody else but ourselves. I think that is a concern that needs to be articulated around here.

But I will tell you what I am concerned about more than anything else. We have fought this battle for 2 years. We finally have a bill that I think has a broad consensus on the floor. It is going to be a monumental civil rights bill that is going to do a lot of good for a lot of people and, for the first time, protect women in this society in the cases of sexual harassment. And I have to say that these amendments break the deal.

Now, I happen to agree with the distinguished Senator. I still think it may be unconstitutional, but I happen to agree with what the distinguished Senator from Oklahoma is trying to do. But I will be honest with you. It may break the deal and it may put the civil rights bill down. Now, that is what I am concerned about.

And I think there is a higher goal here. Yes, it is difficult to justify why the Congress has to exempt itself from these laws. On the other hand, this is a political body, and the people out there who are subject to these laws are not political people. They do not have people at their heels every step of the way in this society. And they do not have to deal with a lot of the dirty things that go on in politics. But, we have taken a major step in the Grassley amendment in covering the Senate, with a right of judicial appeal to the Federal appellate courts. That represents a compromise. And that is why this amendment does break the deal. It may very well cause us the loss of this bill, which for the first time in the history of this country provides a Federal civil right to women to recover damages for harassment.

Now, to me, that is a higher goal, that is a higher aim. It is what we ought to do. And even though I may agree with the distinguished Senator from Oklahoma in part on what he is trying to do—and I was the one who started all this back in the committee. I said, if we are going to impose this on everybody else, we ought to impose it on ourselves. But the more I get into it and the more I recognize our responsibility, the more I recognize the bill itself is in jeopardy. And I do not want to kill this bill after all the time and effort and pain that everybody on both sides have been through and the good faith efforts that we have gone through.

This bill is important. It is not only important because it resolves 2 years of conflict and difficulty, it is important because it is right.

I do not agree with every aspect of the bill, but it is a very fine compromise under the circumstances. And I ask my colleagues to vote against this amendment because I think we have to defeat it or I think there is a deal breaker here that I cannot tolerate because I made the deal along with others. And I have worked as hard as anybody could possibly work, not just myself but all of us who have brought this deal to pass. And it is right. It is the right thing to do.

I ask my colleagues to vote against this amendment.

The PRESIDING OFFICER. The time remaining to the Senator has expired.

Mr. MITCHELL. Mr. President I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in opposition to the amendment suggested by the Senator from Oklahoma. During these negotiations, there were two very important principles that I sought in similar legislation over the last 3 years that I wanted to maintain, and they are maintained in this compromise. Anybody who supports this compromise but still thinks well of the efforts of Senator NICKLES does not have to take a back seat to anybody else. We are sticking by the basic principles that are elementary to what we are trying to accomplish here.

No. 1 was that there be no exemptions as far as Senate employees are concerned. Everybody is covered. That is the case with this amendment.

The second one, the one that the Nickles amendment deals with, is a principle that I wanted to establish—access to the courthouse for an aggrieved party. Why? Because access to the courthouse is one of those ways that we ensure fairness. The impartial arbiter of the judiciary should be present as a remedy for Senate employees who may be treated unfairly.

I know there are several ways of getting fairness through the courthouse, and the Senator from Oklahoma suggests one of those, one that I backed originally. But it is not the only way of getting fairness. We have that in the Grassley-Mitchell compromise through an appeal process to the Federal circuit court.

I hope my friends who are supporting this amendment, my compromise, will realize we have not compromised that basic principle of judicial review. If the amendment of the Senator from Oklahoma is adopted, this will be in jeopardy. So I hope my colleagues will support the compromise and vote against the Nickles amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

If no one yields time, the time is charged equally to both sides.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 6 minutes and 50 seconds. The majority leader has 7 minutes and 30 seconds. Time continues to run.

Mr. NICKLES. Mr. President, let me just address a couple of things very briefly in response to some of the comments made by some of my colleagues. I heard somebody say they have questions on the constitutionality. Frankly, my amendment is just as constitutional as the Mitchell-Grassley amendment. Both have judicial review. There is no question about my amendment being unconstitutional as compared to the Mitchell-Grassley amendment. It is just as constitutional, and I happen to think both of them are constitutional.

Again, those people who are trying to draw, in the speech and debate clause by saying that Congress should be immune from any legislation they pass are totally wrong.

Yes, we have the freedom to speak on the floor, we have the freedom to legislate, but that does not mean we should be exempt from legislation. We happen to have other laws that pertain to us, like paying taxes. I think we have other laws, that should also apply to Congress. We should not be exempt. That is exactly what Madison said in the Federalist Papers, No. 57; who also talked about separation of powers. So there is no constitutional argument on this amendment.

I have heard my colleagues say the bill will be in jeopardy if we pass this amendment. Why, because we put Congress under jury trials and punitive damages just like the rest of the country?

Mr. FORD. The Senate.

Mr. NICKLES. The Senator is correct, because my amendment would put

the Senate under jury trials and put the Senate liable for punitive damages? We did that for the rest of the country. Why would that jeopardize this bill? what about the employer who is trying to survive?

I read where the company, Upjohn, just lost $127 million before a jury. Most of that was punitive damages. We say we have caps on punitive damages. But I have heard a lot of Senators say next year they are going to come up with an amendment and take the cap off punitive damages.

That is why this amendment needs to be agreed to because a lot of my colleagues seem to think there is no cost to litigation. If we do not agree to this amendment, colleagues can remove a cap on punitive damages without any thought. Why have a cap?

Maybe, if it applies to the Senate, we will realize there is a potential liability there. And so we need to have this amendment apply to the Senate just like it applies to the private sector.

The Mitchell-Grassley amendment has compensatory damages in it. Why not have punitive damages in it? There is no reason not to have punitive damages in it? There is no reason not to have punitive damages and, since we have judicial review, there is no reason in the world why we would not allow our employees to have a jury trial and punitive damages, just like all other Americans. There is no reason to exempt the Senate in these two areas.

Mr. FORD addressed the Chair.

Mr. NICKLES. No reason whatsoever.

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

Mr. NICKLES. I will not yield. I am almost out of time. I inquire how much time I have.

The PRESIDING OFFICER. Three minutes and twelve seconds.

Mr. FORD. May I have 12 seconds to ask you a question?

Mr. NICKLES. If the Senator will withhold, Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma has 3 minutes; the majority leader has 7 minutes. Time is running equally.

The Senator from Oklahoma has 2 minutes remaining.

Mr. NICKLES. Mr. President, I heard the majority leader state last night that my amendment was the most unconstitutional thing he has seen. I would just like to inform him, under Chief Justice Burger, Justice Powell, and now-Chief Justice Rehnquist said the "Congress could, of course, make * * * remedies available to its staff employees—and to other congressional employees—but has not done so."

We have the right. We have the capability to make these laws apply to the Senate. The Constitution does not prohibit us in any way, shape, or form from having these laws apply to the Senate.

The major changes that are made under the compromise civil rights bill that we have before us today are jury trials and punitive damages. That is what a lot of people have been opposing this bill for, because they said if we have jury trials and we have punitive damages we will be encouraging litigation—a lot of litigation. I do not want to encourage litigation. I also do not want any discrimination. And I want people who are guilty of discrimination to be punished. But I do not want a lot of frivolous lawsuits in the process and I do not know what the exact result will be, but my guess is it is going to be a lot of litigation, because of jury trials and because of punitive damages.

And if that is the result, let us make sure Congress is included so people will realize at least we have to live under the same laws. If jury trials encourage litigation, let us put ourselves in the same basket as everybody else in America.

And if punitive damages are onerous, let us make sure we have that same liability as everybody else in America. If not, we are treating ourselves as some type of a special class. I do not think that is right. If we do not do it, then there is going to be a measure next year that is going to say let us take the caps off punitive damages, let us sock it to them.

Mr. President, I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Is there objection to the additional minute? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, instead of having caps on punitive damages as we do on the underlying bill, let us take the cap off because it will not cost us anything. If we are also subject to punitive damages maybe there will be some cognizance of the cost of the law we place on the rest of America.

Mr. President, George Orwell said it well in "Animal Farm" (1945). He said, "All animals are equal, but some animals are more equal than others."

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, this is essentially the same issue that we decided yesterday. The Senate, by a 61 to 38 vote, rejected the amendment of the Senator from Oklahoma, and this is essentially the same provision with a few modifications. Instead of attempting to impose executive branch enforcement on the legislative branch and have broad judicial oversight over the legislative branch, the combination of which was plainly unconstitutional, obviously unconstitutional, part of that has been dropped but the essence of it has been retained.

Mr. President, why does this make the provision unconstitutional? The first amendment offered by the Senator from Oklahoma yesterday was written as though the constitutional separation of powers did not exist. It would have provided for massive executive branch enforcement of laws over the legislative branch and the broadest possible scope of judicial branch oversight over legislative affairs.

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. The Senator would not yield because of limited time. Senator FORD may like to speak on my time. I thank the Senator.

Mr. President, the question becomes how much, if any, executive enforcement and judicial oversight over legislative branch activities makes it unconstitutional. The Senator from New Hampshire took the position that any—any—such enforcement oversight by another branch of Government makes the provision unconstitutional. By adding additional judicial oversight, substantial additional judicial oversight, so that instead of having a limited right of appeal in the circuit court of appeals, a person would now have a de novo trial, a full trial from the start in Federal district court plus an appeal to circuit court. It makes much more likely a finding of unconstitutionality. These are all matters of degree and the more legislative submission to executive enforcement and judicial oversight that a provision includes, the more likely it is to be found unconstitutional.

So, Mr. President, for that reason the amendment offered yesterday was obviously and blatantly unconstitutional. This amendment, if added to the provision, makes it much more likely to be found unconstitutional than the Grassley amendment.

Again, we have heard a lot of talk about treating everybody equally, but really this is an effort to kill the Grassley provision and to kill this bill, which would eliminate any prospect of Senate employees receiving protection of laws.

This is a case of trying to kill a bill by saying one thing and doing another. That is really what we have here. All of the persons involved in the bill—the Senator from Utah, the Republican leader—all involved in these negotiations have said this is a killer amendment, it breaks the deal, it brings the whole bill down, and the bill will include the Grassley provisions which provide protection of laws.

So the effect of this will be the opposite of the stated intention. In the name of providing more coverage, it will provide no coverage. It is a way of avoiding any oversight, any protection of laws on Senators.

I say that the Grassley amendment as now drafted is a fair and responsible way to address a serious problem to provide reasonable protection of law to Senate employees and to do it in a manner that has the best chance of being ruled constitutional. This provision, if adopted, brings down the whole

bill, including the Grassley amendment, which provides that protection, therefore, leaving without any protection beyond that which exists in current law all of the employees of the Senate.

Finally, Mr. President, I want to say the Senators have just voted—I ask all Senators to pay attention to this—Senators have just voted to impose personal liability on themselves in all such matters. They should now understand that this amendment would subject them to punitive damages in connection with such personal liability.

This amendment, if adopted, when combined with the previous amendment, would subject every Member of the Senate to personal liability for any judgment under the applicable laws and to unlimited punitive damages in addition thereto. That is a matter for each Senator to decide for himself or herself what they want to do.

For myself, I believe that the Grassley amendment now pending is a fair and responsible way to address this problem. This amendment kills the Grassley amendment. This amendment kills the bill and, therefore, Mr. President, I hope that my colleagues will join in rejecting this amendment.

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. Do I have any time left, Mr. President?

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

Mr. NICKLES. Will the Senator yield for 1 minute for a question?

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. Mr. President, over the past 24 hours, the Senate has considered a number of meritorious amendments to the Danforth Civil Rights Act. I have listened with great interest to the persuasive arguments made by my colleagues on this floor. The amendments under discussion seek to impose various acts of Congress on the Senate.

At first blush, an amendment that would require the Senate to live under the same laws that it enacts speaks great fairness. And, if the constitutional objections can be overcome, I could support such a concept. I am in favor of providing all Senate employees with the same rights and protections that are enjoyed by those in the private sector.

But we must be ever mindful of the fragile package that is now in our care. A number of Senators—including this Senator—have spent a significant amount of time over the past year nurturing a viable civil rights bill. After a tremendous effort by Senators on both sides of the aisle as well as the officials in the White House, including the President, we now have reached a historic compromise in this issue that has been so divisive in the past.

As one of the seven original cosponsors of the underlying civil rights bills, I have a keen appreciation for the value of the delicate compromise that was reached last week. My concern is that the controversial amendments that have been offered endanger this compromise, and thus endanger the ultimate passage of the civil rights bill that we have worked so hard for.

It is out of this concern for the underlying legislation that I have voted against each proffered amendment. I want to make clear that my votes against these amendments should not be taken as opposition to the principles behind them. As one who has been intimately involved in the progress of this legislation from its inception, my priority must remain with its passage. I, therefore, must oppose proposals that endanger passage of this bill.

I ask unanimous consent that my statement appear in the RECORD immediately prior to the vote on the Nickles amendment.

The PRESIDING OFFICER. The Senator from Oklahoma has 21 seconds remaining.

Mr. NICKLES. Mr. President, there is no reason not to have Congress included under punitive damages when we do the rest of America. I happen to own a part of a business and we just subjected them to punitive damages. Why do we not do Congress the same way? We just subjected every business in America to jury trials. Why do we not do Congress the same way? It only is fair.

I ask unanimous consent that a letter from the White House be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, October 30, 1991.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR DON: I strongly support your efforts to amend the Mitchell-Grassley amendment to S. 1745 so that Congressional employees receive the full benefit of the new civil rights bill. Your amendment, and your amendment alone, would make available to Congressional employees the same remedial scheme being made available to all other employees under the bill: the right to have a court decide charges of discrimination and the right to trial by jury and capped compensatory and punitive damages in cases where the bill will make those remedies available to other employees.

I agree with you that Congressional employees should not be confined to an internal Congressional forum such as the Ethics Committee for redress of violations of their civil rights. That approach, which was incorporated into the Americans with Disabilities Act, allows the Congress, unlike any other employer in this country, to be the judge of its own compliance with the civil rights laws. Thus, Congress effectively preserves its exempt status while purporting to eliminate it. Allowing limited review of Ethics Committee decisions by the courts, as Mitchell-Grassley proposes, likewise does not correct the problem. That approach also does not give Congressional employees the same protection of their civil rights as other employees. Instead, Congress should take the opportunity offered by the Civil Rights Act of 1991 to adopt your amendment and thus set an important precedent by imposing on itself in full the same remedial regime that it is imposing on the rest of the country.

I also support your inclusion in your amendment of language eliminating the recently inserted exemption of the Executive branch from punitive damages. That exemption was not added with the agreement of the Administration or at the Administration's request, and we oppose it. Finally, I would like to make clear for the record that, contrary to what some have said, I have absolutely no objection to providing White House employees the identical protections, remedies, and procedural rights the bill would give private sector employees.

Let me know if there is anything further I can do to assist you in this important matter.

Sincerely,

GEORGE BUSH.

The PRESIDING OFFICER. The time has expired.

Mr. HATCH. Mr. President, reluctantly I have to move to table the amendment of the distinguished Senator from Oklahoma, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1291. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

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

The result was announced—yeas 54, nays 42, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—54

Akaka	Dodd	Mitchell
Baucus	Dole	Moynihan
Bentsen	Exon	Nunn
Biden	Ford	Pell
Bingaman	Garn	Reid
Boren	Glenn	Riegle
Bradley	Gore	Robb
Breaux	Grassley	Rockefeller
Bryan	Hatch	Roth
Burdick	Hatfield	Rudman
Byrd	Inouye	Sanford
Chafee	Jeffords	Sarbanes
Cochran	Johnston	Sasser
Conrad	Kennedy	Shelby
Danforth	Kerry	Simpson
Daschle	Lautenberg	Stevens
DeConcini	Levin	Thurmond
Dixon	Metzenbaum	Warner

NAYS—42

Adams	Coats	Durenberger
Bond	Cohen	Fowler
Brown	Craig	Gorton
Bumpers	D'Amato	Graham
Burns	Domenici	Gramm

Heflin	Lugar	Pryor
Helms	Mack	Seymour
Hollings	McCain	Simon
Kassebaum	McConnell	Smith
Kasten	Mikulski	Specter
Kohl	Murkowski	Symms
Leahy	Nickles	Wallop
Lieberman	Packwood	Wellstone
Lott	Pressler	Wirth

NOT VOTING—4

Cranston	Kerrey
Harkin	Wofford

So the motion to lay on the table the amendment (No. 1291) was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1287, AS MODIFIED

Mr. HARKIN. Mr. President, last week, President Bush excoriated the Congress for its failure to follow the same civil rights laws that it imposes on everyone else, including the executive branch and the private sector.

The President is flat wrong when he says that the Congress has exempted itself from the rights and protections available under existing civil rights laws. Section 509 of the Americans with Disabilities Act explicitly applies the rights and protections provided under the ADA, the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 to employment by the U.S. Senate, the House of Representatives, and the instrumentalities of the Congress.

President Bush is correct when he states that Senate and House employees alleging discrimination do not have a private right of action, that is the right to file a complaint in Federal court. In the Senate, complaints are currently heard by the Ethics Committee and in the House complaints are heard by the Office of Fair Employment Practices.

Last year, Senator GRASSLEY and I were unsuccessful in our attempt to secure judicial review for congressional employees. I am pleased that this deficiency will be remedied with the passage of the Civil Rights Act of 1991.

President Bush, during his speech demanding the Congress submit to the laws that are imposed on the executive branch, stated that people who work for Congress ought to have the same legal remedies—including the right to file a complaint in Federal district court—as those who work everywhere else, including the executive branch and the private sector.

As chair of the Subcommittee on Disability policy and the chief sponsor of the ADA, I agree with President Bush's conclusion that individuals, including people with disabilities, enjoy a private right of action against the executive branch for violations of our Nation's civil rights laws, including section 504 of the Rehabilitation Act of 1973.

The Congress could not have made the law clearer when it amended section 504 in 1978 to make it applicable to Federal agency conduct. Prior to 1978, the law only applied to recipients of Federal aid. In 1978, the Congress also added a procedures section to the law and made it clear that the same procedures that applied to actions by recipients of Federal aid—including a private right of action—also applied to actions by the Federal agencies themselves.

In light of the President's statement recognizing that individuals with disabilities have a private right of action against an executive agency under section 504, I find it incredible that his Justice Department is now arguing before the Ninth Circuit Court of Appeals the exact opposite; that is, people with disabilities do not have the right to pursue their complaint of discrimination in Federal district court against the Social Security Administration or any other executive agency or department under section 504.

The case, J.L. versus Social Security Administration, was brought by people with mental disabilities who could not get the help that they needed from the Social Security Administration to apply for Social Security benefits. Their disabilities, which made them eligible for benefits, also made them incapable of persisting through the complex and demanding application process. They appealed to the Social Security Administration for help and then filed this lawsuit.

The Social Security Administration's response, through their lawyers in the Justice Department was: you don't have the right to sue us in court to remedy the alleged discrimination.

President Bush cannot have it both ways. He's either for civil rights for people with disabilities or he isn't. He either believes that people with disabilities have the legal remedy to file a lawsuit against an executive agency or he doesn't. The Justice Department is not some rogue agency that can act contrary to the will of the President.

The President has spoken—individuals with disabilities have a private right of action against executive departments to address complaints of discrimination. The President must now insist that his Justice Department change its position in J.L. versus Social Security Administration and admit that individuals with disabilities may bring suit in Federal court against executive agencies under section 504 to remedy all forms of discrimination.

A separate question has been raised regarding the existence of a private right of action for employees of the General Accounting Office under the ADA.

When Congress passed the Americans With Disabilities Act, we made it clear that the various instrumentalities of Congress were to create procedures that would allow disabled employees to pursue remedies in cases of alleged discrimination based on a disability. One of the instrumentalities of Congress under the ADA is the U.S. General Accounting Office. Section 509(c)(5) of the ADA states that "nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act." This reference to enforcement procedures at GAO was clearly intended to include a private right of private action for GAO employees.

In 1980, when Congress passed the GAO Personnel Act creating a separate personnel management system for GAO, the rights and remedies of the Rehabilitation Act were specifically incorporated into the GAO system. The GAO Personnel Act applies the Rehabilitation Act, as well as other statutes that prohibit employment discrimination in the Federal Government, to GAO.

Public Law 96-191 states that nothing in this act shall be construed to abolish or diminish any right or remedy granted to employees or applicants for employment in the General Accounting Office by sections 501 and 505 of the Rehabilitation Act of 1973. Section 505 provides for a private right of action.

GAO Regulations (4 CFR 28.100) state that an employee or applicant alleging discrimination based upon a handicapping condition may file suit in Federal district court.

In sum, disabled employees at GAO have the same rights and remedies as disabled employees in the rest of the Federal Government. The only difference between GAO, as a legislative branch agency, and other executive branch agencies is that after the 1980 GAO Personnel Act, the responsibility for oversight and administrative adjudication of complaints rests with a board, which is independent of the executive branch.

Mr. DURENBERGER. Mr. President, I rise in support of the Grassley amendment that extends coverage of the Danforth civil rights bill to Congress. This amendment constitutes an important step toward restoring the public faith in our Government institutions, and that is why I am cosponsoring the amendment.

The Grassley amendment is really quite simple. It states that the U.S. Senate shall be subject to our civil rights laws that prohibit discrimination in the workplace.

Mr. President, title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, sex, national origin, and religion. Every employer in America that has over 15 employees is subject to title VII. Businesses, large and small alike, must conform their conduct to the requirements of the law. They cannot refuse to hire or promote individuals on the basis of immutable characteristics such as race, gender, or ethnicity.

American companies have to live by this law and every other law that we pass in this body. My question to my colleagues is this: Why doesn't the U.S. Senate have to live by the same laws that everyone else does? There is no reasonable answer to that question.

These past few weeks, during the Thomas Supreme Court nomination hearings, many of my constituents in Minnesota were outraged that the Senate Judiciary Committee did not appear to take seriously Anita Hill's charge of sexual harassment. Whether true or not, the public has the perception that we in the Senate are out of touch with reality. We live and work in a plastic bubble, immune from the problems and concerns of ordinary people.

Minnesotans who I met with personally regarding the Thomas nomination and who wrote letters that I personally read, told me that they were tired of watching Congress legislate and operate in a vacuum. They believe that we pass laws here in Washington, DC, but do not understand their concerns back home.

I should add that business feels the same way. Many companies believe that Congress keeps placing new mandates on them, raising their taxes, increasing their regulatory compliance procedures, bleeding them dry—with the accompanying effect of decreasing their global competitiveness. These businesses believe that we in Congress do not know what its like to run a business, and yet we constantly tell them how to do it.

Mr. President, I believe that concern of ordinary citizens—of employees and employers—that the Congress is out of touch with reality, demands that we pass the Grassley amendment.

I would like to digress for a moment to illustrate my point. Sexual harassment is a serious problem for American women in the workplace. In 1985, there were 4,280 sexual harassment charges filed with the Equal Employment Opportunity Commission [EEOC], and this increased to 5,572 in 1990. That was a 30-percent increase in sexual harassment charges over the last 5 years. This is merely indicative of the general increase in the number of charges filed at the EEOC. For instance, in 1990, there were almost 82,000 discrimination charges at the EEOC; that number climbed to 89,000 claims, an almost 9-percent increase, over the last 10 years.

Some might say that this general upward trend does not indicate an increase in discrimination. Instead, the data suggests that either people are simply reporting discrimination more often, whereas in the past, they suffered silently. Others might argue that many of these claims were frivolous, and just because there was an increase in discrimination claims does not prove that there actually was discrimination occurring.

Mr. President, the data is subject to different interpretations, and yet it highlights my point. Employees who suffer from discrimination want a Congress that understands their problems, and businesses that may suffer from frivolous claims want a Congress that understands their concerns. When we exempt the Senate from the mandates that we impose on the rest of the country, we simply underscore the perception that we are out of touch with reality. Instead, we accent the public's belief that Senators think themselves to be above the law. And that fuels anger and resentment in Minnesota and everywhere else.

We need to understand what is going on outside the Washington Beltway. America is upset with us. Our only hope of restoring their confidence is to stop bickering with each other about where a comma or punctuation mark is located in a bill, to pass sensible legislation such as the Danforth civil rights bill, and to start applying the laws that apply to the rest of the country to ourselves. That is the only way we are going to restore the public trust.

Mr. MITCHELL. Madam President, have the yeas and nays been requested on the Grassley amendment?

The PRESIDING OFFICER. They have not been.

Mr. MITCHELL. Madam President, it is my understanding that a rollcall vote will not be necessary on the amendment, and if that is the case, I ask that we proceed to dispose of that amendment.

Mr. RUDMAN. Madam President, I have thought about this. I have just been asked about it. I am going to, reluctantly, not ask for the yeas and nays, in the interest of moving this along. I just want the RECORD to show that I would vote "no."

The PRESIDING OFFICER. The RECORD shall so reflect.

The question is on the Grassley amendment, as modified.

The amendment (No. 1287), as modified, was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Madam President, with respect to this amendment, I want to recognize the contribution of Senator GLENN. The internal Senate procedures set forth in the Grassley amendment just adopted by the Senate were drawn, I am advised, from S. 1165, legislation previously introduced by Senator GLENN. It is our hope that they will provide a fair, responsible method for making available to all Senate employees protections against discrimination which are available to others and do it in a manner consistent with our Constitution.

I thank all concerned with this matter, particularly the Senator from Iowa, for his willingness to reach agreement on the matter, and I thank my colleagues for their cooperation.

I am going to ask the managers of the bill, Senator KENNEDY and Senator HATCH, to inform the Senate of the current status of the legislation, and when we might expect final action, so that Members of the Senate can prepare their schedules accordingly.

Mr. HATCH. Madam President, for the benefit of all of our colleagues, we will now proceed with the Warner-Mikulski amendment, which should not require a rollcall vote, and which should be accepted. Immediately following that, we will hopefully go to the McCain amendment, which also should not require a rollcall vote. I believe both of these should be relatively short.

As I understand it, Senator BROWN is not going to offer his amendment, so that does away with Senator KENNEDY's second-degree amendment. Senator WARNER is not going to call up with his prospective application amendment, if I am correct.

Mr. WARNER. Madam President, I will speak about it at the appropriate time.

Mr. HATCH. Then Senator KENNEDY's second-degree amendment will not be considered, if that is so.

Then we have a number of technical amendments, and I think final passage; do I state that correctly?

Mr. CHAFEE. Madam President, it is hard to hear. May we have order?

The PRESIDING OFFICER. The Senator is right. The Chair will now go into a very strict observance of the Senate rules. The Chair will ask these Senators to my right to please take their seats. The Chair will ask the Senators all to take their seats, and the Chair will ask the Senator from Utah to speak loudly into his microphone.

Mr. HATCH. Madam President, after the Warner and McCain amendments and a number of technical amendments, I think we will go to 30 minutes of final debate on final passage. At least that is my understanding, unless the Senator from Massachusetts believes otherwise. We hope to be able to dispose of this within the next hour, I would say, at most.

I would also state, Madam President, that I would have voted for Senator GRASSLEY's amendment had the Senate had a rollcall rather than a voice vote. While concerns I had about its constitutionality led me to vote for Senator RUDMAN's measure last night, with that having failed, I would certainly support Senator GRASSLEY's congressional coverage amendment.

Mr. KENNEDY. Madam President, the Senator from Utah has stated this correctly. I think, in terms of time, we are talking about approximately an hour before final passage. It certainly should not be much more than that. Hopefully, we will try to finish in less

than an hour. But in terms of people making their plans, I think an hour is about what we are talking about.

So, Madam President, I see both the Senator from Arizona and the Senator from Virginia are on the floor. We are glad to deal with their amendments in whatever order they desire.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I thank the managers of the bill and the staffs. They have been exceedingly helpful to this Senator as I have tried to pursue my analysis of this bill. Based on conversation with both managers, I notify them that I shall not bring up the amendment recited on page 2 of the consent in the matter of Warner—prospective application.

Mr. KENNEDY. May we have order? The Senator is entitled to be heard. This is an extremely important amendment, which will affect tens of thousands of Americans. It is important, and the Senator is entitled to be heard.

The PRESIDING OFFICER. The Chair will ask all Senators to take their seats, including those who will participate in this debate. The Senator is right. The Chair would like to have voluntary cooperation.

The Senator from Virginia may proceed.

Mr. WARNER. I thank my distinguished colleague from Massachusetts.

Madam President, I further inform the Senate and the managers that I shall not pursue amendment 1285 at the desk. Rather, I shall now send to the desk a new amendment covering the issue of the coverage of Government employees.

AMENDMENT NO. 1292

(Purpose: To clarify that Federal employees may recover damages for intentional employment discrimination and to allow damages for intentional discrimination under the Rehabilitation Act of 1973)

Mr. WARNER. Madam President, I send an amendment to the desk on behalf of the distinguished Presiding Officer, Ms. MIKULSKI of Maryland, Mr. STEVENS, Mr. ROBB, Mr. WIRTH, Mr. KENNEDY, Mr. SARBANES, and Mr. ADAMS, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Ms. MIKULSKI, Mr. STEVENS, Mr. ROBB, Mr. WIRTH, Mr. KENNEDY, Mr. SARBANES, and Mr. ADAMS, proposes an amendment numbered 1292.

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

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

The amendment is as follows:

On page 4, line 5, insert "or 717" after "706."

On page 4, line 10, strike "or 704" and insert "704, or 717".

On page 4, line 23, insert ", and section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1))," respectively before "against a".

On page 4, line 25, insert "section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and the regulations implementing section 501, or who violated the requirements of section 501 of the Act or the regulations implementing section 501 concerning the provision of a reasonable accommodation, or" before "section 102".

On page 4, line 25, strike "Act" and insert "Americans with Disabilities Act of 1990".

On page 5, line 10, insert "or regulations implementing section 501 of the Rehabilitation Act of 1973" before ", damages".

On page 4, line 20, insert "or 717" after "706".

Mr. WARNER. Madam President, the reading of the amendment itself would not, I think, be of particular interest to the Members because it is drawn in a very technical way to cover a very, very important problem. While drawn technically, it is in no sense a technical amendment. As the distinguished Senator from Massachusetts said, it affects several million Americans now working for the Federal Government.

A number of our colleagues have approached me concerning the impact of the Federal employee amendment, which I am sponsoring, and I mentioned the sponsors. Yesterday I discussed the intent of the legislation and, at this point in the RECORD, Madam President, I ask unanimous consent that the remarks that I made yesterday in relation to this amendment be printed in the RECORD so that there is a continuity by those desiring to study the RECORD.

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

Mr. WARNER. Mr. President, I support the efforts of the distinguished majority leader, Republican leader, and others who tried to put this together. We are dealing with one of the most important things, in my brief tenure in the Senate. I wish we had more time to devote to it because I think the debate has been constructive tonight. But I want to pick up on this note that the taxpayer has to pick up the bill.

What is the alternative? I find it unsatisfactory. But what is the alternative to a Senator, married, three children, trying to get through school, maintain two residences? Does he in fact, absent some private resources, have any funds with which to pay the fine?

Mr. RUDMAN. Of course, under the way this legislation is presently constructed, the judgment would be presented to the Treasurer of the United States through the Senate disbursing office. And not only for the $20,000 award but for all reasonable attorney's fees.

Mr. WARNER. For the attorney's fees.

Mr. RUDMAN. Which, these days, seem to be somewhat unreasonable reasonable attorney's fees. So you get a bill for maybe $25,000 or $23,000 paid for by the Treasury for a sexual harassment case, a blatant case, international discrimination based on race.

That is fine but I do not think the taxpayers ought to pay for it.

Mr. WARNER. Mr. President, I find that unsatisfactory. What is the alternative? The Senator has no funds.

Mr. RUDMAN. I have an alternative.

Mr. WARNER. Just bear with me. The Senator has no funds. Is it fair for the employee? In fact, if you work for a Senator who simply does not have the funds—and what we have is published, given some brackets, between which you cannot figure out between the haves and have-nots—is it fair to the employees, of those who are published as a matter of record having limited funds? What are you doing to those employees?

Really, what you are saying, if you put up the amendment, to strike that provision, you are in effect saving 50 State legislatures the burden of facing term limitation. It will be a bailout around here of a wholesale nature.

Mr. RUDMAN. Something that has not been mentioned here in this debate I think probably ought to be mentioned. Up until this moment the President, the Congress, and all of the State governments, Governors and county executives and so forth, are exempt for their policymaking positions.

This repeals that.

Mr. WARNER. Can the Senator from New Hampshire be on his time? He tends to be slightly elongated on occasion.

Mr. President, it is of the utmost importance. We are up here making great speeches and great press about the taxpayers, when in fact, practically speaking, the employees have no recourse—if you strike out that and make it a personal liability—in those instances where the Senator comes here of limited means.

I should like to pose that question to my colleague. What happens to the employee of a Senator of published limited means?

Mr. CHAFEE. Well, I hardly think when we are discussing Senators of the United States, that we are talking about a deprived class.

Mr. WARNER. Mr. President, if you had a judgment of $50,000 imposed on a Senator who, together with his family is living on this salary, I question whether that Senator could have the $50,000 to pay the judgment.

Mr. CHAFEE. If he had a judgment rendered against him for any other incident, whether it was an automobile accident or a contract dispute or whatever it was, he would manage to come up with the money.

Mr. WARNER. Mr. President, I do not find that a satisfactory answer to a serious question.

Mr. CHAFEE. No; it was a question of can he pay? He ought to behave himself.

Mr. WARNER. Mr. President, let us not make a mockery out of this bill. This is serious business. We are talking about the rights of our employees, and I am saying those employees who seek employment with a Senator of limited means would have no other recourse for their—

Mr. CHAFEE. He is dealing with an individual who is on the payroll of the U.S. Government and receiving a check totaling $125,000 a year.

There is a perfect chance to withhold. I could not see a better chance to attach those wages, that salary, to get the compensatory damages that are awarded.

So I am not going to shed crocodile tears over some Senator who cannot pay a judgment that he should pay when it is found that he has sexually harassed an employee.

Mr. WARNER. Mr. President, I made my point within my time. I think we should try as best we can to fashion a bill to reach the goals of the distinguished Senator from Iowa, now joined with the majority leader and Republican leader, to solve this question, and not put forth these amendments, which I think in a less serious way will challenge the efforts by our leadership.

Mr. WARNER. Today, as the amendment is brought up, I then add to ex-

tend to Federal employees the same civil rights protections provided under the legislation for private sector employees. I would like to briefly share what the amendment will actually do.

Currently, in the Federal Government women, ethnic and religious minorities, and employees with disabilities have ready access to due process in matters of job discrimination. They have 30 days to report a discrimination case to the local agency equal employment opportunity officer, that is, an EEO officer, who then initiates an investigation.

I understand the process can be quite lengthy, but a formal complaint will be filed if the EEO officer concurs with the employee, and, in most cases, mediation takes place within the agency. If the employee disagrees with the findings of his or her local EEO representative, the employee may take the case to the full Equal Employment Opportunity Commission, EEOC, for review.

The EEOC then examines the case and will potentially represent the employee in dealing with the offending agency. Agencies are not required to comply with the EEOC recommendation, but it is in the best interest of all to cooperate. Cases may be further appealed to an EEOC judge in extreme cases.

The employee is also entitled to take his or her case to Federal district court. When the case goes into the Federal judiciary, the EEOC no longer plays an active role.

The heart of the matter, as in the underlying bill, is the manner in which the employees are compensated in cases of intentional discrimination.

Remedies available under present law include:

One, reinstatement; two, back pay; three, restoration of benefits; and, four, public notice.

My amendment would add to the list of remedies compensatory damages including those covering pain and suffering, and that is a very important subject.

I believe that Federal employees who may happen to be women, disabled, or members of ethnic or religious minorities should—I underline should—be provided the same protections under the law as are currently provided in cases of racial discrimination. That is the goal of this amendment and those who support me in accomplishing this end.

It is my hope that all of our colleagues will be able to join in this important effort for the career employees of our Federal Government. I would be remiss if I did not acknowledge the continuing support of the American Federation of Government Employees, particularly their representative, a very able professional, Beth Moten. In addition, Mr. John Chambers, of Senator DANFORTH's staff, and Ms. Carolyn Osolinik, of Senator KENNEDY's staff.

This is a joint endeavor on behalf of 3 million employees by those who assisted in the preparation of this amendment.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. Thank you, Mr. President. I thank the distinguished Senator from Virginia for his good work on this subject, and I am pleased to join him in supporting this important amendment. Many of us have been deeply concerned, Mr. President, and my own feelings have been on the record and elsewhere, about what has gone on in the last month, about the fact that I believe we are in this society, and despite our espoused goal of treating everybody in equitable fashion, we have not yet reached that goal. We have very many significant problems remaining in this bill related to women, and I understand how we got to this point. I hope we redress that, and I look forward to working with the distinguished chairman of the full committee in this coming early 1992 to address those problems.

We have reached, or are taking care of, some other problems in this legislation, and one of those is the treatment of Federal employees. We know that Federal employees have also been treated as second-class citizens, not given the same rights, not given the same redress, not given the same remedies as other individuals in this society.

I think the amendment, which I am pleased to cosponsor with the distinguished Senator from Virginia, and others, redresses that problem. Anita Hill, for example, in the EEOC would not have had any redress. Had all these allegations come forward and been proven, even she would not have had redress as a Federal employee in the early 1980's, nor would she have any today. This amendment focuses on that particular problem, the problem of Federal employees and their ability to achieve a remedy when discrimination in various forms is proven.

The point is, it is an important remedy, an important amendment. And, as you know, Mr. President, the Denver metropolitan area has the largest concentration of Federal employees outside the Washington, DC, area. We have an extraordinary, dedicated, and able work force there. I am a strong supporter of career service. I think we often treat them much too shabbily and do not give them the credit for dedication and the job they are doing, and I think that this amendment goes back to that question and to assuring them there are many of us here who feel very strongly that they should be treated equitably and treated fairly and not treated with the back of the hand or as second-class citizens.

Once again, I thank the distinguished senior Senator from Virginia.

Mr. President, I rise today to discuss what I consider to be a gaping hole in the Civil Rights Restoration Act before us today—a hole so large that I question if we can in fact term this piece of legislation a civil rights bill. By passing this bill, we will be taking the first and necessary step to restoring some civil rights for some groups. But it also will codify a premise that goes against the very grain of our Nation—it will say that we believe people should be treated separate and unequal.

During the past couple of weeks, a great deal of attention has been given to sexual harassment in the workplace—attention that is warranted. It was my hope that all this attention would have raised the awareness of the Members of this body and encouraged them to right a wrong that exists in the bill we are debating. But instead, we find ourselves in the outrageous position of having to compromise the women of this country to reach a compromise on the civil rights bill.

I commend the efforts of the Senator from Missouri in his persistence in bringing a civil rights bill to the floor. I also commend him for attempting to fill the void in our laws that prohibit women and the disabled who have been discriminated against from gaining compensatory and punitive damages. If we took an impromptu nationwide poll, I think that we would find that most people are shocked to learn that women and the disabled are separate from the rest of the population in that they have no remedies for being discriminated against. So I am pleased that we are finally making progress on that front.

However, I think some people will be perplexed that now, while we are trying to establish some equity in our laws, we turn around and create a new injustice. Now that remedies are finally available for women and the disabled, we are going to impose limits on their extent. Of course, no one else is limited, except for one slice of the population, which is singled out to be treated as second-class citizens and deserving only second-class remedies. In all honesty, I do find it unfathomable that this is the course we have chosen to head into the 21st century.

Two weeks ago, the entire Nation watched and saw what can happen to women who step forward to recall painfully humiliating experiences of sexual harassment. And now, this legislation reinforces that message that if you do come forward in these instances, you will be further compromised by the law.

Are there caps in the law for racial discrimination? No.

Are there caps in the law for discrimination based on country of origin? No.

Are there caps in the law for discrimination based on religious convictions? No.

But there are caps in this bill for cases of gender-based discrimination and sexual harassment.

Clearly we are being unfair and unjust to impose caps on these kinds of discrimination cases. This action contradicts the very cornerstone of civil rights, the guiding principle of our country—and that is equality. It took us 125 years to provide women with the remedies afforded to others—I can only hope that it does not take 125 more years to remove the limits we have imposed.

It is a matter of simple fairness to provide women and the disabled with the same remedies that the law provides to victims of other forms of discrimination. But now, in the name of civil rights, women and the disabled who are discriminated against in the workplace can take their cases to the courts, where they will be discriminated against again. That does seem ironic, does it not?

I think women in this country are sick of this kind of treatment. During the Thomas hearings, we supposedly had a national teach-in on sexual harassment. Unfortunately, with this legislation, we see yet another case of the male-dominated machinery of Washington not making the grade.

When we fought for civil rights 30 years ago, when women began entering the workplace rapidly 20 years ago, who could have imagined that we would ever again consider legislation that confers civil rights to one segment of society, only to deny them to another segment of society?

The situation is unfortunate and frankly, incomprehensible. Mark Twain told us, "Always do right. This will gratify some people, and astonish the rest." We had the opportunity to do so. Sadly, we have gained only the gratitude of the White House and astonished no one.

We have moved forward—we are making some progress in bringing the Nation together to protect civil rights. The White House has finally come to where we have been all along—knowing that the civil rights bill is not a quota bill, it is a fair employment bill. However, President Bush has made it clear—no caps, no bill. I am still waiting for him to explain to the American public why he believes that women should take the back seat and continue to receive unequal treatment under our Nation's laws. But that explanation will come at another time.

I do see some progress in his thinking. The good news is that President Bush now seems to understand that women, along with the rest of the country, are in fact protected by the seventh amendment of the Constitution and have a right to a jury trial. My hope is that we have laid aside the misguided idea of denying women from having a jury determine whether or not they have been wronged.

I hope that we can also lay aside the fallacious arguments for why we must include caps on damages for a select majority of our population. This is not an issue about runaway liability claims or even overall tort reform, as some have suggested.

I think the point has to be made in response to opponents' claims that without caps, there would be a litigation bonanza. Let us take a look at history—in the last 10 years there has been an average of six discrimination cases a year in which settlements came about. That is six cases a year. Not quite a litigation bonanza. This claim is pure rhetorical flourish.

Civil rights cases are not the cases that add to this country's litigation explosion. First of all, only six cases in the last 10 years have been awarded damages of more than $200,000. Two-thirds of the 69 cases over the last 10 years where claimants received punitive and compensatory damages were for less than $50,000. Discrimination cases are not the hotbed of outrageous awards.

Further, if we are going to address the issue of runaway liability, let us address it across the board—not on the backs of women. If the real concern is that lawsuits have gotten out of control, let us confront the real issue and consider product liability reform or malpractice reform where the big dollar suits are won. The big awards we all hear so much about are not going to the individuals who have been discriminated against at work.

Others have claimed that small businesses would be devastated by allowing women to sue for damages. How many small businesses have gone under since racial or religious discrimination suits could be filed? Why do people believe that women are going to bring frivolous suits to the courts and drive businesses under? I would like to remind businessowners that claimants win suits when they have been wronged by their employer. The simple solution is to treat your employees fairly, giving them no need to bring a case against you.

Another point worth raising is that under existing law, businesses with fewer than 15 employees—50 percent of the businesses in the United States—are already exempt from antidiscrimination measures.

So this injustice will not be dealt with in this bill. The White House said no civil rights bill will be signed into law that treats women fairly, so offering the amendment we proposed earlier would be a deal-buster. Because our efforts to ensure equitable damages would have prevented any progress in restoring civil rights, we have decided to pursue other avenues to achieve this goal.

I will work with the majority leader and others to bring legislation to the floor early next year that will right this wrong. I believe our responsibility to the country is to enact laws that treat all people fairly and we must continue to pursue that course.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland [Ms. MIKULSKI].

CHANGE OF VOTE

Ms. MIKULSKI. Mr. President, I do want to speak in behalf of the Warner-Mikulski - Stevens - Robb - Wirth - Kennedy - Sarbanes - Adams amendment. But before I do, I want to bring to the Senate's attention on the rollcall vote No. 236 on the Rudman amendment No. 1290, I inadvertently voted in the affirmative. I ask unanimous consent that my vote be changed and that I be recorded in the negative on this vote, and I will note, Mr. President, that this change will not affect the outcome.

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

Ms. MIKULSKI. Thank you, Mr. President.

(The foregoing tally has been corrected to reflect the above change.)

AMENDMENT NO. 1292

Ms. MIKULSKI. Mr. President, I am happy to join my colleague, Senator WARNER, from Virginia, in offering this amendment on parity for Federal employees. This amendment will make it possible for a jury to award compensatory damages to Federal employees who are victims of intentional discrimination or harassment. It is time to get rid of double standards in Government. It is time to provide Government employees the same protection that other employees in the private sector have. If you suffer from sexual harassment, it is just as humiliating whether it is in a Federal agency or a major company. If you are a victim of racial discrimination, it hurts and stings just as much whether you work at a corporation or, again, at a Government agency.

Mr. President, we have to establish new standards of behavior in our country, from all streets to the U.S. Congress. I believe this legislation does that. For too long Federal employees have had to suffer silently. This amendment will begin to change that. I thank the managers for considering this amendment.

I will vote in the affirmative, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. WARNER. Will the distinguished manager yield for a minute?

Mr. KENNEDY. I yield.

Mr. WARNER. I acknowledge the support the Senator from Virginia has received from the distinguished Senator from Maryland [Ms. MIKULSKI] in the preparation and the presentation of this amendment. Likewise, to the distinguished Senator from Colorado [Mr. WIRTH]. Mr. WIRTH was fully prepared to take the leadership on this amendment and was working in parallel with the Senator from Virginia. I received

recognition and moved forward with the amendment, and, of course, in the spirit of cooperation, he fully joined in supporting it. I thank the Chair and I thank the manager.

Mr. KENNEDY. Mr. President, as the Senator from Virginia has pointed out, this is a worthwhile amendment. It is completely consistent with the spirit and the letter of the Danforth-Kennedy amendment itself. On page 5 of the legislation, in the section defining the right to punitive damages, the substitute states, "A complaining party may recover punitive damages under this section against a respondent (other than a government, a government agency of a political subdivision)."

Clearly, it was our intent that the limitation on the award of punitive damages would apply to Federal, State, and local governments. It would not have made any sense to interpret this provision otherwise. This provision certainly suggests that Federal employees are entitled to compensatory damages.

But the value of this particular amendment is that it makes this intent specific. I think it is extremely useful for it to be unambiguous that Federal employees are entitled to receive compensatory damages. That is what this amendment does. It is completely consistent with the legislation and the intention of those that support the legislation. It is, I think, very useful and important.

I express our appreciation to all of those who have been involved in fashioning the amendment and hope that the Senate would accept it.

(Ms. MIKULSKI assumed the chair.)

Mr. HATCH. Madam President, I want to compliment you and the distinguished Senator from Virginia for the work you have done on this, as well as others including Senator GLENN.

We have no objection on this side.

Mr. WARNER. I thank the managers for their statements and ask that the amendment be adopted.

Mr. KENNEDY. Madam President, I think there was a time agreement. I yield back the remainder of my time.

Mr. HATCH. I yield back our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1292) was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1293 TO AMENDMENT NO. 1274

(Purpose: To ensure an accurate representation to the American people of the applicability of various legislation to the Congress)

Mr. MCCAIN. Madam President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1293 to Amendment No. 1274.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the amdt., add:

SEC. REPORTS OF SENATE COMMITTEES.

(a) Each report accompanying a bill or joint resolution of a public character reported by any committee of the Senate (except the Committee on Appropriations and the Committee on the Budget) shall contain a listing of the provisions of the bill or joint resolution that apply to Congress and an evaluation of the impact of such provisions on Congress.

(b) The provisions of this amendment are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

Mr. MCCAIN. Madam President, I will be very brief. I would like to express my appreciation to the managers of the bill and also to the chairman and ranking member of the Rules Committee for accepting this amendment. I think it is important. I appreciate the cooperation I have gotten from them and their staffs.

Madam President, this amendment requires that every report accompanying a bill or joint resolution reported by a Senate committee, except the Budget or Appropriations Committees, contain a section listing how, where, and to what extent the legislation applies to Congress.

It is fairly straightforward. I think that the American people, as well as the Members of this body, have the right to know how that legislation, when passed, if at all, applies to the Congress of the United States.

The public has expressed their rage over the imperial Congress, a Congress that maintains one set of rules for itself, and another set for the remainder of society.

The American people must be told what laws do and do not apply to the Congress. The public can then express its opinion on whether the Congress' actions are right or wrong. In fact, in my view, the public must be the final arbiter on this issue. However, the public cannot make an intelligent decision if it does not have the facts.

Madam President, my amendment will give the public the facts. It will also ensure that in the future we do not forget our obligation to apply the laws of the land to ourselves. With the acceptance of my amendment, the public will from this point forth be able to make a more informed, intelligent decision on this issue.

We are constituted as a "government of the people," not above the people. And the people will not tolerate forever our preservation of the "last plantation" in America.

Madam President, by adopting my amendment, the Senate is taking an important step to restore its reputation and be forthcoming with those who have elected us.

Although I am very pleased that the Senate has adopted the Grassley-Mitchell amendment which will apply the civil rights protections to the Senate—which I wholeheartedly support—unless we change the system under which we operate, the issue will not be fully resolved.

There are still many major labor, health, and safety standards which we do not apply to ourselves. Further, if it becomes necessary for the Congress to pass yet more civil rights legislation in the future, will that legislation then apply to the Senate? As I stated, the system needs to be changed. My amendment does exactly that.

If the American people do not mind that the Senate is legally committing them to standards from which we, in Congress, are excused, then we have nothing to change. If, however, the American people believe in equality for all as written in the Constitution by the Founding Fathers, I suspect that they will not long tolerate our perpetuation of this practice.

Madam President, it is my understanding that the Rules Committee has no objection to my amendment and that it has been accepted by both sides.

Madam President, last I want to thank those involved with the civil rights bill, Senator HATCH, Senator KENNEDY, and most especially, Senator DANFORTH, for all their efforts to pass this bill and for accepting this amendment. This is an important step in the right direction for the Senate.

I would close by saying, Madam President, that we have heard a lot of debate, very informed debate and very eloquent debate in my view, on what is constitutional, what is not constitutional; to what degree the legislative branch under which we work should be held accountable to the executive branch in the form of what kind of enforcement can be made.

I think it is important for us to recognize one basic fact: that when we pass these laws throughout the years, there has been no effort on the part of this body and the other body to put in place mechanisms so that we could enforce these laws on ourselves. Clearly, we could devise mechanisms which would have preserved the separation between the legislative and executive branch and at the same time enforce those laws on the Congress of the United States.

Madam President, I do not know any citizen of this country that wants to violate the Constitution, that wants to

see the separation between the Executive and the legislative branch eroded. But I do see an overwhelming majority of the American people that want us to follow the same rules and regulations upon which they have to live on a day-to-day basis, Madam President, and we have made no effort, no effort, to set up either an appeals process, or grievance process, or inspections in the case of some laws like OSHA. We have done nothing, thereby creating a situation where our employees and our working conditions and our rules and regulations are far different from that of the average American.

One of my colleagues came up to me and said, "I want to be able to fire my employees because, otherwise, I cannot operate in an efficient fashion." I am sure that anyone who runs an organization or a business probably wants to have the same privilege or ability to do so. The fact is, our employees deserve the same rights and benefits that any other citizen of this country does.

So I think it is important that we point out the reality here. It is not a question of separation of powers. And we can make sure that that separation of powers is not violated, and we can do so by proving to the American people that we are willing to set up mechanisms so that the laws of the land are enforced on us as well as others.

So, Madam President, this amendment that I have simply indicates, as part of any piece of legislation, whether it applies to the Congress of the United States. And, if so, in what way. It is very simple.

I am grateful that the Chairman and the ranking member have accepted it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Senator from Arizona discussed this amendment with us yesterday. We are prepared to accept the amendment.

As I understand the amendment of the Senator from Arizona, it would require that each committee report on a bill other than an appropriations bill contain a listing of the bills that apply to Congress and an evaluation of the impact such provisions will have on the Congress. Clearly, the American people have a right to know whether laws that Congress adopts are applicable to the Congress itself.

The Senator, as I understand it, is offering the amendment in the form of statutory language enacted by the Senate as an exercise of its rulemaking power. With that understanding, I am prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I commend the distinguished Senator from Arizona for his amendment. This side has no objections to it. Therefore we urge the amendment.

Mr. KENNEDY. I am prepared to yield back the remainder of time.

The PRESIDING OFFICER. There is time remaining on the amendment.

Mr. HATCH. I am prepared to yield back the remainder as well.

Mr. KENNEDY. I wonder if we are getting to the point where we only then have the 30 minutes?

Are the technical amendments outside of the time agreements?

The PRESIDING OFFICER. The technical amendments are outside of the time agreements, Senator.

Mr. KENNEDY. So we do not have a time limitation on that.

The PRESIDING OFFICER. The Senator is correct on his assessment.

Mr. HATCH. If we have time left, the distinguished Senator from New Mexico would like 4 minutes.

Mr. McCAIN. I yield the remainder of my time to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, during the last 24 hours a number of us have had an opportunity to discuss the issue at hand, not the underlying main bill but rather what should and what should not be applied to the Senate of the United States with reference to laws that we have passed that create regulatory schemes for our people or cause causes of action in the workplace.

I argued last night against the Nickles amendment, and I supported Senator RUDMAN's amendment, and I supported Senator RUDMAN's constitutional challenge last night. So I do not want anyone to misunderstand my position or my approach.

Frankly, I believe the time has come to divide the U.S. Senate into at least two institutions for purposes of the subject we have been discussing. One is the U.S. Senate, the Senators, and all those who serve the Senators in policymaking or policy-related positions. And I believe that is the U.S. Senate. And I believe that entity—that institution—it would have to be more aptly be defined than I did in that rather simple definition—but I think that is the Senate that we are talking about in the Constitution. I believe that is the Senate that deserves consideration with reference to the rules, regulations, and other laws of the land because we are separate, distinct, independent from the executive and the judiciary.

But all the rest, all of those people that we hire to maintain this Senate, those who take part in the Capitol improvements, those who are part of making sure we are served the food we need around here, who take care of the tourists, all those in my opinion are really not part of the Senate. They are employees of the Senate. And I see no problem, and I hope soon we will look at all of the laws and say—as to those people and the activities that surround them, the buildings that they occupy—they should be treated just like all Americans and all those who are working for businesses across this land. I believe that that distinction could be made and drawn and done easily.

And then, it seems to me, we could talk about the Senate, a much smaller entity, a much smaller institution. Our employees in our respective States, those in our offices, those on the committees and the like. I believe as to them we should be very, very zealous, and watch out for interference in our independence from any commissions, any institutions that are executive, and any activities that are judicial. Because I believe the Framers of this Constitution, when they said there shall be three, the Executive, the legislative, and the judicial, they really had in mind that neither of the others would interfere; neither would interfere with the other.

So the President would not have any right to send emissaries over to our offices to see if we were violating a law or not; we would have to do that ourselves. So, second, I think after we break it into two parts we should apply the laws of the land to the part that is not really "the Senate" but rather employees of that institution we call the Senate. And then we ought to apply as many of the remaining laws as possible, but apply them in a way that is consistent with our—that is "the Senate"—managing the various laws, the various applications of the laws internally to the Senate.

With that it seems I am prepared to go to my home State and explain the way I have voted. Because I would like us to be subject to the laws but I do not think we have been approaching it in a way that is consistent with our remaining independent, our remaining the coequal body, coequal with the President of the United States. I think we are violating that, and I believe the amendment we are debating today that we just agreed to on voice vote will fall. The Supreme Court will determine it invalid for the very reasons I have been discussing. You clearly cannot put the courts into our day-by-day business. Clearly you cannot have Senators and Representatives and the President and some of his people subject to the rules and regulations for the other as prescribed in that amendment.

I thank the Senator for yielding 4 minutes to me and I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired. The Senator from Utah.

Mr. HATCH. Madam President, on Senator KENNEDY's time I yield 3 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. Madam President, I hope today is the last day we will discuss the issues raised by this bill. It has consumed an enormous amount of

time and energy. For almost 2 years, we have wrestled with some complex but unquestionably important issues. It is time to put these issues behind us.

I hope, by the end of today, we will have no more need to debate terms like "business necessity" and "disparate impact." I hope we can do this because the broader issues of equal opportunity and demand for our attention to those issues, is ended.

For all the symbolic, emotional, and actual importance of this bill, it is nothing more than a backstop. Minorities and women will prosper in our society only if they can grow and learn and work as full members of our society.

Our best answers to inequal opportunity are not juries or damages, but programs like WIC and Head Start and chapter 1 and Pell grants and JTPA. These programs, and the far greater efforts made by States and towns and private citizens are what will bring us to the colorblind society we crave.

But we are not there yet. And until we are, it would be the cruelest of ironies for the Federal Government to help secure the health, the education, and the training of a disadvantaged person, to make him or her qualified for a job, only to have that job denied by some misguided employer.

The Government has an obligation to guarantee a workplace free from discrimination, whether that workplace is in Vermont or the U.S. Senate. We cannot tolerate for a second overt acts of race or sex or religious discrimination that stain our country.

How can we speak with any moral authority to other countries of the world, fraught with ethnic and racial tensions, if we ourselves have not made every effort to stamp out those divisions in our own country?

Of course, we cannot. We owe it to ourselves as much as to others to create a more just society.

If some good came out of the confirmation of Justice Thomas, it is that sexual harassment has come to be better understood. And I hope that some similar good may come out of our debate on the civil rights bill.

I hope that employers, their interest piqued by the real and imaginary consequences of this legislation, will give some attention to their hiring practices, their promotion practices, and their complaint procedures. I hope they will spend some time doing this, even if their only motivation is to guard against the dire and unfounded warnings of their trade association.

I hope that Congress will move on to the more important business of ensuring that more and more women and minorities are ready to take on jobs in the decades to come.

If ever there were a business necessity, it is that these nontraditional workers be ready to step into more and more demanding positions. Equal justice and economic imperatives demand nothing less.

I yield the floor and the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I rise in support of the Danforth-Kennedy-Dole amendment on civil rights. I am pleased we have been able to bridge the remaining gap toward a consensus on the civil rights bill.

From the very beginning, I have believed that the Supreme Court decisions which are the subject of this legislation should be reversed. I have also supported expanding the remedies available under title VII of the Civil Rights Act, particularly with respect to sexual harassment.

These are positions I have steadfastly maintained since this issue first arose 2 years ago. Yet I have also held firm to the view that, in restoring the law, we must be careful not to swing the pendulum too far in the other direction—to encourage more litigation rather than to reply on the courts only as an avenue of last resort.

When the Senate last debated this issue a year ago, I said I did not know whether the bill then considered would lead to hiring quotas. I now believe that, if this amendment is adopted, the issue can finally be put to rest. Employers will not be forced to adopt quotas in order to protect themselves.

Having been the subject of so much legal wrangling, the definition of business necessity is now left undefined. Instead of creating new legal terms in anticipation of every possible future circumstance, we have left the interpretation to the courts. While not ideal, this represents a significant improvement over earlier versions of the legislation.

For example, one version last year defined business necessity as "essential to effective job performance," a standard so difficult to prove employers might well have adopted quotas. By contrast, the legal effect of the amendment at hand will be much the same as the compromise language Senator GORTON and I offered last year.

However, there is much more to this legislation than the reversal of the Ward's Cove case. For the first time, we are opening virtually every employer in America to lawsuits for compensatory and punitive damages—including damages for pain and suffering—when they are accused of discrimination. I remain troubled by the potential consequences of this step, which Congress declined to take when it first enacted the Civil Rights Act in 1964.

As a practical matter, additional damages and jury trials will lead to further delays for legitimate victims of discrimination. Our Federal courts are already overburdened, and under the Speedy Trial Act, the backlog of criminal cases, by necessity, takes precedence. Civil jury trials, including title VII cases, are often dropped to the bottom of the docket.

Currently, I am told that it takes anywhere from 1 to 3 years to get to trial in Federal court, depending on the jurisdiction. Given these conditions, I have heard estimates that it may take 5 years or longer to complete a jury trial under this bill. Justice delayed, as we know, is justice denied.

Practical considerations aside, I also question whether these remedies will accomplish the goals we intend. I fear we may be creating false hopes among those who believe this legislation will provide new job opportunities for minorities, women, and other disadvantaged groups. In fact, the opposite may be true.

Right now, the vast majority of title VII cases are discriminatory firing suits. That is, more people sue to keep their jobs than to break down barriers for new jobs. According to a recent article in the Stanford Law Review, the number of such firing suits increases during periods of economic decline, as workers fight to hold on to their jobs.

From an economic perspective, by increasing damage awards, we increase the potential cost of hiring minorities and women in the eyes of employers. According to the authors, "Such suits actually provide employers with a disincentive—perhaps even a net disincentive—to hire minorities and women." I am afraid, particularly in these economic times, companies will react by hiring fewer employees, or simply moving elsewhere.

I hope this will not be the case. I also hope this legislation will not, by increasing the threat of litigation, heighten the tensions that already exist in the workplace. If next year we consider removing restrictions on damages altogether, perhaps at the same time we will look further into alternative means of dispute resolution or even direct our attention toward broader litigation reform.

Mr. President, let me commend Senator DOLE, Senator DANFORTH, and Senator KENNEDY, among others, for their tireless and good faith efforts toward reaching an agreement. As I said, this issue, in particular, has been the subject of an especially bitter and divisive debate. I am heartened by the fact that all sides were able to come together. My final hope is that the bipartisan spirit of cooperation, which this amendment represents, will continue in the days to come.

The PRESIDING OFFICER. The Chair wishes to apprise that the time of the Senator from Arizona has expired. The Senator from Massachusetts controls 5 minutes and 9 seconds.

Mr. KENNEDY. Mr. President, I yield to the Senator from Connecticut.

The PRESIDING OFFICER. The distinguished Senator from the State of Connecticut.

Mr. DODD. Madam President, I thank the Chair and I thank the distin-

guished floor manager of the legislation.

Madam President, I rise today in support of S. 1745, the Civil Rights Act of 1991. I want to commend my colleagues Senators DANFORTH and KENNEDY for their tireless efforts in bringing this bill to the floor and hopefully ensure all Americans that the U.S. Senate is dedicated to protecting the civil rights of all of our citizens.

I particularly commend Senator DANFORTH, Madam President, who has toiled literally for weeks on end to bring us to this point. When the history of this legislation is finally written and how it came to pass, there is no doubt in this Senator's mind that the senior Senator from Missouri will rightfully deserve tremendous credit for having reversed these earlier Supreme Court decisions which have set back the clock for those who are trying to guarantee their rights, particularly in the employment sector.

Clearly, one of the most important responsibilities of Government is the guarantee of freedom, equality, justice, and opportunity under the law. Racism and sexism are contrary, as we all know, to our basic ideals and have no place in this Nation. But the reality for all too many of our citizens has been otherwise.

Madam President, I strongly support this legislation because I believe it is Congress' duty to ensure that the rights of equality and opportunity remain steadfast in our law. Despite our best efforts to end the sanction of race and sex discrimination in the workplace, including passage of the 1964 Civil Rights Act and in particular title VII of that act, many of our fellow citizens, particularly those who are minority or female, have encountered obstacles rather than opportunity.

Congress has demonstrated its intent to guarantee equal rights in the workplace through the adoption of the Civil Rights Act of 1964, title VII of that act and section 1981 of the Civil Rights Act of 1866. When we passed the Fair Housing Acts, we thought we would rid this Nation of discrimination in housing. However, on October 21 of this year, the Fed announced the results of a study that showed that black and Hispanic mortgage loan applicants were two to three times as likely to be denied loan approval for home loans as white applicants. In my home State of Connecticut, the Institute for Social Inquiry at the University of Connecticut recently conducted a poll that found that 44 percent of women interviewed said they had been sexually harassed in the workplace.

Unquestionably, much progress has been made. But obviously, much work is left to be done. That is precisely why we are here today.

Despite the good intentions of past Congresses and Presidents, the Supreme Court in its 1989 term cast a shadow on this Nation's commitment to civil rights while reneging on our commitment to provide equal protection under the law. The decisions handed down by the Supreme Court, in five cases, stripped our historic civil rights laws of much of their enforceability. The Court's decisions have made it considerably more difficult for victims of discrimination and sexual harassment in the workplace to win their cases. As a result, millions of hard-working Americans have lost protection under section 1981 and title VII.

For example, in Wards Cove Packing Co. versus Atonio, the Supreme Court overturned an 18-year precedent set by the Griggs versus Duke Power Co. decision regarding the burden of proof in cases alleging discrimination based upon the disparate impact of business hiring of minorities.

Before the Wards Cove ruling, the Court had established a simple and logical rule, once the plaintiff had developed a prima facie case of discrimination, it was up to the defendant to prove that the hiring practices in question had a business necessity. The rule made perfect sense since such information in uniquely within the defendant's knowledge. Now, however, the Court expects the plaintiff to both develop the prima facie case and prove that a hiring practice was discriminatory and not a matter of business necessity.

By shifting the burden of proof from the defendant to the plaintiff, the Supreme Court made an already difficult task an impossible one for the plaintiff. The proof of that statement is clearly reflected in the fact that cases decided in favor of the plaintiff before Wards Cove have already been appealed and reversed in favor of the defendant.

Section 8 of the Civil Rights Act of 1991 restores the force and effect of the Griggs decision by reaffirming that the plaintiff, in order to prove his case, need only show that the hiring practices of the company in question were not job related to the position in question and consistent with business necessity or that there was a less discriminatory alternative to the hiring practice and the employer refused to adopt it.

Second, in Patterson versus McLean Union, the Supreme Court ruled that section 1881 of the Civil Rights Act of 1866 prohibits racial discrimination in hiring but not in posthiring employment. Section 4 of the Civil Rights Act of 1991 overturns Patterson and extends section 1981 coverage to on-the-job victims of racial discrimination, sexual harassment, and religious bigotry.

Third, in Martin versus Wilks, the Supreme Court's decision discourages the use of consent decrees to settle a job discrimination suit by allowing endless challenges to such decrees. Consent decrees have in the past worked to resolve many discrimination cases. However, as a result of this ruling, employers will not elect to enter into a consent decree if by resolving one problem they create another. To protect the use of consent decrees, section 11 of the Civil Rights Act of 1991 requires that notices be given to persons who may be adversely affected by a court order. An individual would be given a reasonable opportunity to challenge the court order after which time subsequent law suits would be barred.

Madam President, the events of the last several weeks have indeed opened our eyes to the plight of women in the workforce. As I previously indicated, in my State alone, 44 percent of women polled in a recent study reported being sexually harassed. I am happy to see we will pass a bill that begins to address this problem by putting real teeth in title VII of the Civil Rights Act of 1964.

I am also pleased to see that the Civil Rights Act of 1991 has addressed problems raised by the Court in the Price Waterhouse and Lorance decisions. In Price Waterhouse versus Hopkins, the Court ruled that an employment decisions motivated only in part by prejudice does not violate title VII if the employer can show that the same decision would have been made for nondiscriminatory reasons. S. 1745 overturns the Price Warehouse decision thus making any reliance on prejudice illegal.

In Lorance versus AT&T Technologies, the Court ruled that the statute of limitations for challenging discriminatory seniority plans begins to run when the plan is adopted rather than when the plan is applied to harm an employee. This ruling would bar most employees from bringing suit for discriminatory promotion practices. By overturning Lorance, the Civil Rights Act of 1991 would permit a person to challenge discriminatory employment practices when they harm them.

Those decisions represented an unprecedented retreat on the part of the Supreme Court from the enforcement of antidiscrimination laws. I, therefore, stand here today ready to pick up the ball where the Supreme Court dropped it and champion the causes of justice, equality, and opportunity for all Americans who only desire the chance to succeed and contribute to this great land.

The civil rights laws we are restoring prohibit discrimination on the basis of race, sex, color, and national origin and all other forms of illegal discrimination in the workplace. We as Americans have made it abundantly clear that we will not tolerate discriminatory treatment of others on the basis of race or sex. Because there is obviously great consensus on this principle, I must ask why is there opposition to the Civil Rights Act of 1991?

Chief among the opponents of this legislation, until just last week, was

the President who argued that the Civil Rights Act of 1991 went significantly beyond the original goals of equality, settlement, and reconciliation found in title VII and section 1981 and would cause employers to adopt surreptitious quotas or abandon legitimate hiring and promotion devices in order to protect themselves from the allegation of discriminatory hiring practices.

The President also charged that the Civil Rights Act of 1991 skewed the burden of proof so significantly toward the plaintiff in both disparate impact and treatment cases that defendants would never be able to defend against these cases.

And, finally, the President argued that if we award damages to women who are victims of discrimination or sexual harassment in the workplace we will encourage lawyers to counsel their clients to sue for damages rather than reconcile their differences with their employer, causing a litigation boom for lawyers but little progress for women in the workplace.

The President's acquiescence to minor changes in these three areas suggests that his problems have been more political than substantive. I believe all of these charges were never supported by the evidence. First, this bill is not and never was a quota bill. It merely restores the balance intended by the Griggs decision in employment discrimination suits; second, there is no evidence that indicates lawyers will be any more apt to bring these very difficult employment discrimination lawsuits; and finally, I believe there is no real difference between the sting of race discrimination and the sting of sex discrimination.

It makes good common sense to permit women to sue for damages when employers intentionally discriminate, especially when, currently, the only legal remedy is to put the woman right back into the hostile environment. This bill provides women with an alternative.

Madam President, I will conclude my remarks by saying that I supported in principle many of the amendments that have been offered throughout the consideration of this bill. Senator MCCONNELL's amendment on capping attorneys' fees and the Wirth-Durenberger amendment on uncapping damages, while desperately needed and ones that I philosophically support, would have made it virtually impossible to get a civil rights bill passed into law. I am happy to see that the Mitchell-Grassley compromise on congressional coverage has been attached to this bill. It is long overdue and one that I called for many years ago and would like to see become law.

I want to reiterate that I have supported every major piece of Federal civil rights legislation brought before Congress in my 16 years in Washington, including the extension of the Voting Rights Act, the Fair Housing Acts, the Grove City Act and bills creating the formation of the Civil Rights Commission.

Further, I have long expressed my support for laws designed to combat the evil of discrimination in public accommodations, housing, and the workplace. I believe that we must not forget the past no matter how painful. Because I believe that equality and opportunity are enduring hallmarks of this Nation, I think we must stop the erosion of these rights.

Madam President, I agree with the goal of the Civil Rights Act of 1991. And I strongly believe that it is imperative that we restore the full force and effectiveness of our Nation's civil rights laws to millions of minorities and women. The Supreme Court's decisions of the 1989 term have meant justice delayed. That is, in effect, 2 years of justice denied for millions of Americans. We cannot let this continue. I therefore stand ready to support and vote for S. 1745, the Civil Rights Act of 1991 and encourage all of my colleagues to do the same.

Mr. HARKIN. Madam President, I rise in support of S. 1745, the Civil Rights Act of 1991, as modified by Senator DANFORTH, Senator KENNEDY, and the administration.

S. 1745, as modified, is a good bill. It overturns several Supreme Court decisions that have cut back dramatically on the scope and effectiveness of civil rights protections. It expands and improves remedies to compensate victims of intentional gender discrimination, including sexual harassment. The bill also includes remedies to compensate people with disabilities for intentional discrimination under the Americans With Disabilities Act.

Is S. 1745 a perfect bill or the bill I would have crafted? No. For one thing, although the remedies for women and people with disabilities are an improvement over current law, I would have preferred that there be no cap on the amount of damages available to women and people with disabilities since we currently do not have caps for racial minorities under section 1981. Congress should not allow women and people with disabilities to be second-class citizens when it comes to remedying the effects of intentional discrimination. When the harm is the same, the available remedies should be parallel.

However, I support S. 1745 because on balance the positive aspects of the bill outweigh its shortcomings.

I am pleased President Bush finally accepted the civil rights bill. I only wish the President would have been willing to negotiate in good faith 2 years ago instead of stonewalling so he could use the quota strategy for short-term political gain. Pitting race against race is not only offensive, but it is bad for our country. I believe that Mr. Bush's handlers were sensing that the quota strategy was no longer paying political dividends. Whatever the reason, I am glad the compromise was reached. I just hope he will never use race again for shortsighted political ends.

We need a civil rights bill now because the unfortunate truth is that discrimination in the workplace is still pervasive in our country.

The serious problem of sexual harassment in the workplace gained heightened attention during the Thomas hearings. Under current law, there are no effective means of deterring such harassment. This is because under current law, women may not recover compensatory and punitive damages.

Ellen Vargyas of the National Women's Law Center framed the issue regarding the impact of sexual harassment and other forms of intentional gender discrimination as follows: "Who should bear the nonwage costs of intentional, illegal discrimination: the perpetrator of the discrimination or the victim? Under current title VII law, it is the victim."

Witness after witness in hearings in both the House and the Senate made the same point—under current law a woman can be the victim of "sustained, vicious, and brutal harassment" (see *Zabkowicz* v. *West Bend Co.*, 589 F. Supp. 780, 784 (E.D. Wis. 1984)), suffer serious emotional and other health problems, and still receive nothing more than limited back pay. The bill addresses this inequity.

Several recent reports document the disparities in earnings between Afro-Americans and white Americans and the continued prevalence of discrimination in the workplace.

In August 1991 the Bureau of the Census released a report entitled: "The Black Population in the United States: March 1990 and 1989." The wage gap between blacks and whites offers a painful illustration of the effects of discrimination in the workplace. Black men make 69 percent of the earnings of white men, $15,320 versus $22,160. Black women suffer from multiple discrimination. Black women receive only 52 percent of white men's earnings, $11,520 versus $22,160.

Unfortunately, the evidence is that a college education does not help close the gap between blacks and whites in any significant way. The Census Bureau report showed that white men with 4 years of college education had median earnings of $41,090; black men with comparable education had median earnings of only $31,380, 76 percent of the earnings of white men; and black women with a comparable education had median earnings of only $26,730, 65 percent of the earnings of white men.

A study by the Urban Institute on Discrimination in the Workplace concluded that job discrimination against black men is "widespread and en-

trenched." The study sent matched pairs of white and black men to compete for the same jobs—men with the same qualifications and similar abilities. The study found that white applicants were three times as likely to receive a job offer and almost three times as likely to advance in the hiring process.

Fifteen percent of the white applicants received job offers, compared to 5 percent of the blacks. In addition, white men advanced in the hiring process 20 percent of the time, compared to only 7 percent for black men.

Other findings of the study showed that black applicants were treated rudely or unfavorably in 50 percent of their employment efforts, while white men received unfavorable treatment in 27 percent of their job searches.

A second recent report indicates that the problem of discrimination is not limited to entry into the work force but also is prevalent in the area of promotions. On August 8, 1991, the Department of Labor released a report entitled: "Report of the Glass Ceiling." The report found that among 94 large employers analyzed by the Department, women were 37 percent of 147,000 employees and minorities were 16 percent. But only 17 percent of women and 6 percent of minorities held any management job, and only 6.6 percent of women and 2.6 percent of minorities were at the executive level. Minorities are working at lower levels in the corporate structure than women.

The report identified some of the barriers to advancement: the manner in which job openings are advertised or lack thereof; the use of executive search firms which often do not include women and minorities in those recommended; the lack of access for women and minorities to training and development programs; and a lack of knowledge at the top levels of corporations regarding equal employment opportunity responsibilities and evaluation.

All companies reviewed had different methods of developing personnel. But, according to Secretary Martin, "they all had one thing in common—they didn't make these opportunities as available to minorities and women."

These studies document the urgent need to enact a civil rights bill that sends the clear message that discrimination in the workplace will not be tolerated. S. 1745, as modified, will accomplish this objective.

I have been asked whether the compromise worked out with the administration weakens the Danforth bill. On reviewing the modifications, I am struck by the fact that the changes, including those relating to the so-called quota issue, are cosmetic rather than substantive in nature.

With respect to proving disparate impact discrimination, the modified version of S. 1745 accomplishes the very same purposes and includes the same policies that were included in last year's civil rights bill, this year's House version of the bill, and S. 1745, as originally introduced. The modified version of S. 1745 is not a quota bill, nor were any of its predecessors.

Numerous Republican Senators joined by Senate Democrats concluded that these bills were not quota bills. The Civil Rights Commission appointed by President Bush told us repeatedly that these bills were not quota bills. Religious organizations that traditionally oppose any bill that could be construed as requiring quotas, told us that these bills were not quota bills. The Business Roundtable told us that the House bill was not a quota bill.

All these individuals and groups were and are right. Every version of the civil rights bill was designed to accomplish the same objective—restore the policy in the Griggs decision and overturn the Wards Cove decision.

Let me explain why this is the case. In 1971 the Supreme Court handed down its unanimous decision in Griggs versus Duke Power. In Griggs the Court held that title VII requires "the removal of * * * unnecessary barriers to employment where the barriers operate invidiously to discriminate * * * the touchstone is business necessity." The Court also invalidated job qualification standards because they did not "bear a manifest relationship to the employment in question."

For 18 years the country lived under the Griggs standard and no one ever claimed that Griggs required quotas. In fact, during the debate over the civil rights bill, the administration consistently endorsed the Griggs standard and supported legislation to restore it.

In 1989, the Wards Cove decision overturned Griggs.

The intent of S. 1745 was to restore the protections that existed prior to Wards Cove by reinstating the Griggs rule. Senator DANFORTH accomplished this by using language from the Griggs case and by using language from the recently enacted Americans with Disabilities Act.

The ADA is landmark civil rights legislation designed to ensure equal opportunity for people with disabilities. I am proud to have been the chief sponsor of the ADA.

The ADA and its accompanying legislative and regulatory history embrace Griggs and reject Wards Cove. This point is clear from the language included in the legislation, the legislative history accompanying the ADA, and recently reaffirmed in the conference report accompanying the Civil Rights Act of 1990 (H. Conf. Rpt. No. 101-856 at page 20).

Specifically, the ADA states that discrimination includes "using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity."

The language included in the ADA is an amalgam of three sets of regulations implementing sections 501, 503, and 504 of the Rehabilitation Act of 1973 and court cases such as *Prewitt* v. *U.S. Postal Service*, 662 F.2d 292, 308 (5th Cir. 1981).

The basis for the regulations and the court decisions is the Griggs decision. When the then Department of Health, Education, and Welfare issued the first set of regulations implementing section 504, it explained that the requirement that selection criteria must be job-related "is an application of the principle established under title VII of the Civil Rights Act of 1964 in Griggs versus Duke Power Company."

The Prewitt case, which is cited to in the House Judiciary report accompanying the ADA, states that "the EEOC regulations [implementing section 501 of the Rehabilitation Act] adopt a Griggs-type approach in the disparate impact handicap discrimination context."

The analysis prepared by the EEOC accompanying the final regulations implementing title I of the ADA correctly states that the "concept of 'business necessity' has the same meaning as the concept of 'business necessity' under section 504 of the Rehabilitation Act of 1973."

S. 1745, as originally introduced, included the language from the ADA and the Griggs decision. It stated that: "The term 'required by business necessity' means in the case of employment practices that are used as qualification standards, employment tests, or other selection criteria, the challenged practice must bear a manifest relationship to the employment in question."

Under the compromise, an unlawful employment practice based on disparate impact is established if a complaining party demonstrates that an employer uses a particular employment practice that causes a disparate impact and the employer fails to demonstrate that the challenged practice is "job related for the position in question and consistent with business necessity." This is the language from the ADA.

The compromise deletes the definition of the term "business necessity" ("manifest relationship to the employment in question", which comes directly from the Griggs case). Instead, the legislation specifies that the purpose of the act is to "codify the concepts of 'business necessity' and 'job-related' enunciated by the Supreme Court in *Griggs* v. *Duke Power Company*, 401 U.S. 424 (1971) and in the other Supreme Court decisions prior to *Wards*

Cove Packing Co. v. *Atonio*, 490 U.S. 642 (1989)."

In sum, instead of specifically incorporating the language from Griggs in the definition of "business necessity", the compromise incorporates the concepts of Griggs. This is a cosmetic change that has no substantive significance.

With respect to disparate impact discrimination, when S. 1745 becomes law, title VII and the ADA will be parallel to the same extent that title VII and section 504 where parallel prior to Wards Cove. I use the modifier "to the same extent" because the method of proving disparate impact under ADA and section 504 may differ in certain circumstances from title VII with respect to the use of statistics. As noted in the analysis to the final regulations under section 504, because the small number of disabled persons taking tests may make statistically showings of disparate impact difficult, "once it is shown that an employment test substantially limits the opportunities of handicapped persons, the employer must show the test to be job-related." 42 Fed. Reg. 22688,89 (May 4, 1977).

In sum, none of the civil rights bills were quota bills. They all had the same intent—to restore the standards in Griggs. The American people are probably asking themselves why the President characterized the previous civil rights bills, including S. 1745, as introduced, as quota bills when they simply reinstated the Griggs rule and no one ever raised the quota argument under Griggs?

The initial decision by President Bush and his handlers to raise the specter of quotas is not a new political ploy. The same strategy was used back in 1964 during the debate on the historic Civil Rights Act of 1964.

In the course of the debate Senator Hubert Humphrey, the floor manager of the bill, stated: "The bill cannot be attacked on its merits. Instead, bogeymen and hobgoblins [such as quotas] have been raised to frighten well-meaning Americans."

Mr. Bush and his handlers used quotas in 1990 and 1991 to frighten well-meaning Americans, in much the same way he frightened Texans when he opposed the civil rights bill of 1964 during his campaign for the Senate. This very same strategy is now the centerpiece of the David Duke campaign in Louisiana.

I find this strategy morally offensive. And I am pleased to note that several other Senators from both sides of the aisle agree with me.

I believe that using race for short-term political gain is bad for our country. Pitting race against race and sex against sex does not make America stronger; nor does it make us more competitive in the international arena. Using race as a wedge issue saps our collective will to improve our Nation's economic and social well being and to hire and promote the best and the brightest.

When I was growing up in a small town in Iowa, I remember starting each school day by reciting the "Pledge of Allegiance." "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."

In my town, these words rang true. We always thought of ourselves as one nation, one community, and one extended family.

The role of the President is to find ways to bring the American family together, not to divide us for political gain.

We are one extended family.

We find our strength in our diversity.

We do not pit one American against another American.

We give each member of our family an opportunity to maximize his or her potential. When arbitrary barriers get in the way, we work together to remove them. When one member of the family succeeds, the whole family is proud.

This is my vision of the American family.

To this point, my remarks have focused on the need for enacting this bill and the quota red-herring. The remainder of my time will focus on the relationship between S. 1745 and the ADA.

I am pleased that the managers of the bill recognized that the applicable sections of the Civil Rights Act of 1991 should be applied consistently to the ADA. Section 5 of S. 1745 provides that an unlawful employment practice is established when a plaintiff demonstrates that a protected class status was a motivating factor for an employment practice. This policy is comparable to the standard already adopted under the ADA. (See for example, Sen. Rpt. No. 101-116 at page 45; H. Rpt. No. 101-485, Part 2, at 85-86.)

Other sections of the Civil Rights Act of 1991, which amend section 706 of title VII, are explicitly incorporated into the ADA through section 107(a) of the ADA.

Section 5 of S. 1745 states explicitly that damages are available under the ADA for all cases of unlawful intentional discrimination; that is, not an employment practice that is unlawful because of its disparate impact, or for violations of the reasonable accommodation provision in section 102(b)(5) of the ADA.

Causes of action for disparate impact are limited to section 102(b)(3)(A) and part of section 102(b)(6) of the ADA except for practices intended to screen out individuals with disabilities.

Section 1977A(a)(3) provides that damages are not available if the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

As the chief drafter of this provision, it is my intent that a demonstration of good faith efforts must include objective evidence that the process of determining the appropriate reasonable accommodation has been conscientiously complied with by the covered entity. This process is described in the Senate report accompanying the ADA (S. Rpt. 101-116) at pages 34-35 and the analysis accompanying the final regulations implementing title I of the ADA promulgated by the EEOC (56 Fed. Reg. 35748-49 (July 26, 1991)).

The legal mandate that the reasonable accommodation provides the individual with a disability an "equally effective opportunity" means an opportunity to attain the same level of performance, or to enjoy the same level of benefits and privileges of employment as are available to the average similarly situated employee without a disability. (See analysis by the EEOC accompanying the regulation implementing title I of the ADA (56 Fed. Reg. 35748 (July 26, 1991)).

In closing, the Civil Rights Act of 1991 codifies simple justice. It will help make the promise of "liberty and justice for all" a reality for all Americans.

I am proud to be a cosponsor of S. 1745 and I urge my colleagues to vote for passage without weakening amendments.

The PRESIDING OFFICER. The Chair apprises the managers of the bill that all time has expired on this amendment.

Mr. HATCH. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment.

The amendment (No. 1293) was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. SYMMS. Madam President, who controls the time?

The PRESIDING OFFICER. The managers of the bill.

Mr. HATCH. Madam President, I believe the Senator from Idaho would like to ask unanimous consent to take 3 minutes.

Mr. SYMMS. I ask unanimous consent that I might have 2 minutes to speak on the bill.

Mr. HATCH. In addition to the time we have left on the bill.

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

Mr. SYMMS. I thank the distinguished Chair.

I will just briefly state that I will be voting against this bill, and I will do so with heavy heart because I know that many of my colleagues have worked at great lengths to achieve the compromise legislation that is before the Senate today.

I think some explanation needs to be stated that when Washington, DC, finally reaches a compromise, what that really means to the small business people in America, to the workers in America, to the taxpayers in America, is: "here they go again in Washington." Now it is going to be harder to do business, more difficult to show a bottom line, more difficult to have capital invested in this country and, overall, more difficult to maintain our sense of competitiveness,

We have worked long and hard in this country, Madam President, to reach the place that we are at today. Yet, what this bill will do, no matter what is said about it, is that it will place more burdens on the backs of the American people, more bureaucracy, and more risks. They will not only be held liable for backpay and allowances to people, but they will be held liable to add substantial payments for damages if they are assessed against them.

So it is small wonder sometimes, Madam President, as I look at the political situation, to see how we seem to have a shrinking number of those of us on this side of the aisle. When I hear the responses from the majority leader and from the chairman of the committee, Senator KENNEDY and others, that when the President finally did agree to a compromise, it is as though, well, they finally saw the light, and it is reported that way to the bulk of the American people outside the beltway.

Small business is the backbone of America. It hires the people who work, live, and produce in this country and they look upon Washington, DC, with great dismay. They have seen us increase their taxes since 1988. They have seen minimum wages go up since 1988. They have seen a $40 billion, $50 billion per year Clean Air Act passed since 1988, and now they see this added to it, along with more and more regulations, more taxes. And on top of it, they see their Government borrowing $1 billion a day and they wonder when the end is coming. When will the people in Washington wake up and recognize that what is needed to better race relations in America are good jobs, good economic opportunities and a good workplace.

So, as I say, I am not happy about being put in a position to have to vote in opposition to this bill, but I would prefer to see the law have stayed the same.

This is a very complicated piece of legislation. I know my friend from Missouri and others have worked tirelessly to achieve this point. But I think in the end what will happen is it is going to be a tougher place to do business. The deficit will get a little bigger. In addition to the Clean Air Act, in addition to new OSHA inspectors running around the country fining people so they can raise revenue to meet the budget deficit of last year, they have to see a continuation of bigger and bigger Government with which to deal.

Mr. President, through the years I have served in this Senate, I have tried to live by the well-worn, much-abused cliche: "If it ain't broke, don't fix it." For this reason I must oppose the so-called compromise.

S. 1745 seeks to overturn several recent Supreme Court decisions affecting the way civil rights are handled in our courts. Wards Cove Packing Co. versus Atonio is the decision that has attracted the lion's share of public attention. In Wards Cove, the Court ruled that a plaintiff must do more than merely show a statistical disparity in order to claim discrimination. It also allowed defendants to claim a business necessity defense.

The compromise also overturns Price Waterhouse versus Hopkins, which states that an employer can avoid a discrimination suit if the plaintiff would not have been picked for the job absent the discrimination.

I believe these decisions to be moderate and based on sound principles. They simply seek to ensure a sense of balance and common sense in our civil rights laws. These decisions are wholly consistent with the legislative intent of relevant civil rights laws and with the Constitution's guarantees, and should not be overturned.

Mr. President, the American worker today is protected from civil rights abuses by 20 years of court precedent. The Equal Employment Opportunity Commission takes the lead in protecting civil rights under title VII of the Civil Rights Act of 1964. In the past 10 years, the EEOC has dramatically increased the number of complaints and lawsuits filed. It has more than doubled the level of damages collected over previous years. These are hardly the figures of a civil rights system under fire, hardly the sign of a system that will collapse without this legislation, as some here would have us believe. Clearly the system works.

Yet, this legislation will throw these precedents and working systems out the window. Established precedent will be replaced by untested standards. The EEOC's method of redress will be replaced by a tort system with huge damage awards. I fail to see the need or the wisdom in doing this.

Currently, there are incentives in place for a quick settlement. This system enables the employee to seek redress and get back to work. But under S. 1745, huge monetary award amounts are encouraged through jury trials, eliminating any incentive for the plaintiff and defendant to settle early. And with legal and expert fees allowed, there is no incentive for the lawyer to settle either. So, what we have here is an invitation to long, drawn out court battles over huge stakes, replacing the current system of solving the problem and getting people back to work.

I also question the wisdom of substituting title VII's current structure with tort law. The tort system is infamous for its snail pace and unfairness. It is irresponsible for us to complain about the backlog in the Federal courts and add to it unnecessarily at the same time. If our crime bill works, as I hope and prey it does, our courts will be inundated with new criminal cases while our streets are being cleaned up.

The April 1990 Report of the Federal Courts Study Commission stated that the "recent surge of Federal criminal trials * * * is preventing Federal judges in major metropolitan areas from scheduling civil trials, especially civil jury trials, of which there is a rapidly growing backlog." In such an environment, it is questionable at best to replace the working title VII structure with one that will significantly increase jury trials and litigation.

Another provision of this bill which is totally unprecedented and quite troubling is section 11, which prevents constitutional challenges to discrimination which results from civil rights judgments. Put simply, reverse discrimination cases are virtually outlawed.

This provision strikes at the very heart of the motto "Every man can have his day in court." People who may be harmed by a decision, people whose civil rights are violated because of someone else's actions, have no recourse. They are bound by a decision in which they had no voice, but which affects them drastically.

If this legislation passes, an employer can say to an honest American worker, "I don't care if you're qualified. I don't care if you are more qualified than the next guy. Because of the color of your skin, you cannot work here. And there is nothing legally you can do about it."

That is ugly. That is wrong. It violates the very premise of civil rights. As Justice Brennan wrote, "The goal of title VII was not some socially acceptable 'bottom line' but rather fair employment opportunities for each and every individual."

This is a very sensitive issue. People in our country are worried that their rights will be denied by such court action. Many feel their jobs are on the line. Reverse discrimination is an area where precedent is still being established, the limits to rights are still being explored. It is wrong for Congress to step in and make such cases impos-

sible before the courts have had a chance to fairly settle the issue.

This compromise would also destroy the commonsense balance between civil rights and business interests which Wards Cove established. The compromise proposal states that a practice must be "job related for the position in question and consistent with business necessity" to be legal. I agree with Wards Cove in saying this is too restrictive.

This bill is telling the people of our Nation that education and skills beyond the bare necessity for completing a job are unimportant. An employer would be prohibited from taking them into consideration.

Writing on this subject, Secretary of Education Lamar Alexander pointed out that our global competitiveness depends on a better educated work force. Workers must have the skills to adapt to a rapidly changing work environment. He wrote that in spite of global economic reality, legislation such as this "appears to say that employers will not be able to require entry-level employees to have the skills and knowledge necessary to perform functions other than those required by the exact job for which they are being considered. In effect, the bill seems to require that employers hire as if every job is a changeless and dead-end job."

What Wards Cove seeks to do, and what American business needs, is to establish a balanced approach to civil rights where business can obtain a qualified and flexible work force and rights are protected at the same time.

Civil rights are protected in this country. Workable remedies are available for those whose rights are denied. The legal area of civil rights continues to grow on its 20 years of precedent and evolve to meet the civil rights needs of this Nation.

New legislation is unnecessary and will have a dramatic impact on the effectiveness of our court system. Once again, "if it ain't broke, don't fix it."

I yield the floor.

Mr. HATCH addressed the Chair.

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senator from Washington be recognized for 6 minutes outside of the agreed times.

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

Mr. ADAMS. Madam President, I intend to vote in favor of the Danforth-Kennedy substitute civil rights bill. I am disappointed that this bill contains flaws that will need to be addressed at a future date. Frankly, this bill is better than having no bill at all, but it could have been much better.

We passed a much better civil rights bill with bipartisan support in both Houses last year. We came within one vote of overriding the President's veto.

The current compromise version is the best we are going to get this year. Those of us who believe in our hearts that civil rights remain the great unfinished agenda in our society will be back to fight on at a later date.

During these recent weeks of negotiations with the White House, I have on several occasions reflected on that day when we came within one vote of passing that better effort at restoring civil rights standards eroded by recent Supreme Court decisions. David Duke, the former grand wizard of the Ku Klux Klan, sat smirking in the gallery above this floor on the day we failed to put the divisive politics of race behind us. Now Mr. Duke stands nominated as the candidate of the Republican Party for the governorship of Louisiana. And while President Bush has finally stopped shouting "quota" whenever the subject of a civil rights bill is raised, Mr. Duke is still reading from last year's script. Some have suggested that David Duke's political success helped convince Mr. Bush's advisors that it was time to get serious about passing civil rights legislation this year. Whatever the cause, President Bush finally came to the table, and this bill is the result.

I am extremely disappointed that the bill falls short in redressing discrimination against women. The bill says that discrimination on the basis of sex is less important than other forms of discrimination.

Under this bill, women of color would be forced to abandon their sex discrimination claims and use claims based on race or national origin to bypass the caps on damages.

Under this bill, compensation for damages as a result of sexual harassment or discrimination are capped.

By capping damages, we relegate women's discrimination cases to second class status in the American legal system. Just imagine the howl of anguish from the business community if we sought to cap damages a corporation could recover in civil litigation.

There will come a day when this institution recognizes that sexual harassment cases should be taken as seriously as corporate litigation. An administration that professes its concern about the glass ceiling that prevents women from advancing in their careers should not be insisting on legislation to limit a woman's right to be fully compensated in a successful lawsuit.

I will be an original cosponsor of the effort to remove the caps on damages for sexual harassment cases. If the President vetos that bill, he can spend some of his domestic travel time in 1992 explaining why plaintiffs in sexual harassment cases don't deserve full access to the courthouse.

Madam President, the overwhelming majority of my colleagues who have expressed their support for this compromise stated that we will return the burden of proof in discrimination cases to the standard enunciated in Griggs versus Duke Power Co. Both the findings and the purposes sections of the bill suggest that to be the case.

I find it troubling to read in the final sentence of this substitute bill the following language:

> Notwithstanding any other provision of this act, nothing in this act shall apply to any disparate impact case for which a complaint was filed before March 1, 1975, and for which an initial decision was rendered after October 30, 1983.

This little amendment represents special interest legislating at its worst.

And who is the beneficiary of this inside deal? There is only one disparate impact case that meets this definition: Wards Cove Packing Co. versus Atonio. So we are legislating a return to the Griggs standard for every case except Wards Cove. Is that fair? It most certainly is not.

This bit of legislative mischief is proof that the Wards Cove Packing Co. has friends in high places. For the past 2 years, Wards Cove had its lobbyists at work pushing this amendment. Now the corporate interest is legislatively protected at the expense of the individuals who brought the case.

Yesterday, I received a letter from Frank Atonio, one of those original plaintiffs. Mr. Atonio states:

> Like other nonwhites at Wards Cove Packing Co., I worked in racially segregated jobs, was housed in racially segregated bunkhouses and was fed in racially segregated mess halls. A number of us brought the case to redress the injury caused by racial discrimination. But we now see the original injury compounded by a new injury—one caused by a special exemption obviously designed to make it hard for us to redress the racial discrimination.

He goes on to ask:

> I do not see how a law which was designed to overturn the Supreme Court decision in our case can exclude only our case from coverage. I would appreciate your asking the sponsors, both Republican and Democrat, how they can justify this special exemption.

Madam President, I do not have a good explanation for Frank Atonio and the other Wards Cove plaintiffs. I would certainly welcome hearing from any other Member of the Senate who does.

Unlike Wards Cove Packing Co., Frank Atonio did not have the money to hire a Washington, DC, lobbyist to look out for his interests. But I feel compelled to speak today on his behalf, and I ask unanimous consent that his letter, and an accompanying letter from the attorney who has handled the case over all these years be placed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ADAMS. It is my hope that our colleagues in the other body will take a close look at the one sentence that turns the Civil Rights Act of 1991 into the Wards Cove Relief Act. I hope they will insist that section 22(b) be deleted in conference. Wards Cove Packing Co.

should play by the same rules as every other litigant under the law we are passing today. In my view, that is what equal justice under law is all about.

I thank the Chairman.

EXHIBIT 1

OCTOBER 28, 1991.

Re Danforth-Kennedy Civil Rights Act of 1991.

Senator BROCK ADAMS,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR ADAMS: I am the Frank Atonio of Wards Cove Packing Co. v. Atonio.

I am writing out of a deep concern about a section in the Civil Rights Act of 1991 which excludes our case from coverage.

It says the Act shall not apply "to any disparate impact case for which a complaint was filed before March 1, 1975 and for which an initial decision was rendered after October 30, 1983."

I am told no other case in the country besides ours meets these criteria, so no other case in the country is excluded from coverage.

I am told this provision was added at the insistence of Senators Murkowski and Stevens, the two senators from Alaska where Wards Cove Packing Company has its operations. I am also told Wards Cove Packing Company has done a great deal of lobbying in Washington, D.C. to get this provision.

Like other non-whites at Wards Cove Packing Company, I worked in racially segregated jobs, was housed in racially segregated bunkhouses and was fed in racially segregated messhalls. A number of us brought the case to redress the injury caused by racial discrimination. But we now see the original injury compounded by a new injury—one caused by a special exemption obviously designed to make it hard for us redress the racial discrimination.

The Civil Rights Act of 1991 was drafted inpart to overrule the Supreme Court decision in our case. It says,

The Congress finds that—

* * * * *

(2) the decision of the Supreme Court in Wards Cove Packing Company v. Atonio, 490 U.S. 624 (1989) has weakened the scope and effectiveness of Federal civil rights protections. . . .

* * * * *

The purposes of this Act are—

* * * * *

(2) to codify the concepts of "business necessity" and "job relatedness" enunciated by the Supreme Court in Griggs v. Duke Power Co., 401 U.S. 424 (1971), and the other Supreme Court decisions prior to Wards Cove Packing Company v. Atonio, 490 U.S. 642 (1989).

I do not see how a law which was designed to overturn the Supreme Court decision in our case can exclude only our case from coverage. I would appreciate your asking the sponsors (both Republican and Democratic) how they can justify this special exemption.

We have been fighting our case for seventeen and one half years. It was nearing a conclusion when the Supreme Court decided to use it to overturn well established law. We now see new roadblocks raised, which place a just resolution farther in the future.

Few workers in the country are as economically disadvantaged as non-white migrant, seasonal workers, a group which comprises the class in our case. Yet the special exemption in the bill will now make it harder for us than anyone else to prove discrimination against our former employer.

I would appreciate your doing everything in your power to fight this provision.

Yours truly,

FRANK (PETERS) ATONIO.

NORTHWEST LABOR AND EMPLOYMENT LAW OFFICE,
Seattle, WA, October 28, 1991.

Re Danforth-Kennedy Civil Rights Act of 1991.

Senator BROCK ADAMS,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR ADAMS: I am an attorney for the plaintiffs in Wards Cove Packing Co. v. Atonio.

I am writing about §22(b) of the pending Civil Rights Act of 1991, which reads, "Notwithstanding any other provision of this Act, nothing in this Act shall apply to any disparate impact case for which a complaint was filed before March 1, 1975 and for which an initial decision was rendered after October 30, 1983."

The clear aim of this provision is to exclude Wards Cove from coverage, despite the fact the bill was designed in part to overrule the Supreme Court decision in Wards Cove.

The provision apparently has its genesis in an amendment Senator Murkowski offered to the Civil Rights Act of 1990. He wrote at the time:

"During Senate consideration of S. 2104, the Civil Rights Act of 1990, I intend to offer an amendment that will inject a much needed element of fairness into the bill.

"As presently drafted, Section 15 of S. 2104 would apply retroactively to all cases pending on June 5, 1990, regardless of the age of the case. My amendment will limit the retroactive application of S. 2104 to disparate impact cases for which a complaint was filed after March 1, 1975.

"*To the best of my knowledge, Wards Cove Packing v. Antonio is the only case that falls within this classification.*" (Emphasis added.)

For your convenience, I am attaching a copy of Senator Murkowski's July 11, 1990 letter to his colleagues.

Similarly, a question and answer sheet Senator Murkowski circulated at the time says:

Q. Why does the amendment use a March 1, 1975 date?

A. *The date is keyed to the date the final complaint was filed in the Wards Cove case.* (Emphasis added.)

For your convenience, I am attaching a copy of the question and answer sheet.

Senator Murkowski later added the words "and for which an initial decision was rendered after October 30, 1983" to the amendment to ensure only Wards Cove would be affected. The initial decision on the merits after trial in Wards Cove was filed on November 4, 1983.

Clearly, the provision operates as a piece of special legislation for Wards Cove Packing Company, a firm which apparently financed a wide-scale lobbying effort for the provision.

I have three principal concerns about this provision.

First, the provision undermines precisely the ideas of fairness and equality the civil rights bill is at least partially intended to restore. It tells people an act designed to ensure evenhanded treatment can still be bent for the benefit of special interests.

Even if the civil rights bill could accommodate special rules for individual employers, Wards Cove Packing Company would be a poor candidate for such special treatment.

The Alaska salmon canning industry has had a long history of racial discrimination. Wards Cove Packing Company itself has received some of the sharpest criticism from individual Supreme Court justices in any discrimination case in memory.

Justice Stevens, writing in dissent for four justices in the case, wrote:

"Some characteristics of the Alaska salmon industry described in this litigation—in particular, the segregation of housing and dining facilities and the stratification of jobs along racial and ethnic lines—*bear an unsettling resemblance to aspects of a plantation economy.*" *Wards Cove Packing Co.* v. *Atonio*, 490 U.S. 644 n. 4 (1989). (Emphasis added.)

Similarly, Justice Blackmun, wrote:

"The salmon industry as described by this record *takes us back to a kind of overt and institutionalized discrimination we have not dealt with in years: a total residential and work environment organized on principles of racial stratification and segregation* * * *. This industry has long been characterized by a taste for discrimination of the old-fashioned sort: a preference for hiring nonwhites to fill its lowest-level positions, on the condition that they stay there." *Id.* at 662. (Emphasis added.)

The Court of Appeals also found Wards Cove Packing Company's practices vulnerable to challenge under Title VII, writing,

"Race labelling is pervasive at the salmon canneries, where 'Filipinos' work with the 'Iron Chink' before retiring to their 'Flip bunkhouse.'" *Atonio* v. *Wards Cove Packing Co.*, 827 F.2d 439, 447 (9th Cir. 1987). And other lawsuits involving racial discrimination in the Alaska salmon industry have resulted in broad findings of liability.[1]

Placing Wards Cove Packing Company beyond the reach of the civil rights bill would be an affront to the minority workers—many from Washington—whom the Alaska salmon industry has long confined to menial and low paying jobs.

Second, Wards Cove is an ongoing case which ought not be decided on the basis of special legislation urged by an individual employer. An appeal in the case is currently pending before the Ninth Circuit.

When the case is finally decided, it should be decided on the same rules which apply to other cases.

The civil rights bill—including the disparate impact section—was designed to at least partially restore civil rights law to the settled condition it held for years before the Supreme Court's October 1988 term. Given the concern for continuity, an amendment which would permit a special exemption for only one case is markedly out of place.

I am told Wards Cove Packing Company based much of its lobbying effort on the fact it has spent large sums in defending the case. But these costs are being largely defrayed by insurers, whose liability for them is a matter of public record.

Third, the provision raises grave constitutional questions. Because it represents an effort by legislators to dictate the outcome of a single case by exempting the case from rules of general application, it violates the separation of powers. Because it singles out the Wards Cove plaintiffs for disfavored treatment without any overriding governmental interest, it is vulnerable to an equal protection challenge. And it implicates some of the concerns which underlie the prohibition against bills of attainder.

I would appreciate any efforts you can make to ensure this provision is deleted from the civil rights bill.

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[1] *Domingo* v. *New England Fish Co.*, 727 F.2d 1429 (9th Cir. 1984), *modified*, 742 F.2d 520 (1984); *Carpenter* v. *Nefco-Fidalgo Packing Co.*, C74-407R (W.D. Wash. May 20, 1982) (order on liability).

Thank you for your attention to this.

Yours very truly,

ABRAHAM A. ARDITI.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Utah.

Mr. HATCH. I thank the Chair. I ask unanimous consent that the distinguished Senator from Rhode Island be granted 5 minutes and then we go into the last 30 minutes before the vote.

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

Mr. HATCH. Mr. President, we still have to deal with the technical amendments before we go into the 30 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, it is with considerable relief, and a considerable sense of hope, that I and the other sponsors of S. 1745 see this legislation come before the Senate.

In 1989 the Supreme Court handed down a series of decisions interpreting employment discrimination statutes in what might at best be described as a stingy, cramped manner. At worst the Court threw logic and precedent out the window.

These decisions, as has been noted by most involved in this debate, turn on the very technical, very dry, and not-very-exciting terms and tools used in employment discrimination cases.

It is not the stuff that makes hearts pound. I think we all recognize that. But, nonetheless, these technical points that seem to be no more than an exercise in semantics are very important in ensuring that employees receive fair opportunity and fair treatment in the workplace, and fairness in the workplace is important to all Americans.

Last year, the Senate attempted to change the Court's decisions through civil rights legislation. I supported that. But after a year, that effort broke down amidst a great deal of hard feelings.

Thus, back in October 1990, after the veto override vote in the 1990 Civil Rights Act, the group of those you might call moderate Republicans who voted to override the veto were not in a very cheery mood. So about seven Senators put our heads together last November and thought about crafting a bill that might navigate the rocks and shoals of the legislative process, one that might not be everything to everyone, but one that might become law, thus repairing the damage done by the Court in its 1989 employment discrimination decision.

After much negotiation, this has culminated in the bill before us today. I agree with my friend and colleague, Senator DANFORTH, when he says that race is one issue that we must not allow to divide our Nation. Discrimination based upon race or gender or religion is arguably not the same as it was in the fifties and the sixties. I think we do recognize the discrimination still exists, but in many ways, this discrimination is far more subtle, far more difficult to define.

These forms of discrimination are just as serious as the old version. And we should address them. But not from any political party's point of view, and they should not be used for political gain.

There are many to credit for the compromise we have reached. One of the three individuals is clearly Senator DANFORTH. He has been the moving force behind this effort. The respect accorded to him was shown in the amount of attention that this bill has gotten right from the start.

Another individual is Senator KENNEDY. He has acted in great good faith throughout these discussions. He did not have to do so. I know there are provisions in this bill that he might not have crafted in the same way.

The third individual who deserves credit is the President. I am not talking about the administration, some undefinable group. But I am talking about the President of the United States, George Bush. He said from Day 1 that he wanted a bill, and he struck to his pledge. He did not have to countenance this bill, but he has done so, apparently against the wishes of some of his advisers.

Also, I think the group that helped move this along, the so-called moderate Republicans, deserve some measure of credit, and obvisouly they have done this with great help from both sides.

So in closing, Mr. President, I am delighted that today we are crossing this barrier, crossing the Rubicon, and I am delighted that this bill's passage is coming to pass.

I want to thank the Chair.

Mr. HATCH. Mr. President, I have time to take care of some of these technical amendments.

AMENDMENT NO. 1294 TO AMENDMENT NO. 1274

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. JEFFORDS, for himself, Mr. MITCHELL, and Mr. DOLE, proposes an amendment numbered 1294.

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

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. .—Section 1205 of Public Law 101-628 is amended in subsection (a) by.

(1) striking "Three" in paragraph (4) and inserting "Four" in lieu thereof; and

(2) striking "Three" in paragraph (5) and inserting "Four" in lieu thereof.

Mr. HATCH. Mr. President, this is an amendment for and on behalf of Senator JEFFORDS, and it is a technical amendment that we are adding to the bill at this time. It has been cleared on both sides, to the best of my knowledge.

Mr. JEFFORDS. Mr. President, the purpose of this amendment is to amend the Civil War Sites Study Act of 1990 to provide for the appointment of two additional members to the Civil War Sites Advisory Commission authorized pursuant to section 1205 et seq. of the act. (Public Law 101-628, 16 U.S.C. 1a-5 note). This corrects an oversight in the appointment authority of the original legislation establishing the Commission. The amendment is technical and noncontroversial, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1294) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1295

(Purpose: To clarify that the limitation on damages for intentional employment discrimination applies with respect to each complaining party)

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of myself, Senator KENNEDY, and Senator DANFORTH, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. KENNEDY, and Mr. DANFORTH, proposes an amendment numbered 1295.

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

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

The amendment is as follows:

On page 6, line 14, insert ", for each complaining party" after "exceed".

Mr. HATCH. Mr. President, this is a technical amendment to clarify one of the aspects of the bill with regard to complaining parties that we think clarifies the bill appropriately.

It has been cleared by both sides. I believe it is acceptable to all concerned.

Mr. KENNEDY. Mr. President, this amendment is designed to make clear that the limitations on damage contained in section 5 apply to each complaining party, not to all parties in a single case.

The amount of damages that a victim can recover should not depend on whether that victim files her own lawsuit or joins with other similarly situated victims in a single case. Rather, the amount of damages should depend

on the injury the victim has suffered, subject to the caps. This amendment ensures that the remedy provided in the substitute is available to each individual who has been subjected to abuse.

I urge my colleagues to vote in favor of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 1295) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT REQUEST

Mr. KENNEDY. Mr. President, I have a unanimous-consent request that I am going to make on behalf of the majority leader. I understand that this request is not objected to by the minority.

Mr. President, I ask unanimous consent that immediately following the final disposition of S. 1745, the Finance Committee be discharged from further consideration of Senate Resolution 201, to express the sense of the Senate regarding the enforcement of the oilseeds GATT panel ruling against the European Community, and that the Senate proceed to its immediate consideration; that no amendments be in order to the resolution; that there be 20 minutes equally divided and controlled in the usual form between Senator DANFORTH and a designee of the majority leader; and that the rollcall vote which will be requested be stacked to occur immediately following the first rollcall vote that is taken in consideration of the conference report to accompany the Interior appropriations bill.

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

Mr. KENNEDY. Mr. President, I now ask unanimous consent that it be in order to request the yeas and nays on the adoption of the resolution.

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

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

CIVIL RIGHTS ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, for the benefit of the Members, there is a final technical amendment which we expect will be cleared momentarily. We will then begin final statements on the legislation, for a period not to exceed 30 minutes, and then move to disposition of the legislation.

Mr. HATCH. Mr. President, I believe the minority leader——

Mr. DOLE. Mr. President, I would be happy to use 5 minutes of my leader time while we are waiting for clearance on that potential amendment.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

CIVIL RIGHTS COMPROMISE

Mr. DOLE. Mr. President, for nearly 2 years, President Bush has consistently expressed his willingness to accept a fair and responsible civil rights compromise.

Today, with this historic civil rights agreement, President Bush has delivered on his promise.

From day one, President Bush has been leading the charge for responsible civil rights legislation, not the grab-bag approach advocated by the beltway interest groups and the lawyers' lobby.

When the Patterson and Lorance cases were first decided in 1989, the President immediately proposed remedial legislation.

Last year the President took his civil rights commitment one step further by proposing legislation overturning four of the 1989 Supreme Court decisions and shifting the burden of proof to the employer in disparate impact cases.

This year, the President's efforts culminated with the introduction of the only pending civil rights bill that establishes a monetary remedy specifically for sexual harassment—up to $150,000.

By any standard, the President's civil rights initiative is fair, responsible, comprehensive.

It deserved to be passed last year, and it still deserves to be passed today.

THE COMPROMISE AGREEMENT

Now, there are some in the liberal media who are predictably claiming that the administration somehow gave up too much in the negotiations preceding the final compromise.

This claim is categorically false.

Throughout the negotiations, the administration had two main objectives: First, to ensure that the compromise was drafted in a way that would not force employers to resort to quotas; and second, to ensure that all damage remedies were reasonably capped.

On both counts, the administration has succeeded.

THE COMPROMISE—WARDS COVE

The compromise resolves all of the so-called Wards Cove issues, including the meaning of the term "business necessity."

For nearly 2 years, business necessity has been at the eye of the civil rights storm.

After endless hours of debate, we have finally come up with an acceptable business necessity definition.

Unlike H.R. 1 and the original version of S. 1745, the compromise does not change the "business necessity" standard as it has been defined by the Supreme Court in Griggs versus Duke Power and in subsequent Supreme Court cases.

This standard is intended to be broad and flexible enough to ensure that employers can adopt employment practices that serve a legitimate business goal.

If the business necessity standard is too tough to satisfy—like the standard in H.R. 1 and in the original version of S. 1745—rational employers would have been forced to adopt quotas in order to avoid time-consuming and expensive litigation and, I might add, endless litigation.

Fortunately, the compromise agreement defines the term "business necessity" in a way that reflects the flexible principle outlined by the Supreme Court in Griggs, in New York Transit Authority versus Beazer, and in other Supreme Court cases.

THE COMPROMISE—DAMAGES

The compromise also makes compensatory and punitive damages available for the first time in cases involving intentional discrimination, including sexual harassment.

These damages are capped, setting an important precedent for tort reform.

The caps range from a low-tier of $50,000 for businesses with 16 to 100 employees, to a high-tier of $300,000 for businesses with more than 500 employees.

Ninety-eight percent of all businesses fall within the low tier, which is much lower than the $150,000 cap contained in the President's bill.

With these caps, the incentive for frivolous lawsuits should be significantly reduced.

ONLY WAY OUT OF QUAGMIRE

Mr. President, this compromise is not perfect. It will not satisfy everyone.

But it is the best we can do under the circumstances.

The compromise may not be all things to all people, but it is the only way out of the civil rights quagmire—without producing quotas.

I want to thank my distinguished colleague from Utah, Senator HATCH, for his steadfast commitment—over the past 2 years—to fashioning a bill that will promote equal opportunity, not equal results.

I also want to congratulate my distinguished colleague from Missouri, Senator DANFORTH, who has worked tirelessly to get us where we are today.

Senator DANFORTH's leadership has been the engine driving the compromise effort.

Today, the engine has finally arrived in the station.

Mr. President, I ask unanimous consent that a section-by-section analysis representing the views of the administration, myself, and Senators BURNS, COCHRAN, GARN, GORTON, GRASSLEY, HATCH, MACK, MCCAIN, MCCONNELL, MURKOWSKI, SIMPSON, SEYMOUR, and THURMOND, be reprinted in the RECORD immediately after my remarks.

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

SECTION 1. SHORT TITLE

The legislation may be cited as the "Civil Rights Act of 1991."

SECTION 2. FINDINGS

The Congress finds that this legislation is necessary to provide additional protections and remedies against unlawful discrimination in the workplace. The Congress also finds that by placing the burden on plaintiffs to prove lack of business necessity for employment practices that have a disparate impact, rather than by placing the burden on defendants to prove the business necessity of such employment practices, the Supreme Court's decision in *Wards Cove Packing Co.* v. *Atonio*, 490 U.S. 642 (1989) has weakened the scope and effectiveness of Federal civil rights laws.

SECTION 3. PURPOSES

The purposes of this Act are to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace, to codify the concepts of "business necessity" and "job related" enunciated by the Supreme Court in *Griggs* v. *Duke Power Co.* and in the other Supreme Court decisions prior to *Wards Cove Packing Co.* v. *Atonio*, to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964, and to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.

SECTION 4. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS

Under 42 U.S.C. 1981, persons of all races have the same right "to make and enforce contracts." In *Patterson* v. *McLean Credit Union*, 109 S. Ct. 2363 (1989), the Supreme Court held: "The most obvious feature of the provision is the restriction of its scope to forbidding discrimination in the 'mak[ing] and enforce[ment]' of contracts alone. Where an alleged act of discrimination does not involve the impairment of one of these specific rights, [sec.] 1981 provides no relief."

As written, therefore, section 1981 provides insufficient protection against racial discrimination in the context of contracts. In particular, it provides no relief for discrimination in the performance of contracts (as contrasted with the making and enforcement of contracts). Section 1981, as amended by this Act, will provide a remedy for individuals who are subjected to discriminatory performance of their employment contracts (through racial harassment, for example) or are dismissed or denied promotions because of race. In addition, the discriminatory infringement of contractual rights that do not involve employment will be made actionable under section 1981. This will, for example, create a remedy for a black child who is admitted to a private school as required pursuant to section 1981, but is then subjected to discriminatory treatment in the performance of the contract once he or she is attending the school.

In addition to overruling the *Patterson* decision, this Section of the Act codifies the holding of *Runyon* v. *McCrary*, 427 U.S. 160 (1976), under which section 1981 prohibits private, as well as governmental, discrimination.

SECTION 5. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION

Section 5 makes available compensatory and punitive damages in cases involving intentional discrimination brought under Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act. It sets an important precedent in tort reform by setting caps on those damages, including pecuniary losses that have not yet occurred as of the time the charge is filed, as well as all emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, whenever they occur. Punitive damages are also capped, and are to be awarded only in extraordinarily egregious cases. The damages contemplated in this section are to be available in cases challenging unlawful affirmative action plans, quotas, and other preferences.

SECTION 6. ATTORNEY'S FEES

Section 6 amends 42 U.S.C. 1988 to authorize the award of attorney fees to prevailing parties in cases brought under the new statute (created by Section 5) authorizing damages awards.

SECTION 7. DEFINITIONS

Section 3 adds definitions as those already in Title VII.

SECTION 8. BURDEN OF PROOF IN DISPARATE IMPACT CASES

In *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), the Supreme Court ruled that Title VII of the Civil Rights Act of 1964 prohibits hiring and promotion practices that unintentionally but disproportionately exclude persons of a particular race, color, religion, sex, or national origin unless these practices are justified by "business necessity." Law suits challenging such practices are called "disparate impact" cases, in contrast to "disparate treatment" cases brought to challenge intentional discrimination.

In a series of cases decided in subsequent years, the Supreme Court refined and clarified the doctrine of disparate impact. In 1988, the Court greatly expanded the scope of the doctrine's coverage by applying it to subjective hiring and promotion practices (the Court had previously applied it only in cases involving objective criteria such as diploma requirements and height-and-weight requirements). Justice O'Connor took this occasion to explain with great care both the reasons for the expansion and the need to be clear about the evidentiary standards that would operate to prevent the expansion of disparate impact doctrine from leading to quotas. In the course of her discussion, she pointed out:

"(T)he inevitable focus on statistics in disparate impact cases could put undue pressure on employers to adopt inappropriate prophylactic measures. . . . (E)xtending disparate impact analysis to subjective employment practices has the potential to create a Hobson's choice for employers and thus to lead in practice to perverse results. If quotas and preferential treatment become the only cost-effective means of avoiding expensive litigation and potentially catastrophic liability, such measures will be widely adopted. The prudent employer will be careful to ensure that its programs are discussed in euphemistic terms, but will be equally careful to ensure that the quotas are met." *Watson* v. *Fort Worth Bank & Trust Co.*, 108 S. Ct. 2777, 2787-2788 (1988) (plurality opinion).

The following year, in *Wards Cove Packing Co.* v. *Atonio*, 109 S. Ct. 2115, 2126 (1989), the Court considered whether the plaintiff or the defendant had the burden of proof on the issue of business necessity. This question had not been unambiguously resolved by the Supreme Court. The courts of appeals were divided on the issue. Compare, e.g., *Burwell* v. *Eastern Air Lines*, 633 F.2d 361, 369-372 (4th Cir.) (en banc), cert. denied, 450 U.S. 965 (1980), with *Coker* v. *Boeing Co.*, 662 F.2d 975, 991 (3d Cir. 1981) (en banc). Resolving an ambiguity in the prior law, the Court placed the burden on the plaintiff. See also *Board of Trustees* v. *Sweeney*, 439 U.S. 24 (1978) (per curiam) (resolving similar ambiguity in disparate treatment cases by placing the burden of proof on plaintiffs).

Under this Act, a complaining party makes out a prima facie case of disparate impact when he or she identifies a particular selection practice and demonstrates that the practice has caused a disparate impact on the basis of race, color, religion, sex, or national origin. The burden of proof then shifts to the respondent to demonstrate that the practice is justified by business necessity. It is then open to the complaining party to rebut that defense by demonstrating the availability of an alternative selection practice, comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and that the respondent refuses to adopt such alternative.

The burden-of-proof issue that *Wards Cove* resolved in favor of defendants is resolved by this Act in favor of plaintiffs. *Wards Cove* is thereby overruled. As the narrow title of the Section and its plain language show, however, on all other issues this Act leaves existing law undisturbed.

The requirement of particularity

The bill leaves unchanged the longstanding requirement that a plaintiff identify the particular practice which he or she is challenging in a disparate impact case.

The history of prior legislation introduced on this subject accords with this interpretation. This important issue, often referred to as the "cumulation" issue, has also been referred to be a number of other names: "group of practices"; multiple practices"; "particularity"; "aggregation"; and "causation."

Both S. 2104 and H.R. 4000 (from the 101st Congress), the original bills addressing this issue, would have permitted a plaintiff to sue simply by demonstrating that "a group of employment practices [defined in both bills as "a combination of employment practices that produce one or more employment decisions"] results in disparate impact." For good measure, these bills also specified that "if a complaining party demonstrates that a group of employment practices results in disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact."

This language was modified in several subsequent versions to attempt to address the objection that it would permit suit on simple proof that an employer's bottom line numbers were wrong, and hence lead employers concerned about litigation to engage in quota hiring. In all subsequent versions that passed, however, three central features were retained.

First, all the bills that passed specifically allowed plaintiffs to bring disparate impact suits in some circumstances without isolating a simple employment practice that led to the disparate impact. See H.R. 4000, as passed by less than two-thirds of the House of Representatives in 1990, which permitted suit under some circumstances on the basis of a "group of practices"; S. 2014 as vetoed by President Bush in 1990 (same); H.R. 1 as passed by less than two-thirds of the House of Representatives (same).

Second, all these bills contained a provision generally requiring the plaintiff to identify which specific practice or practices resulted in the disparate impact, but with a gigantic exception relieving the plaintiff of that obligation if he or she could not meet it, after diligent effort, from records or other information of the respondent reasonably available through discovery or otherwise. See H.R. 4000, as passed by less than two-thirds of the House of Representatives in 1990 ("(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact; . . . (iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and (II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact;"); S. 2104 as vetoed by President Bush in 1990 ("(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact; . . . (iii) the complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases unless the court finds after discovery (I) that the respondent has destroyed, concealed or refused to produce existing records that are necessary to make this showing, or (II) that the respondent failed to keep such records; and except where the court makes such a finding, the respondent shall be required to demonstrate business necessity only as to those specific practices demonstrated by the complaining party to have been responsible in whole or in significant part for the disparate impact;") H.R. 1 as passed by less than two-thirds of the House of Representatives ("(B) If a complaining party demonstrates that a disparate impact results from a group of employment practices, such party shall be required after discovery to demonstrate which specific practice or practices within the group results in disparate impact unless the court finds that the complaining party after diligent effort cannot identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact.").

Finally, all of these bills used some word other than "cause" in describing the relationship between the challenged practice(s) and the disparate impact. See H.R. 4000 as passed by less than two-thirds of the House of Representatives in 1990 (a complaining party may prevail by "demonstrat[ing] that a group of employment practices *results in* a disparate impact" although if he or she "can identify, from records or information reasonably available (through discovery or otherwise) which specific practice of practices *contributed* to the disparate impact" he or she must do so); S. 2104 as vetoed by President Bush in 1990 (a complaining party may prevail by "demonstrat[ing] that a group of employment practices *results in* a disparate impact", except that the complaining party "shall be required to demonstrate which specific practice or practices *are responsible* for the disparate impact" unless he or she cannot do so from the respondent's records); H.R. 1 as passed by less than two-thirds of the House in 1991 (same as H.R. 4000).

The Attorney General memorandum that accompanied President Bush's veto message of S. 2104 in 1990 specifically referenced these three features of the bill as the first argument in explaining why it had to be vetoed because it would lead to quotas. Nevertheless, the House of Representatives retained all three features in this year's H.R. 1, which contributed to continued stalemate as the Administration continued to threaten veto on the ground that the legislation would lead to quotas and the House was unable to muster a two-thirds majority in favor of the bill.

S. 1745 as introduced this year by Senator Danforth began to move away from this approach, although they were not addressed in a satisfactory manner in that bill. It required a complaining party to demonstrate that "a particular employment practice or particular employment practices (or decisionmaking process . . .) *cause[d]* a disparate impact." It also required a complaining party to demonstrate "that *each particular* employment practice causes, *in whole or in significant part*, the disparate impact" unless "the complaining party [could] demonstrate . . . that the elements of a respondent's decisionmaking process are not capable of separation for analysis" in which case "the decisionmaking process may be analyzed as one employment practice."

As finally agreed to, S. 1745 retains none of the three problematic features. It *always* requires the complaining party to demonstrate "that the respondent uses *a particular* employment practice that *causes* disparate impact." Language permitting challenge to multiple practices, or to a practice that only causes "a significant part" of the disparate impact has been eliminated. Likewise, there is no language exonerating the complaining party of the obligation to demonstrate that a particular employment practice caused the disparity if he or she cannot do so from records or other information reasonably available from the respondent.

This codification of the *Wards Cove* "particularity" requirement is consistent with every Supreme Court decision on disparate impact. In *no* Supreme Court disparate impact case has a plaintiff ever been permitted to go forward without identifying a particular practice that caused a disparate impact. All the Supreme Court cases focused on the impact of particular hiring practices, and plaintiffs have always targeted these specific practices. *See Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971) (high school diploma and written test); *Albemarle Paper Co.* v. *Moody*, 442 U.S. 405 (1975) (employment tests and seniority systems); *Dothard* v. *Rawlinson*, 433 U.S. 321 (1977) (height and weight requirements); *New York City Transit Authority* v. *Beazer*, 440 U.S. 568 (1979) (exclusion of methadone users); *Connecticut* v. *Teal*, 457 U.S. 440 (1982) (scored written test); *Watson* v. *Fort Worth Bank & Trust Co., 108 S. Ct. 2777 (1988) (subjective supervisory judgments).*

Justice O'Connor's plurality opinion in the *Watson* case, for example, is a full and accurate restatement of the law regarding particularity. Justice O'Connor stated (108 S. Ct. at 2788):

"The plaintiff must begin by identifying the specific employment practice that is challenged. Although this has been relatively easy to do in challenges to standardized tests, it may sometimes be more difficult when subjective selection criteria are at issue. Especially in cases where an employer combines subjective criteria with the use of more rigid standardized rules or tests, the plaintiff is in our view responsible for isolating and identifying the specific employment practices that are allegedly responsible for any observed statistical disparities."

Justice O'Connor then went on to explain that "[o]nce the employment practice at issue has been identified, causation must be proved; that is, the plaintiff must offer statistical evidence of a kind and degree sufficient to show that the practice in question has caused the exclusion of applicants for jobs or promotions because of their membership in a protected group." *Id.* at 2788–89.

Significantly, Justice Blackmun, who was joined by Justices Brennan and Marshall in a concurring opinion in Watson, did not dissent from Justice O'Connor's formulation of the particularity requirement. Although Justice O'Connor's opinion on the particularity issue was quite detailed and explicit, Justice Blackmun's opinion hardly addressed that issue at all. He merely noted in a footnote at the end of his opinion (108 S. Ct. at 2797, n. 10) that "the requirement that a plaintiff in a disparate-impact case specify the employment practice responsible for the statistical disparity" cannot "be turned around to shield from liability an employer whose selection process is so poorly defined that no specific criterion can be identified with any certainty, let alone be connected to the disparate effect." Thus, Justices Blackmun, Brennan and Marshall expressly recognized "the requirement that a plaintiff in a disparate-impact case specify the employment practice responsible for the statistical disparity." These Justices would only have dispensed with that requirement if the employer's selection process was "so poorly defined" that identification of a specific selection criterion with any certainty was impossible.

The particularity requirement is only fair. For a plaintiff to be allowed simply to point to a racial imbalance, and then require the employer to justify every element of his selection practice, would be grossly unfair, and would turn Title VII into a powerful engine for racial quotas.[1]

This particularity requirement is not unduly burdensome. Where a decisionmaking process includes particular, functionally-integrated elements which are components of the same test, those elements may be analyzed as one employment practice. For instance, a 100-question intelligence test may be challenged and defended as a whole; it is

[1] It should also be noted that in 1982 the Supreme Court held in Connecticut versus Teal that an employer cannot justify a particular practice that has a disparate impact simply by pointing to a racially balanced bottom line. So it would make no sense at all if a plaintiff could point to a racially unbalanced bottom line without identifying a particular practice.

not necessary for the plaintiff to show which particular questions have a disparate impact. This is the principle for which the Dothard case is cited in the agreed-upon legislative history. There, the combination of height and weight was used as a single test to measure strength.

Finally, the phrase "not capable of separation for analysis" means precisely that. It does not apply when the process of separation is merely difficult or may entail some expense—for example, where a multiple regression analysis might be necessary in order to separate the elements. It also does not apply in situations where records were not kept or have been destroyed. In such circumstances, the elements obviously are separable.

Senator Kennedy's *post hoc* suggestion at p. 15,233 of volume 137 of the October 25, 1991 daily edition of the Congressional Record that situations of this type are meant to be covered by this language is accordingly inconsistent with the language he purports to be construing. The example offered by Senator Kennedy also clearly is not included in the "exclusive legislative history" on the *Wards Cove* issues first incorporated into an interpretive memorandum agreed to that day by Senators Danforth, Kennedy and Dole before Senator Kennedy made his floor speech, and now made the exclusive legislative history by statutory provision. See sec. 8(b) of this bill.

In sum, the particularity provision of the compromise bill does exactly what the President has insisted all along that it do. It leaves the *Wards Cove* case law (which is the same as *Griggs* and all other Supreme Court cases) in place, and requires that plaintiffs identify the particular practice they are challenging.

The defendant's evidentiary standard: Job relatedness and business necessity

The bill embodies longstanding concepts of job-relatedness and business necessity and rejects proposed innovations. In short, it represents an affirmation of existing law, including *Wards Cove*.

For almost two years and through numerous legislative attempts and proposals, Congress sought to define business necessity; this bill rejects and displaces the following legislative proposals:

S. 2104 as introduced (Kennedy):

"(o) The term 'required by business necessity' means essential to effective job performance," Rejected.

S. 2104 as passed by the Senate on 7/18/90:

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs* v. *Duke Power Co.* (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co., Inc.* v. *Atonio* (109 S.Ct. 2115 (1989))." Rejected.

House Amendment to S. 2104 (passed by House 8/3/90):

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs* v. *Duke Power Co.* (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co., Inc.* v. *Atonio* (109 S.Ct. 2115(1989))." Rejected.

Conference Report on S. 2104 (vetoed by the President):

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection such as tests, recruitment, evaluations, or requirements of education, experience, knowledge, skill, ability or physical characteristics, or practices primarily related to a measure of job performance, the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of other employment decisions, not involving employment selection practices as covered by subparagraph (A) (such as, but not limited to, a plant closing or bankruptcy), or that involve rules relating to methadone, alcohol or tobacco use, the practice or group of practices must bear a significant relationship to a manifest business objective of the employer.

"(2) In deciding whether the standards described in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may receive such evidence as statistical reports, validation studies, expert testimony, performance evaluations, written records or notes related to the practice or decision, testimony of individuals with knowledge of the practice or decision involved, other evidence relevant to the employment decision, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs* v. *Duke Power Co.* (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co.* v. *Atonio* (109 S.Ct. 2115(1989))." Rejected.

H.R. 1 as introduced (Brooks):

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs* v. *Duke Power Co.* (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co., Inc.* v. *Atonio* (109 S.Ct. 2115(1989))." Rejected.

H.R. 1 as amended and passed by the House (Brooks-Fish):

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

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

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

S. 1208 (Danforth):

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices involving selection, that the practice or group of practices bears a manifest relationship to requirements for effective job performance; and

"(2) in the case of other employment decisions not involving employment selection practices as described in paragraph (1), the practice or group of practices bears a manifest relationship to a legitimate business objective of the employer.

"(p) The term 'requirements for effective job performance' includes—

"(1) the ability to perform competently the actual work activities lawfully required by the employer for an employment position; and

"(2) any other lawful requirement that is important to the performance of the job, including factors such as punctuality, attendance, a willingness to avoid engaging in misconduct or insubordination, not having a work history demonstrating unreasonable

job turnover, and not engaging in conduct or activity that improperly interferes with the performance of work by others." Rejected.

S. 1408 (Danforth):

"(n) The term 'required by business necessity' means—

"(1) in the case of employment practices that are used as job qualifications or used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

"(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

"(o) The term 'employment in question' means—

"(1) the performance of actual work activities required by the employer for a job or class of jobs; or

"(2) any requirement related to behavior that is important to the job, but may not comprise actual work activities." Rejected.

S. 1745 as introduced (Danforth):

"(n) The term 'the employment in question' means—

"(1) the performance of actual work activities required by the employer for a job or class of jobs; or

"(2) any behavior that is important to the job, but may not comprise actual work activities.

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices that are used as qualification standards, employment tests, or other selection criteria, the challenged practice must bear a manifest relationship to the employment in question; and

"(2) in the case of employment practices not described in paragraph (1), the challenged practice must bear a manifest relationship to a legitimate business objective of the employer." Rejected.

All of these prior versions were rejected.

In the place of these definitions of business necessity, the compromise bill says that the challenged practice must be *"job-related for the position in question and consistent with business necessity."* Since neither term is defined in the bill, the "Purposes" section is controlling.

In its original "Purposes" clause, S. 1745 said in pertinent part that the "purposes of this Act are . . . to overrule the proof burdens and meaning of business necessity in *Wards Cove Packing Co.* v. *Atonio* and to codify the proof burdens and the meaning of business necessity used in *Griggs* v. *Duke Power Co.* . . ." By contrast, the compromise bill's "Purposes" clause says that "[t]he purposes of this Act are—. . . to codify the concepts of 'business necessity' and 'job-related' enunciated by the Supreme Court in *Griggs* v. *Duke Power Co.*, and in the other Supreme Court decisions prior to *Wards Cove Packing Co.* v. *Atonio*." Thus, the bill is no longer designed to overrule the meaning of business necessity in *Wards Cove*. (Attorney General Thornburgh's October 22, 1990 Memorandum to the President had objected, at 5–6, to a provision of S. 1204 that would have overruled Wards Cove's "treatment of business necessity as a defense.") Instead, the bill seeks to codify the meaning of "business necessity" in *Griggs* and other pre-*Wards Cove* cases—a meaning which is fully consistent with the use of the concept in *Wards Cove*.

The relevant Supreme Court decisional law which is to be codified can be summarized as follows. *Griggs* said: ". . . any given requirement must have a manifest relationship to the employment in question." 401 U.S. at 432. There is no two-tier definition, no subdefinition of the term "employment in question." The Court also said in *Griggs*: "Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins." *Id.* at 436.

As explained in the Attorney General's letter of June 21, 1991 to Senator Danforth, and again in the Attorney General's October 22, 1990 Memorandum to the President, this is the consistent standard applied by the Supreme Court. As the Attorney General stated to Senator Danforth, "an unbroken line of Supreme Court cases confirms" that the operative standard was " 'manifest relationship to the employment in question.' " The Court has used this phrase in *Albermarle Paper Co.* v. *Moody*, 422 U.S. at 425 (1975); *Dothard* v. *Rawlinson*, 433 U.S. at 329 (1977); *New York Transit Authority* v. *Beazer*, 440 U.S. at 587 n.31 (1979); *Connecticut* v. *Teal*, 457 U.S. at 446 (1982) (a Justice Brennan opinion); and *Watson* v. *Ft. Worth Bank and Trust*, 108 S.Ct. at 1790 (O'Connor plurality opinion for four Justices). Even Justice Stevens' dissent in *Wards Cove*, joined by Justices Brennan, Marshall, and Blackmun, cites the "manifest relationship" language at least three times as the applicable disparate impact standard. 109 S.Ct. at 2129, 2130 n.14.

Particularly significant among prior cases is the Supreme Court's 1979 decision in *New York City Transit Authority* v. *Breazer* 440 U.S. 568 (1979). This decision was well known to all sides in the negotiations and debates over the present bill. The *Beazer* case involved a challenge to the New York Transit Authority's blanket no-drug rule, as it applied to methadone users seeking non-safety sensitive jobs. A lower court had found a Title VII disparate impact violation. The Supreme Court, however, reversed: "At best, the [plaintiffs'] statistical showing is weak; even if it is capable of establishing a prima facie case of discrimination, it is assuredly rebutted by [the employer's] demonstration that its narcotics rule (and the rule's application to methadone users) is 'job related. . . .' " The Court noted that the parties agreed "that [the employer's] legitimate employment goals of safety and efficiency require the exclusion of all users of illegal narcotics. . . . Finally, the District court noted that those goals are significantly served by—even if they do not require—[the employer's] rule as it applies to all methadone users, including those who are seeking employment in on-safety-sensitive positions. The record thus demonstrates that [the employer's] rule bears a 'manifest relationship to the employment in question.' " *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 432. *Id.* at 587, n. 31.

The Supreme Court's formulation in *Wards Cove* of the appropriate evidentiary standard defendants must meet is not only based upon that in *Beazer*, but is nearly identical with it. By removing the language in the purposes clause stating the bill overruled *Wards Cove* with respect "to the meaning of business necessity," by substituting the language in the compromise purposes section referring to Supreme Court decisions prior to *Wards Cove*, and by removing the definitions of business necessity or job-related and any definition of "employment in question," the present bill has codified the "business necessity" test employed in *Beazer* and reiterated in *Wards Cove*.

The language in the bill is thus plainly not intended to make that test more onerous for employers to satisfy than it had been under current law.

Furthermore, "job related for the position in question" is to be read broadly, to include any legitimate business purpose, even those that may not be strictly required for the actual day-to-day activities of an entry level job. Rather, this is a flexible concept that encompasses more than actual performance of actual work activities or behavior important to the job. See *Washington* v. *Davis*, 426 U.S. 229, 249–251 (1976). Thus, those purposes may include requirements for promotability to other jobs. There has never been any suggestion in the language or holdings of pre-Wards Cove cases that such purposes are not legitimately considered. Even Justice Stevens' *dissent* in *Wards Cove* stated the definition of business necessity quite broadly—it is required only that the challenged practice "serves a valid business purpose." 490 U.S. at 665.

Alternative practices with less adverse effect

The bill provides that a complaining party may establish that an employment practice has an unlawful disparate impact if he demonstrates the existence of an "alternative employment practice and the respondent refuses to adopt such alternative employment practice," where that demonstration is "in accordance with the law as it existed on June 4, 1989," i.e., the day before *Wards Cove* was decided.

The standards outlined in *Albemarle Paper Co.*, and *Watson* should apply.

The Supreme Court indicated in *Albemarle* that plaintiffs can prevail if they "persuade the factfinder that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate [hiring] interest[s]; by so demonstrating, [plaintiffs] would prove the defendants were using their tests merely as a 'pretext' for discrimination." Any alternative practices which plaintiffs propose must be equally effective in achieving the employer's legitimate business goals. As was pointed out in *Watson:* "Factors such as the cost or other burdens of proposed alternative selection devices are relevant in determining whether they would be equally as effective as the challenged practice in serving the employer's legitimate goals." 108 S. Ct., at 2790. In making these judgments, the judiciary should bear carefully in mind the fact that "[c]ourts are generally less competent than employers to restructure business practices, and unless mandated to do so by Congress they should not attempt it." *Furnco Construction Corp.* v. *Waters*, 438 U.S. 567, 578 (1978).

Therefore, unless the proposed practice is comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, the plaintiff should not prevail.

SECTION 9. DISCRIMINATORY USE OF TEST SCORES

Section 9 means exactly what it says: race-norming or any other discriminatory adjustment of scores or cutoff points of any employment related test is illegal. This means, for instance, that discriminatory use of the Generalized Aptitude Test Battery (GATB) by the Department of Labor's and state employment agencies' is illegal. It also means that race-norming may not be ordered by a court as part of the remedy in *any* case, nor may it be approved by a court as a part of a consent decree, when done because of the disparate impact of those test scores. Seen *Bridgeport Guardians, Inc.* v. *City of Bridgeport*, 933 F.2d 1140 (2d Cir. 1991).

It is important to note, too, that this section in no way be interpreted to discourage

employers from using tests. Frequently tests are good predictors and helpful tools for employers to use. Indeed, Title VII contains a provision specifically designed to protect the use of tests. See 42 U.S.C. 2000e–2(h). Rather, the section intends only to ban the discriminatory adjustment of test scores or cutoffs.

SECTION 10. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES

Section 10 of the bill addresses the holding in *Price Waterhouse* v. *Hopkins*, S. Ct. 1775 (1989), in which the Court ruled in favor of the woman who alleged that she had been denied partnership by her accounting firm on account of her sex. The Court there faced a case in which the plaintiff alleged that her gender had supplied part of the motivation of her rejection for partnership. The Court held that once she had established by direct evidence that sex played a substantial part in the decision, the employer could still defeat liability by showing that it would have reached the same decision had sex not been considered.

Section 10 allows the employer to be held liable if discrimination was a motivating factor in causing the harm suffered by the complainant. Thus, such discrimination need not have been the sole cause of the final decision.

The provision also makes clear that if an employer establishes that it would have taken the same employment action absent consideration of race, sex, color, religion, or national origin, the complainant is not entitled to reinstatement, backpay, or damages.

It should also be stressed that this provision is equally applicable to cases involving challenges to unlawful affirmative action plans, quotas, and other preferences.

SECTION 11. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT DECREE JUDGMENTS OR ORDERS.

In *Hansberry* v. *Lee*, 311 U.S. 32, 40–41 (1940) (citations omitted), the Supreme Court held:

"It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in personam in which he is not designated as a party or to which he has not been made a party by service of process. . . . A judgment rendered in such circumstances is not entitled to the full faith and credit which the Constitution and statutes of the United States . . . prescribe, . . . and judicial action enforcing it against the person or property of the absent party is not that due process which the Fifth and Fourteenth Amendments require."

In *Hansberry*, Carl Hansberry and his family, who were black, were seeking to challenge a racial covenant prohibiting the sale of land to blacks. One of the owners who wanted the covenant enforced argued that the Hansberrys could not litigate the validity of the convenant because that question has previously been adjudicated, and the convenant sustained, in an earlier lawsuit, although the Hansberrys were not parties in that lawsuit. The Illinois court had ruled that the Hansberrys' challenge was barred, but the Supreme court found that this ruling violated due process and allowed the challenge.

In *Martin* v. *Wilks*, 109 S. Ct. 2180 (1989), the Court confronted a similar argument. That case involved a claim by Robert Wilks and other white fire fighters that the City of Birmingham had discriminated against them by refusing to promote them because of their race. The City argued that their challenge was barred because the City's promotion process had been sanctioned in a consent decree entered in an earlier case between the City and a class of black plaintiffs, of which Wilks and the white fire fighters were aware, but in which they were not parties. The Court rejected this argument. Instead, it concluded that the Federal Rules of Civil Procedures required that persons seeking to bind outsiders to the results of litigation have a duty to join them as parties, see Fed. R. Civ. P. 19, unless the court certified a class of defendants adequately represented by a named defendant, see Fed. R. Civ. P. 23. The Court specifically rejected the defendants' argument that a different rule should obtain in civil rights litigation.

Under specified conditions, Section 11 of the bill would preclude certain challenges to employment practices specifically required by court orders or judgments entered in Title VII cases. This Section would bar such challenges by any person who was an employee, former employee, or applicant for employment during the notice period and who, prior to the entry of the judgment or order, received notice of the judgment in sufficient detail to apprise that person that the judgment or order would likely affect that person's interests and legal rights; of the relief in the proposed judgment; that a reasonable opportunity was available to that person to challenge the judgment or order by future date certain; and that the person would likely be barred from challenging the proposed judgment after that date. The intent of this section is to protect valid decrees from subsequent attack by individuals who were fully apprised of their interest in litigation and given an opportunity to participate, but who declined that opportunity.

In particular, the phrase "actual notice . . . appris[ing] such person that such judgment or order might adversely affect the interests and legal rights of such person," means of course that the notice itself must make clear that potential adverse effect. And this, in turn, means also that the discriminatory practice at issue must be clearly a part of the judgment or order. Otherwise, it cannot credibly be asserted that the potential plaintiff was given adequate notice. Thus, where it is only by later judicial gloss or by the earlier parties' implementation of the judgment or order that the allegedly discriminatory practice becomes clear, Section 11 would not bar a subsequent challenge. Moreover, the adverse effect on the person barred must be a likely or probable one, not a mere possibility. Otherwise, people would be encouraged to rush into court to defend against any remote risk to their rights, thus unnecessarily complicating litigation. Finally, the notice must include notice of the fact that the person must assert his or her rights or lose them. Otherwise, it will be insufficient to apprise the individual "that such judgment or order might adversely affect" his or her interests.

"Adequate representation" requires that the person enjoy a privity of interest with the later party. This is because in Section 11 both "(n)(1)(B)(i)" and "(n)(1)(B)(ii)" must be construed with "(n)(2)(D)" so that people's due process rights are not jeopardized. And the Supreme Court has stated clearly: "It is a violation of due process for a judgment to be binding on a litigant who was not a party or a privy and therefore never had an opportunity to be heard." *Parklane Hosiery Co.* v. *Shore*, 439 U.S. 322, 327 n.7 (1979).

SECTION 12. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT

Section 12 extends the protections of Title VII and the ADA extraterritorially. It adopts the same language as the ADEA to achieve this end.

In addition, the section makes clear that employers are not required to take actions otherwise prohibited by law in a foreign place of business.

SECTION 13. EDUCATION AND OUTREACH

Section 13 provides for certain educational and outreach activities by the EEOC. These activities are to be carried out in a completely nonpreferential manner.

SECTION 14. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS

Section 14 overrules the holding in *Lorance* v. *AT&T Technologies, Inc.*, 109 S. Ct. 2261 (1989), in which female employees challenged a seniority system pursuant to Title VII, claiming that it was adopted with an intent to discriminate against women. Although the system was facially nondiscriminatory and treated all similarly situated employees alike, it produced demotions for the plaintiffs, who claimed that the employer had adopted the seniority system with the intention of altering their contractual rights. The Supreme Court held that the claim was barred by Title VII's requirement that a charge must be filed within 180 days (or 300 days if the matter can be referred to a state agency) after the alleged discrimination occurred.

The Court held that the time for plaintiffs to file their complaint began to run when the employer adopted the allegedly discriminatory seniority system, since it was the adoption of the system with a discriminatory purpose that allegedly violated their rights. According to the Court, that was the point at which plaintiffs suffered the diminution in employment status about which they complained.

The rule adopted by the Court is contrary to the position that had been taken by the Department of Justice and the EEOC. It shields existing seniority systems from legitimate discrimination claims. The discriminatory reasons for adoption of a seniority system may become apparent only when the system is finally applied to affect the employment status of the employees that it covers. At that time, the controversy between an employer and an employee can be focused more sharply.

In addition, a rule that limits challenges to the period immediately following adoption of a seniority system will promote unnecessary, as well as unfocused, litigation. Employees will be forced either to challenge the system before they have suffered harm or to remain forever silent. Given such a choice, employees who are unlikely ever to suffer harm from the seniority system may nonetheless feel that they must file a charge as a precautionary measure—an especially difficult choice since they may be understandably reluctant to initiate a lawsuit against an employer if they do not have to.

Finally, the *Lorance* rule will prevent employees who are hired more than 180 (or 300) days after adoption of a seniority system from ever challenging the adverse consequences of that system, regardless of how severe they may be. Such a rule fails to protect sufficiently the important interest in eliminating employment discrimination that is embodied in Title VII.

Likewise, a rule that an employee may sue only within 180 (or 300) days after becoming subject to a seniority system would be unfair

to both employers and employees. The rule fails to protect seniority systems from delayed challenge, since so long as employees are being hired someone will be able to sue. And, while this rule would give every employee a theoretical opportunity to challenge a discriminatory seniority system, it would do so, in most instances, before the challenge was sufficiently focused and before it was clear that a challenge was necessary. Finally, most employees would be reluctant to begin their jobs by suing the employers.

Section 14 is not intended to disturb the settled law that disparate impact challenges may not be brought against seniority systems. See *TWA* v. *Hardison*, 432 U.S. 63, 82 (1977); *American Tobacco Co.* v. *Patterson*, 456 U.S. 63, 65, 69 (1982; *Pullman-Standard* v. *Swint*, 456 U.S. 273, 289 (1982).

SECTION 15. AUTHORIZING AWARD OF EXPERT FEES

Section 15 authorizes the recovery of a reasonable expert witness fee by prevailing parties. See *West Virginia University Hospitals, Inc.* v. *Casey*, No. 89-994 (U.S. Sup. Ct. Mar. 19, 1991); cf. *Crawford Fitting Co.* v. *J.T. Gibbons, Inc.* 482 U.S. 437 (1987). The provision is intended to allow recovery for work done in preparation of trial as well as after trial has begun.

In exercising its discretion, the court should ensure that fees are kept within reasonable bounds. Fees should never exceed the amount actually paid to the expert, or the going rate for such work, whichever is lower.

SECTION 16. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT

Section 16 extends the period for filing a complaint against the Federal government pursuant to Title VII from 30 days to 90 days. It also authorizes the payment of interest to compensate for delay in the payment of a judgment according to the same rules that govern such payments in actions against private parties.

SECTION 17. NOTICE OF LIMITATIONS PERIOD UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

This section generally conforms procedures for filing charges under the ADEA with those used for other portions of Title VII. In particular, it provides that the EEOC shall notify individuals who have filed charges of the dismissal or completion of the Commission's proceedings with respect to those charges, and allows those individuals to file suit from 60 days after filing the charge until the expiration of 90 days after completion of those proceedings. This avoids the problems created by current law, which imposes a statute of limitations on the filing of suit regardless of whether the EEOC has completed its action on an individual's charge.

SECTION 18. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION, AND CONCILIATION AGREEMENTS NOT AFFECTED

Section 18 specifies that nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements, that are in accordance with the law. Thus, this legislation makes no change in this area to Title VII of the Civil Rights Act of 1964, which states:

"It shall be an unlawful employment practice for an employer

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. 2000e-2(a).

This legislation does not purport to resolve the question of the legality under Title VII of affirmative action programs that grant preferential treatment to some on the basis of race, color, religion, sex or national origin, and thus "tend to deprive" other "individual[s] of employment opportunities . . . on the basis of race, color, religion, sex, or national origin." In particular, this legislation should in no way be seen as expressing approval or disapproval of *United Steelworkers* v. *Weber*, 443 U.S. 193 (1979), or *Johnson* v. *Transportation Agency* 480 U.S. 616 (1987), or any other judicial decision affecting court-ordered remedies, affirmative action, or conciliation agreements.

SECTION 20. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

This provision encourages the use of alternative means of dispute resolution, including binding arbitration, where the parties knowingly and voluntarily elect to use these methods.

In light of the litigation crisis facing this country and the increasing sophistication and reliability of alternatives to litigation, there is no reason to disfavor the use of such forums. See *Gilmer* v. *Interstate/Johnson Lane Corp.*, 111 S. Ct. 1647 (1991).

SECTION 21. SEVERABILITY

Section 21 states that if a provision of this Act is found invalid, that finding will not affect the remainder of the Act.

SECTION 22. EFFECTIVE DATE

Section 22 specifies that the Act and the amendments made by the Act take effect upon enactment. Accordingly, they will not apply to cases arising before the effective date of the Act. See *Bowen* v. *Georgetown University Hospital*, 488 U.S. 204 (1988); *cf. Kaiser Aluminum & Chemical Corp.* v. *Bonjorno*, 110 S. Ct. 1570 (1990) (declining to resolve conflict between *Georgetown University Hospital* and *Bradley* v. *Richmond School Board*, 416 U.S. 696 (1974)). At the request of the Senators from Alaska, section 22(b) specifically points out that nothing in the Act will apply retroactively to the Wards Cove Packing Company, an Alaska company that spent 24 years defending against a disparate impact challenge.

Mr. HATCH. Mr. President, I asked Senator GRASSLEY about this amendment, and he just wants to look at it. I think it will be in fine shape and it will be all right. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I have been tied up in other matters during the debate on this bill, but I want to express my support for the Civil Rights Act of 1991. I know it has been a difficult process to bring it to this point, and I congratulate all on both sides of the aisle who have worked hard and long to move the bill to this stage.

This bill, for the first time, makes it clear that victims, of intentional discrimination on the basis of sex, religion, or disability are entitled to compensatory and punitive damages, as are victims of intentional job discrimination on the basis of race, under current law.

I do, however, have serious constitutional reservations about one part of this bill—those provisions that extend coverage of certain antidiscrimination acts to employment by the Senate. While I believe it is important for victims of discrimination to have a procedure under which they may seek redress, I believe—as I indicated by voting for the Rudman amendment—that judicial appellate review as the final step of the process is not constitutional. I strongly believe in the doctrine of the separation of powers, and I believe that such judicial review is an unconstitutional intrusion into the internal affairs of the Senate. But if coverage of these antidiscrimination laws is to be extended to the Senate, I also believe it should be extended to the judicial branch.

They employ people. Why should it not be extended to the judicial branch? Is there anyone who believes that sexual harassment has never occurred, never occurs, or never will occur in the judicial branch?

I also wish to make clear that if a rollcall vote had been taken on the Grassley-Mitchell amendment, I would have voted in favor of the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering S. 1745, and at this moment the Danforth amendment is pending.

Mr. BUMPERS. Mr. President, I want to make a few comments about this legislation, which has had such a tortuous beginning and ending, and to say that when I reflect on what has happened in civil rights in this country over the past 3 decades it has been just short of monumental.

We talk about all these bloodless revolutions that have taken place in Eastern Europe, and we are all immensely gratified by them. But I have a tendency to believe that the revolution that has occurred in this country

which was also bloodless, was even greater. But over the past 30 years it has lost some of its steam and its momentum, and while there has been no legal turning back of the clock, there has been a growing indifference in the area of civil rights.

There is an old expression that lovers can stand hatred and contempt better than they can stand indifference.

And so it is altogether proper that the Senate is considering this bill. I am very pleased that the President has agreed to it, and I am hopeful that the House will soon also sign off on it. It is a pretty dramatic and complex bill and is something of an experiment. This bill does indeed carry us further in the civil rights arena than most people would have dared believe we would go a year or two ago.

When the President continued to oppose this legislation, saying that it was a quota bill, I think he was referring to the provision in the bill that allows people to show that there is a disparate impact; in other words, that a business has a smaller proportion of minority employees than are represented in the applicant pool and that therefore businesses would hire by quotas so they could not be fairly charged with discrimination.

I prefer to believe that if there is anything about this bill that would make it lead to quotas, it is the fear, the inordinate fear of the business community in this country of the damage provisions, both compensatory and punitive which have been added to civil rights for the first time. It was often said during the rather acrimonious debate last year, and much less acrimonious debate this year, that this bill simply reversed five Supreme Court decisions. Mr. President, it does much more than that. It provides compensatory and punitive damages in cases of intentional discrimination under title VII of the Civil Rights Act. This is an immensely complex bill. Do not let anybody kid you. This is a complex bill.

Now, I am frank to tell you that last summer, when Senator DANFORTH and some people on this side of the aisle were negotiating, there were four Democrats appointed by the majority leader who played a role in these negotiations and I was one of them. But the role I played, mostly in negotiating what we hoped would be a compromise that President Bush would sign off on, was primarily in trying to negotiate damage provisions. As I said then and repeat now, the quota aspect of this bill, if there is one, is the inordinate fear of the business community of compensatory and punitive damages. I always believed that was the reason they might hire by quota, so that they could not ever be fairly accused of intentionally discriminating and face punitive damages.

It has been said to the press and perhaps on the floor that the Senator from Massachusetts and the majority leader, Senator MITCHELL, will introduce a bill to take all the caps or limits off the damage provisions once the President has signed this bill. It goes without saying that I think that is a mistake.

Now I know that there are perhaps a majority of people on this side of the aisle that will support unlimited damages. I want to point out that this bill is even more liberal with respect to damages than the one I negotiated back in July. We had agreed on $50,000 combined compensatory and punitive damages for employers with 100 employees or less, and $100,000 combined compensatory and punitive damages for employers with 100 to 500 employees, and $300,000 combined for every company that had more than 500 employees.

As you now know, we have a fourth category which adds $100,000 combined damages for employers with 100 to 200, $200,000 for those between 200 and 500, and $300,000 for all of those over 500 employees. It is also true that you have to allege and prove intentional, malicious, willful discrimination in order to receive those damages under this bill, and certainly that is as it should be. It is a heavy burden for plaintiffs.

Mr. President, the job of the U.S. Senate is to craft legislation on civil rights that is strong enough to dissuade people from discriminating against their employees on the basis of race, sex, disability, or religious belief but not so liberal that it literally promotes litigation. That is a very delicate, difficult balance to achieve.

But I want to say this, that one of the reasons I strongly support the caps on the damage provisions in this bill, and the reason I will resist the proposal of the Senator from Massachusetts to remove it, is because I have been both a country lawyer and a small businessman. And I confess that as a country lawyer, I filed lawsuits that did not have an awful lot of merit but that I knew had settlement value. Any honest trial lawyer worth his salt will tell you he has done that. Some might deny it, but I promise you they have all done it. And I can only tell you that as a small businessman—when I was a small hardware, furniture, appliance manufacturer, a lawsuit againsts me for $50,000 in punitive damages would have made me go ballistic because I did not have $50,000 nor any place to lay my hands on such a sum.

So, here is what I think we ought to do. We ought to allow this bill to go into effect and see what happens. Let us wait and see if it generates a spate of litigation. Let us see if we have case after case after case of small business people being sued for the maximum punitive and compensatory damages allowable under this bill for settlement purposes, and small business people saying to their lawyers, "See what's the least amount you can get me out of this for, no matter the merit or lack of merit."

Take the hypothetical case of John Jones who has worked all of his life to build a business. Let us assume, for easy figuring, that John is in a very competitive business and has 100 employees. His two sons have joined him in his business and John hopes that those two sons will be successful and carry on the business that he has so laboriously and tediously put together with determination and hard work.

Let us assume that John fires an employee—a woman, a member of a racial minority, a religious minority, or disabled person—and let us assume further, incidentally, that John Jones believes with all of his heart, with no malice, no vengeance, that that employee is being discharged because that employee is not carrying his or her weight.

So the first thing John knows he has been sued for reinstatement, backpay, and $50,000 in compensatory and punitive damages.

That is a lot of money because let's assume John has set aside $250,000 as a nestegg for retirement. I can tell you if things are like they used to be 20 years ago when I practiced law, John is going to tell his lawyers: See if you can settle this thing for $10,000. Or see if you can settle it for $20,000, or whatever. Because he knows if he has to go to the mat, he is going to be out $20,000 in attorney's fees. And even if he wins, he is out $20,000 in attorney's fees.

Second case, same situation but no caps on the damage provisions in the bill. Let us assume that January, February of next year the U.S. Congress elects to adopt the provision that the Senator from Massachusetts says he is going to offer. I have no doubt it will come out of his committee. Assume the same situation, only this time the fired employee sues for $5 million in compensatory and punitive damages because there are no limits on punitive damages.

So here is John Jones who has worked a lifetime to build a business, and I can tell you he can't stand the thought of being exposed to a runaway jury. Therein lies one of the real problems in this whole thing. Everybody worries about a runaway jury.

Recently, a woman sued Texaco and got $20 million, virtually all of it in punitive damages. So what do you think John Jones says to his lawyers this time when it is a $5 million allegation for compensatory and punitive damages? This time he says to his lawyer, see what is the least you can get me out of this for. And the plaintiff's attorney comes back and says they are dead serious. He says, "We think this was willful, malicious discrimination. We want the whole $5 million."

At that point John has to make a judgment. Make an offer of say $100,000. Or should he offer $200,000 which takes

his life savings but it might save the business for his sons. Or does he go to the mat and say I am going to fight this thing until the last dog dies?

Let us assume he takes the latter alternative and says, "I am going to fight it out with them. I am not guilty and I believe in our judicial system." So he says, "I am going to court," knowing he is probably going to be out $50,000 to $100,000 in attorney's fees. And then let us assume a judgment of $500,000 is rendered against him for punitive damages.

Now, John has some more choices. He can take bankruptcy and try to reorganize his business, or he can fold his tent. In this situation, the plaintiff probably will not be able to collect the judgment and in addition 99 other people are put out of work. Add to the scenarios that this is a little town of 2,000 people in Arkansas, which is the population of my hometown. We do not have anybody that employees 100 people, but if we did, we would revere that employer and cherish him and we would die 1,000 deaths if this happened to him and we lost 100 jobs in this little community.

Somebody might say, "Senator, do you realize that if you are female and black, or a racial minority, you can sue under the old section 1981 post-Civil War statute and you are not limited by any damage caps for punitive damages?"

Yes, I know that. You can sue under the old section 1981 or 1866, but bear in mind that that law covers only contractual relationships between plaintiff and the defendant. Section 1981 is not hiring and firing and job promotion as title VII of the Civil Rights Act is.

So my answer to that is this: Section 1981 is still the law and minority women and minority men can sue for unlimited damages where a contractural relationship has been breached for racial reasons. And now we have added very substantial compensatory and punitive damages for all women—black and white—all religious minorities, and all people with disabilities. That is a very substantial gain for the women of this Nation.

I will wrap these comments up, Mr. President, by saying that this has been a terrible day in the U.S. Senate; a terrible night last night, continued into today. A lot of mischievous things have happened here, a lot of things which the majority leader correctly called transparent efforts to maybe kill the bill.

Everybody has been going through a mea culpa, saying the U.S. Senate has a lot of work in front of it to reestablish its credibilty with the American people after the Clarence Thomas hearings, and I agree with that. Much was made during the hearings of the fact that the U.S. Senate and the U.S. House of Representatives impose these laws on other people but they do not impose them on themselves.

As I stated on the floor last evening, since I have been chairman of the Small Business Committee, I have held many hearings about the kinds of regulatory burdens we put on small business. Legislation like this, make no mistake about it, terrifies the small business community. The same is true of parental leave and all the others.

Mr. President, the amemdments we considered last night and today were as follows: First, is the Senate going to be covered by the civil rights bill? Yes. I voted for the Grassley amendment. Second, are Senators going to be subject to the same $50,000 in punitive damages? Yes. I voted yes. Third, is the Senator himself going to be required to pick up the tab rather than the taxpayers being required to pick up the tab if he intentionally discriminates? Yes. And I voted yes, though I'm not a wealthy man. As chairman of the Small Business Committee, I do not see that I could have voted differently, that is, to impose these burdens on others, and not ourselves.

Mr. President, I am not a constitutional scholar, but I revere that document. I probably have gotten into more political trouble back home by voting for things that were very popular at the moment but, in my opinion, unconstitutional. I have taken the oath we take when you put your left hand on the Bible and hold up your right hand and say "I will preserve, protect, and defend the Constitution of the United States," have always taken that oath very seriously. Today I was deeply troubled about the constitutionality of the Senate making itself subject to laws which are enforced by the judicial and executive branches of Government.

James Madison, in all of his wisdom, Ben Franklin and others, very carefully crafted that doctrine of the separation of powers in three branches of Government to make sure that there would be these checks and balances on each branch of Government, so one branch could not impose its will on another.

So if the Grassley amendment stands up, we could be in this very strange position of Members of the Senate having, for example, a lot of lawsuits filed against them in an election year by employees for embarrassment purposes, and I am not saying this is likely, but possible. Innocent as one might be that could be very embarrassing. Those suits may have no merit, and might be totally politically motivated. But it could happen.

Then you jump through all the hoops that the Grassley amendment requires to make sure you're complying with the law, but that wouldn't keep you from being sued.

Let us assume you lose at the first stage of a claim, and you appeal to the court of appeals where 80 percent of the judges may have been appointed by either George Bush or Ronald Reagan, and if you are a Democratic Senator, you are at the mercy of a Republican-appointed judge.

We heard the Senator from New Hampshire [Mr. RUDMAN] and the majority leader, Mr. MITCHELL, last night make these points much better than I have, discussing the constitutionality of this whole matter of the Senate being covered, and the separation of powers.

It was really troublesome for me to vote for some of those things because I do think they are constitutionally suspect. I don't feel absolutely certain that what we are doing here is unconstitutional and so I voted for the Senate being subjected to this law, and I am willing to let the Supreme Court test it, which it will certainly do very shortly.

In conclusion, Mr. President, I think Members of the U.S. Senate have a duty to stand up and say that they abhor discrimination against racial minorities, against women, the disabled, religious minorities, or anybody else. I am not at all sure that we have not let our guard down of late. And in times of economic distress, people tend to let racism rise. We can see what is happening in Louisiana. You do not have to be a rocket scientist to figure it out.

So with a twinge in my stomach, I intend to vote for this whole bill because I believe it is the right thing to do and I believe the Senators of this body should stand up and say: Businessmen, if this does not work out, if this turns out to be an abomination, we will come back and try our best to rectify it. It is not designed to punish you. It is designed to dissuade people from discriminating. It is not designed to encourage litigation. It is not designed to make people think they can get something for nothing. Hubert Humphrey used to say it is not ever going to be a good place for any of us to live until it is a good place for all of us to live. Here is a way we can remind ourselves where we have been coming from in the last 30 years and saying we are not going to turn back.

I yield the floor, Mr. President.

Mr. KASTEN. Mr. President, I rise today in strong support of the compromise civil rights legislation of 1991.

All Americans—blacks and whites, women and men, religious minorities, the disabled—deserve equal job opportunities. It pleases me a great deal that this body, the U.S. Senate, has chosen to lay aside partisan debate—and has chosen instead to reach a compromise that will help preserve equal rights for all.

Last year, we started out with a civil rights bill that was simply a grab-bag for the legal profession. This compromise legislation, unlike the bill passed on the House side, is a responsible measure which will combat discrimination effectively without entangling small businesses in endless litigation.

Mr. President, the compromise bill has many of the same components as the President's civil rights bill, S. 611, of which I am a cosponsor.

The bill addresses what has come to be known as the glass ceiling issue. It seeks to eliminate the artificial barriers which have served to block the advancement of qualified women and minorities in the workplace. The bill will establish a Glass Ceiling Commission, which is to be provided with the resources and powers to examine those practices and policies in corporate America which impede the advancement of women and minorities. The Commission will prepare a report for the President and Congress—due 15 months after enactment—examining the reasons for the existence of the glass ceiling and making recommendations with respect to policies which would eliminate it.

Another component of this compromise legislation is that it extends the coverage of civil rights legislation to Congress itself. Last year I, and 25 other Senators, voted in favor of Senator GRASSLEY'S amendment, which would have provided congressional coverage at that time. Unfortunately, that amendment failed. The legislation makes sure that Congress does not exempt itself from civil rights protections which the rest of the country is expected to comply with.

This bill will go a long way in helping to ensure equal opportunity for women, minorities, and all Americans. I applaud the untiring efforts by the President, Senator DANFORTH and Senator DOLE and others in reaching this compromise.

I think it is also important to point out that the only way Americans can truly enjoy equality and empowerment is through fair and equal job opportunities. That is why we have to complete our civil rights agenda for this year by enacting a strong progrowth economic package.

Today, we pass a valuable civil rights bill. The next step is to create a thriving, job-creating economy, so that all Americans will have a prosperity in which to share. I hope that my colleagues will put aside their partisan differences—just as they have on the civil rights bill—as we confront this essential economic task.

Mr. HATFIELD. Mr. President, once again, the Senate has squarely before it the enormously complex and emotional issue of civil rights. Unlike previous occasions, we meet today on the basis of a bipartisan agreement. Let me start by commending my colleague from Missouri, Senator DANFORTH, for his exceptional commitment to this issue.

This body has spent the better part of the last 2 years closely scrutinizing and at times intensely debating the issue of civil rights. We now come together in a spirit of bipartisan achievement. As one of the original seven cosponsors of this legislation, I have had the privilege of working with Senator DANFORTH and can therefore say with authority that, were it not for his expertise and undying patience, this important victory might well have eluded us once again.

As a Republican, I am especially proud to have played a part in this effort, an effort that is certainly in the best tradition of the party of Lincoln. One year ago, I supported the Civil Rights Act of 1990, a bill similar in many ways to the bill before the Senate today. My colleagues will recall the intense 11th hour negotiations championed by Senator DANFORTH that came so near to an agreement. Unfortunately, this legislation was prevented from becoming the law of the land by a single dissenting vote in this body.

In the aftermath of that vote, I was pleased to join with a number of Republican Senators, led by Senator DANFORTH, to fashion a civil rights bill that could become law. In this effort, we started from and built upon the unsuccessful legislation from a year ago. After a great many meetings, phone conferences—after a great number of letters and memos—after a seemingly infinite number of drafts of bill language—and after introducing on this floor seven separate bills and one significant substitute amendment, here we are at the home stretch. After intense last-minute negotiations, both the administration and a solid coalition of bipartisan Senators now support the compromise.

There is much to be encouraged about. First, we have a President who has demonstrated a strong commitment to civil rights. He has repeatedly expressed his desire to sign a civil rights bill, and has even submitted his own proposal for that purpose. He has announced his enthusiastic support for the compromise now before the Senate. Second, the House of Representatives is a body no less committed to the cause of civil rights. Earlier this year, that body passed its own rather progressive civil rights bill.

The time has come at last for the Senate to act. Being what could be called moderate Republicans, we have attempted to initiate this action by proposing what we regard as a balanced and fair civil rights bill. It continues to be our view that it is in the best interests of the Nation will be best served if we resolve the complex and sensitive issues here in the Senate, rather than allowing them to be used as mud in 1992 elections.

The purpose of this legislation is quite narrow. We are here to restore the proper application of the Federal civil rights law to a number of specific areas. Over the past several years, the Supreme Court has misinterpreted congressional intent in a number of areas of civil rights law. This legislation corrects these misinterpretations by fine tuning the Civil Rights Act of 1964. We must not allow the important purpose of this legislation to be obscured or diluted by other issues, no matter how compelling these other issues might be. Too much has been invested in this legislation to allow it to torn asunder by special interests more interested in fracturing debate than passing meaningful legislation.

Each year, more women and minorities seek to enter and continue successfully in the competitive American work force. It is our responsibility to see that they can do so on an equal basis with all others, as free of the ugly obstacles of discrimination as it is in our power to legislate.

Although many would argue otherwise, discrimination still exists in America. In my own State of Oregon, a disturbing level of discrimination and racial hatred is daily bubbling to the surface. In fact, Oregon streets saw 323 such racial incidents in 1989.

Acts of discrimination are unacceptable in our society, especially in the workplace. Yet discrimination lives on, most often in subtle form. Last week, my colleague from Maine, Senator COHEN, referred to a recent study conducted by the Urban Institute. That study concluded that significant number of black job applicants did not get as far in the job application process as their equally qualified white counterpart. This study does not necessarily indicate intentional discrimination. It does, however, indicate a lack of fairness for minorities who seek employment. This unfairness, whether intentional or not, must be rooted out of our system.

Other statistics are equally disturbing: While black men represent only 3.5 percent of college students, they make up 46 percent of the prison population. It is not surprising that black males stand a 1-in-23 chance of being murdered by age 25. Blacks are three times as likely to be poor and twice as likely to be unemployed. Some have even predicted that black will not catch up with whites in economic terms until sometime in the 22d century.

Mr. President, civil rights legislation is one of the most difficult issues to come before the Senate. The ultratechnical legalisms often confuse lawyer and nonlawyer alike. It is also difficult because the goal is really outside the reach of any legislative body. Our true goal is to end discrimination. Unfortunately, discrimination is most often hidden away, deep in the back of the mind, a place quite correctly beyond the grasp of this or any other legislative body.

But in the face of this discouraging act, we must not give up. While it is beyond our power to end discrimination in this country, it is no less incumbent upon us to ensure that the laws of the United States offer no com-

fort to those who engage in discriminatory practices. We must remember that we are always in the right when we seek to ensure fundamental principles of fairness for all citizens. Let us recommit ourselves to these fundamentals that are the right of all citizens, but sadly are not yet enjoyed by all.

In my 24 years in the Senate, I have played an active role in the passage of hundreds—and possibly thousands—of pieces of legislation. These have ranged from little known initiatives to those of great value; from the most obscure resolutions to the most hard fought and socially significant acts of Congress.

I count this act, the Civil Rights Act of 1991, among the most important, not because it will send a tidal wave of social change rolling across this country, it will not. This legislation is significant because it reaffirms and builds upon the commitment of this Government to enact laws that promote the principles of fairness and morality.

As citizens of the United States, we are blessed by many things. The birth of this Nation resembles a gift from our Creator. We are blessed with vast lands rich in natural resources. From the beginning, we have benefited from a population of abundant talent, diversity, and interest. We were also blessed in the timing of our creation: Those who established this Nation benefited equally from the vivid lessons of history and from the examples of their contemporaries. In the New World, they sought to create a nation founded on the highest principles of the human race and springing from the will of the people. We are daily benefactors of this worthy creation whose value is far beyond our comprehension.

As Senators, we are elected to carry on this tradition. Thus, we operate at our highest calling when we seek to further the causes of fairness and morality. In reaching a compromise on the Civil Rights Act of 1991, we reaffirm these grand objectives that were the cornerstones of the Emancipation Proclamation, the post-Civil War Reconstruction amendments, and the Civil Rights Act of 1964. Just as nature abhors a vacuum, so too does democracy abhor injustices, injustices such as racial discrimination.

It is time for this body to act to stop discrimination where it can be detected. All Americans deserve a fair chance at employment. In every instance, the most qualified applicant should be hired.

Observers should note what we say here today: Merit should be the measurement, not considerations that are irrelevant to getting the job done. Such a policy makes good business sense and is fair. And this is just what our legislation establishes.

I ask unanimous consent that an article from the Wall Street Journal of May 15, 1991, be printed in the RECORD.

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

[From the Wall Street Journal, May 15, 1991]

RACIAL BIAS AGAINST BLACK JOB SEEKERS REMAINS PERVASIVE, BROAD STUDY FINDS

(By David Wessel)

WASHINGTON.—After sending carefully selected pairs of young black and white men to apply for 476 entry-level jobs, researchers at the Urban Institute found that the blacks were three times as likely as whites to face discrimination.

The findings, released yesterday by the Washington think tank, demonstrate that racial discrimination in employment is still widespread in the U.S. 27 years after it was outlawed. One of the researchers, economist Raymond Struyk, called the study "the strongest evidence ever developed on the extent of racial discrimination in hiring." It comes amid a heated debate between Congress and the White House over revamping civil rights laws.

In about three-quarters of the job openings, the researchers found no discrimination, but they took little comfort from that. In one of every five cases, the black man didn't get as far as his equally qualified white counterpart. The black didn't get an application form when the white did, or he didn't get an interview or job offer.

EXTRA OBSTACLES

"We think 20% is a substantial rate of discrimination," Mr. Struyk said. "If you think of a young man going from firm to firm looking for work, that's a one-in-five chance. You add these things up, and they can get pretty discouraging."

In only 7% of the cases, the black men advanced further than their white counterparts, a finding that led the researchers to conclude that so-called reverse discrimination isn't as widespread as some critics of civil rights law and affirmative action programs suggest.

Overall, 15% of the white applicants were offered a job when their black counterpart wasn't, and only 5% of the blacks were offered a job when their white counterpart wasn't. In an additional 13% of the cases, both men were offered the job.

The research borrows a technique long used to investigate discrimination in housing, but only lately used in employment. The Lawyers Committee for Civil Rights Under Law, based here, recently used two pairs of testers to support allegations that a local employment agency discriminates against blacks.

The new Urban Institute study, however, was far broader. Ten pairs of men between 19 and 24 years old were dispatched to respond to randomly chosen help-wanted ads published last summer in the Washington Post and Chicago Tribune. The men were paired to be similar in appearance and manner. One team, for instance, consisted of a 6-foot-4-inch bearded white and a 6-foot-2-inch bearded black. Each team memorized similar biographies and practiced interviews to minimize differences. Nearly all the help-wanted ads were for retail, hotel, restaurant or other service jobs.

WORSE IN WASHINGTON

Blacks fared worse than whites far more often in Washington than in Chicago, surprising the researchers. Whites were offered jobs when their black counterparts weren't in 19% of the cases in Washington, but in only 10% of the Chicago cases. "It's really a puzzle," said Margery Turner, another of the researchers.

The differences between the cities were particularly acute in comparing face-to-face interview experiences. The researchers found that in Washington far more blacks than whites—60% vs. 16%—were somehow treated less favorably in interviews than counterparts. They had to wait longer, had a shorter interview or reported discouraging comments from interviewers, the majority of whom were white. But in Chicago, roughly the same proportion—42% of whites and 37% of blacks—were treated unfavorably.

Blacks were more likely to encounter discrimination in white-collar jobs and sales jobs. The researchers found no difference between suburban and urban employers or between employers in predominantly white and predominantly black neighborhoods.

Mr. GORE. Mr. President, I rise today in support of the civil rights bill now before the Senate. And, I welcome the President's support of this legislation. It is my hope that what we are seeing now is an end to the divisive politics of race and that we have heard the word "quota" for the last time from the White House.

This bill represents the tireless effort to protect the civil rights of all Americans. These are issues I care about deeply, and I am pleased negotiations have produced a bill which will pass the Senate, which the President will sign, and which, as law, will make a critical difference in the lives of millions of Americans.

President Bush has taken too long to relinquish this issue as a political weapon, and though it may be now that it is only for political reasons that he's agreed to this bill—preparing in fact to claim this Democratic victory as his own—the fact is, whether you think President Bush caved in or led forward, there is a bipartisan consensus on this civil rights bill and, for the American people that's what's important.

For too long, the politics of division have poisoned our national debate. For too long, every effort at progress, every attempt to move forward was blocked by this White House. They told the business roundtable to fold up their negotiations and go home. They told this Senate to forget about a bill. They told one of our colleagues, a Republican who has struggled hard to find agreement, that they would not agree.

Let us all hope that those days are behind us now. Let us all hope that President Bush has decided it's more important to make progress than to play politics; more important to move forward than slip back.

Mr. President, I come from the South. We've seen this politics of division for generations. Whenever economic hard times threaten middle-income families or working families, those who don't want to find the economic answers, those who don't want to do the hard work to change the situation, just start yelling race. It's dangerous political game that threatens to rip apart the very fabric of our Nation.

So today, I stand here optimistic but—based on the track record of this

administration—not convinced that we've seen the last of this brand of politics. Certainly, the need for us to move forward to confront the economic pressures facing middle-income and working families is clear. And as compelling is the need for us to move forward together, as one Nation.

Mr. President, this legislation addresses critical issues.

During the 1988–89 term, the U.S. Supreme Court handed down decisions in a series of cases which severely curtailed the rights of minorities and women in the workplace and made it harder for them to fight discrimination. This bill recognizes that those decisions were flawed, that we shouldn't be weakening Americans as they fight discrimination, and it provides additional Federal remedies to address sexual harassment in the workplace.

This bill restores protections against racial and ethnic discrimination which were struck down by these rulings. For example, the Court ruled that the statute which gives each of us the right to "make and enforce contracts" does not apply to workers after they are hired. In other words, if you're a woman or a minority, you're protected from discrimination during the hiring process but you're not protected—from discrimination or harassment—once you're on the job. This bill makes it clear that employees are entitled to a work environment that is free from harassment and discrimination.

In another case, the Court said a business did not have to prove that job requirements were in fact connected to the job to be done. They placed that burden on the employee—leaving with the worker the virtually impossible task of proving that a prospective employer was making an unreasonable requirement and, in the process, discriminating against someone seeking employment. This bill restores this burden of proof to the employer, so that the employer will be required to show that a practice is necessary to business.

Across this Nation, as a result of the Court's rulings, Americans are no longer able to seek redress when they experience legitimate instances of job discrimination. This bill restores protections against some of the most offensive instances of discrimination based on race and sex.

I would have preferred if this bill did not include caps on damages for sexual harassment, and I understand we will address this issue with separate legislation very soon. No one could witness the vast outpouring from women around this country during Prof. Anita Hill's testimony and not be moved by the evidence that sexual harassment is all too common, all too real, for far too many women. By the thousands, women were calling their representatives—in some cases, sharing stories that had never been told—to send a clear, strong message: Sexual harassment is real, it occurs far too often and women are entitled to protection and redress when they are its victims. We cannot shut out or shortchange their voices.

But Mr. President, make no mistake about it, this is a good bill, a much-needed bill. And it is not and never was a quota bill—it is a civil rights bill. At long last we have finally been able to return to standards that have been in practice for almost two decades until a supposedly nonactivist Supreme Court dismantled them.

We have the chance here to open a new era of unity and cooperation; to renew our commitment to opportunity and progress or to turn back, to turn to the politics of desperation and division in a cynical exercise to win votes that will mean we'll lose our way. Unfortunately, as a nation we're not free from racism and bigotry. We have made progress, and throughout our history, we have demonstrated that when people of good will join together we can defeat ignorance and hate and fear. There is still much work to be done and much is at stake.

As we grapple with our economic problems, the deficit, healing the environment, educating our children, and providing jobs and health care for Americans, we must not be misled by a mean-spirited cynicism that will distract and divide us. Instead, we must work together and move forward together to realize our dreams.

Mr. SIMPSON. Mr. President, I am pleased to speak in support of the Civil Rights Act of 1991, as amended by the Danforth compromise amendment.

This compromise legislation will improve the ability of civil rights plaintiffs to make their cases in disparate impact suits, because it will reverse the Supreme Court's ruling in Wards Cove versus Atonio on the matter of burdens of proof. However, the compromise bill wisely avoids the pitfalls of earlier versions of the bill, which made unwise and unnecessary changes to other aspects of disparate impact law. This is a sensible resolution of the disparate impact issue, because it preserves the right of plaintiffs to make their case without creating adverse side effects in the workplace—such as quota based hiring.

This bill will also overturn two Supreme Court decisions which almost everyone agrees needed revision: First, the Lorance case, regarding discriminatory seniority systems; and second, the Patterson case, which limited the right of plaintiffs to sue to remedy racial discrimination under 42 U.S.C. 1981. This is another beneficial expansion of our civil rights laws for plaintiffs.

Finally, this compromise bill creates a new monetary remedy for the victims of sexual harassment and other forms of intentional discrimination. Such a remedy does not exist in current law. Let there be no mistake about how broad, sweeping, and generous this portion of the bill is. I strongly endorse the concept of monetary relief for intentional discrimination. I cautiously endorse this specific remedy, because it opens the door to jury trials and compensatory and punitive damages, instead of the traditional labor-law remedy: Back pay, or double back pay. However, in the spirit of compromise, I find this provision acceptable.

However, I will be watching this section closely as lawsuits are filed to exercise this new legal right. I am hopeful that we will achieve an appropriate balance here: Victims of sexual harassment and of other forms of intentional discrimination should have meaningful remedies; however, trial lawyers should not benefit inordinately from this section by charging large contingency fees and needlessly prolonging litigation. If I find that the victims of mistreatment in the workplace are benefiting much less than the lawyers who are bringing their cases, then I will be back to reexamine the damages section.

Finally, Mr. President, let me pay tribute to the three parties who made this legislation a reality: Senator JACK DANFORTH, my lovely friend, for his tireless efforts to reach a bipartisan compromise; President Bush, John Sununu, and Boyden Gray, for their steady courage to criticize poor proposals and to endorse appropriate proposals; and my friend, Senator KENNEDY, for his pragmatic approach to meaningful reform of our civil rights law.

The good-faith efforts of these three parties have produced for us all a bipartisan civil rights law. Civil rights laws have some of the most dramatic effects on our society as any that Congress passes, and I believe such laws should always be bipartisan. I am pleased that one party is no longer trying to jam a civil rights law down another party's throat, and that this civil rights law will continue in the fine American tradition of bipartisan consensus.

Mr. President, I urge the adoption of the legislation.

INTERPRETATIVE MEMORANDUM

Mr. DANFORTH. Mr. President, I am pleased that Senator KENNEDY has agreed with almost all of the original cosponsors, interpretative memorandum. I understand that he questions only the discussion in our memorandum that the original cosponsors, who are the authors of the effective date provision, do not intend for the bill to have any retroactive effect or application.

My review of Supreme Court case law supports my reading that in the absence of an explicit provision to the contrary, no new legislation is applied retroactively. Rather, new statutes are to be given prospective application only, unless Congress explicitly directs

otherwise, which we have not done in this instance. Support for this proposition is derived from Justice Scalia's concurring opinion in *Kaiser Aluminum & Chemical Corp.* v. *Bonjorno*, 110 S.Ct 1570, 1579 (1990), and the unanimous opinion of the Supreme Court in *Bowen* v. *Georgetown University Hospital*, 488 U.S. 204, 208 (1988), and the numerous cases cited by Justice Kennedy in Bowen.

I acknowledge that there appear to be two cases that do not adhere to this principle but instead support retroactive application of new statutes in the absence of "manifest injustice." *Bradley* v. *Richmond School Board*, 416 U.S. 696 (1974); *Thorpe* v. *Housing Authority of Durham*, 393 U.S. 268 (1969). The sponsors disapprove of these cases.

Our intention in drafting the effective date provision was to adhere to the principle followed by the vast majority of Supreme Court cases and exemplified by Bowen and Justice Scalia's concurrence in Bonjorno.

Subsection 22(b), regarding certain disparate impact cases, is intended only to provide additional assurance that the provisions of the bill will not be applied to certain cases that fit the provisions of that subsection. It should not be read in derogation of the sponsors' intention not to provide for retroactive effect or application as expressed in subsection 22(a) of the bill.

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

SPONSORS' INTERPRETATIVE MEMORANDUM ON ISSUES OTHER THAN WARDS COVE—BUSINESS NECESSITY/CUMULATION/ALTERNATIVE BUSINESS PRACTICE

This Interpretive Memorandum is intended to reflect the intent of all of the original cosponsors to S. 1745 with respect to those issues not addressed by the Interpretive Memorandum introduced into the record at S 15276 on October 25, 1991.

SECTION 1: SHORT TITLE

This legislation may be referred to as the "Civil Rights Act of 1991."

SECTION 4: PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS

Section 4 fills the gap in the broad statutory protection against intentional racial and ethnic discrimination covered by section 1981, 42 U.S.C. 1981 (Section 1977 of the Revised Statutes) that was created by the Supreme Court decision in *Patterson* v. *McLean Credit Union*, 491 U.S. 164 (1989). Section 4 reinstates the prohibition of discrimination during the performance of the contract and restores protection from racial and ethnic discrimination to the millions of individuals employed by firms with fewer than 15 employees. The list set forth in subsection (b) is illustrative only, and should be given broad construction to allow a remedy for any act of intentional discrimination committed in the making or the performance of a contract. Section 4 also overturns *Patterson* in contractual relationships other than employment, and nothing in the amended language should be construed to limit it to the employment context.

Section 4 also codifies the holding of *Runyon* v. *McCrary*, 427 U.S. 160 (1976), reaffirmed in *Patterson*, that section 1981 prohibits private, as well as governmental, discrimination.

SECTION 5: DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION

1. The Need for Damages

Current civil rights laws permit the recovery of unlimited compensatory and punitive damages in cases of intentional race and ethnic discrimination. [See notes regarding Sec. 4 overturning *Patterson* v. *McLean Credit Union* with regard to restoring the prohibition against all racial and ethnic discrimination in the making and enforcement of contracts.] No similar remedy exists in cases of intentional gender, religion, or disability discrimination.

Under 42 U.S.C. 1981, victims of intentional racial and ethnic discrimination are entitled not only to equitable relief, but also to compensatory damages. Further, in egregious cases, punitive damages may also be awarded. *Johnson* v. *Railway Express Agency, Inc.*, 421 U.S. 454, 460 (1975); *see also Patterson* v. *McLean Credit Union*, 491 U.S. , 109 S.Ct. 2375 n.4. By contrast, under Title VII and the Americans with Disabilities Act (ADA) victims of intentional gender, religious or disability discrimination may receive only injunctive relief, reinstatement or hiring, and up to two years backpay. Neither Title VII nor the ADA permit awards of compensatory or punitive damages no matter how egregious the discrimination is in a particular case. (See section 706(g), 42 U.S.C. sec. 2000e-5(g)).

S. 1745 creates a new provision, to be codified in section 1981A in Title 42 of the U.S. Code. Section 1981A authorizes the award of compensatory and punitive damages in cases of intentional employment discrimination against persons within the protected categories of Title VII and the Americans with Disabilities Act.

In order to assure that a complaining party does not obtain duplicative damage awards against a single respondent under both section 1981 and section 1981A, the provision limits section 1981A damage awards to a complaining party who "cannot recover under section 1977 of the Revised Statutes (42 U.S.C. 1981)." The complaining party need not prove that he or she does not have a cause of action under section 1981 in order to recover damages in the section 1981A action.

Moreover, this provision does not prevent a person from challenging discrimination which causes demonstrably different harms under each of the statutes. For example, a woman who suffers both race and sex harassment, and is injured in different ways by each, may challenge the race discrimination under section 1981 and the sex discrimination under section 1981A, and if proven, may recover under both. The court should, of course, ensure that she does not receive duplicate awards for the same harm.

Section 1977A(b)(4) (42 U.S.C. section 1981A(b)(4)) makes clear that nothing in section 1977A should be construed to limit the scope of, or the relief available under, section 1977 of the Revised Statutes, 42 U.S.C. 1981. The new damages provision thus does not limit either the amount of damages available in section 1981 actions, or the circumstances under which a person may bring suit under this section. For example, the bill does not affect the holding of the Supreme Court in *Saint Francis College* v. *Al-Khazraji*, 481 U.S. 604 (1987), that section 1981 was intended to protect from discrimination "identifiable classes of persons who are subjected to intentional discrimination solely because of their ancestry or ethnic characteristics." Indeed, that discrimination is national origin discrimination prohibited by Title VII as well.

Claims asserted under this new section are commenced with the timely filing of a charge of discrimination with the EEOC and/or state or local fair employment agency. The investigation and conciliation functions of the fair employment agencies normally applicable to such charges will continue to be applied. Only after the agency has completed its functions and/or released the complaining party to pursue independent legal action by issuance of a Notice of Right to Sue will the plaintiff be empowered to file a lawsuit in federal district court. In this regard the bill does not alter existing law.

In addition to the above-cited restrictions, the following limitations also are placed on the damages available to each individual complaining party for each cause of action brought under section 1981A:

Such damages cannot include backpay, the interest thereon, frontpay, or any other relief authorized under Title VII;

The amount of nonpecuniary damages, future pecuniary damages and punitive damages shall not exceed $50,000 for employers with 100 employees or less, $100,000 for employers with more than 100 employees and fewer than 201 employees, $200,000 for employers with more than 200 and fewer than 501 employees, and $300,000 for employers with more than 500 employees;

While compensatory damages may be awarded against federal, state and local government agencies, punitive damages may not; and

Where a discriminatory practice involves the provision of a reasonable accommodation under the Americans with Disabilities Act, no compensatory or punitive damages may be awarded where the covered entity demonstrates good faith efforts to make the reasonable accommodation.

It is the intention of the sponsors of this legislation to make the perpetrators of intentional discrimination liable for the nonwage economic consequences of that discrimination up to the full extent of the stated limitations.

2. Jury Awards

The bill clarifies that as to claims for which compensatory or punitive damages are sought, any party may demand a trial by jury. Because compensatory and punitive damages may not be sought with regard to claims based on the disparate impact theory under the rules set forth in proposed section 703(k), a jury trial would not be available for such claims.

Claims which involve a demand for damages (and a consequent right to a jury trial) may be brought in the same action as claims brought using the disparate impact theory under the rules set forth in proposed section 703(k). The courts shall continue to exercise their discretion in the handling of such hybrid actions as they have in handling the many hybrid actions brought under Title VII/section 1981 in the past.

Judges currently serve as an adequate check on the discretion of juries to award damages. Consistent with the requirements of the Seventh Amendment, they can and do reduce awards which are excessive in light of a defendant's discriminatory conduct or a plaintiff's resulting loss.

In addition, the bill specifically provides that the jury shall not be informed of the existence or amount of the caps on damage awards. Thus, no pressure, upward or downward, will be exerted on the amount of jury awards by the existence of the statutory limitations.

SECTION 8: BURDEN OF PROOF IN DISPARATE IMPACT CASES

Under section 703(k)(1), a disparate impact suit is brought in three stages. The legislation is not intended to alter the definition of the term of art "disparate impact" as it has been developed by the courts since 1971. Initially, the plaintiff has the burden of providing a prima facie case. *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405, 425 (1975). A prima facie case is established when a plaintiff identifies a specific employment practice and demonstrates that the practice causes a disparate impact, except as described below.

Our intention with respect to the "business necessity" issue is reflected at S15272 of the Congressional Record on October 25, 1991.

The bill requires a complaining party to demonstrate that a particular employment practice *causes* a disparate impact. By use of the "cause," the bill should not be read to require a plaintiff "to eliminate all alternative explanatory hypotheses for a disparate impact." See *Allen* v. *Seidman*, 881 F.2d 375, 380 (7th Cir. 1989). For example, if an employment test creates a disparate impact on the basis of race, a plaintiff would not be required to prove that a disadvantaged background was not an alternative, possible hypothesis for the disparate impact.

Our intention with respect to the "cumulation" issue is reflected at S15276 of the Congressional Record on October 25, 1991.

With respect to the need for specificity, there is one exception to the requirement that a complaining party identify each practice that causes a disparate impact. In order to invoke that exception, the complaining party must "demonstrate to the court that the elements of a respondent's decision-making process are not capable of separation of analysis", and in that instance "the decision-making process may be analyzed as one employment practice."

For example, if employment decision-makers cannot reconstruct the basis for their employment decisions, because uncontrolled discretion is given to a respondent's employment decision-makers, then the decision-making process may be treated as one employment practice and need not be identified by the complaining party as discrete practices. See *Sledge* v. *J.P. Stevens & Co.*, 52 EPD para. 39,537 (E.D.N.C. Nov. 30, 1989). Similarly, if a complaining party proves to a judge that it is impossible for whatever reason to reconstruct how practices were used in a decisionmaking process, then the decisionmaking process is incapable of separation for analysis and may be treated as one employment practice and challenged and defended as such.

Our intention with respect to the "alternative practices" issue is reflected at S15276 of the Congressional Record on October 25, 1991.

SECTION 9: PROHIBITION AGAINST DISCRIMINATORY USE OF TEST SCORES

Section 9 amends section 703 of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2, by adding a new subsection (1) to ban the practice of "race-norming" and other practices used to alter or adjust the scores of job-applicants on employment-related tests used by an employer to select or promote employees. The language of the section is broad and is designed to prohibit any action taken to adjust test scores, use different cutoff scores for selection or promotion, or otherwise adjust or alter in any way the results of employment-related tests on the basis of race, color, religion, sex, or national origin.

By its terms, the provision applies only to those tests that are "employment related." Therefore, this section has no effect in disparate impact suits that raise the issue of whether or not a test is, in fact, employment related. The prohibitions of this section only become applicable once a test is determined to be employment related.

Section 9 does not purport to affect how an employer or other respondent uses accurately reported test scores, or to require that test scores be used at all.

SECTION 14: EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS

Legislation is needed to address the problems created by the Supreme Court's decision in *Lorance* v. *AT&T Technologies, Inc.* 109 S.Ct. 2261 (1989). The plaintiffs in *Lorance* alleged that a seniority rule governing layoffs had been adopted for the purpose of discriminating against women. The seniority rule was first adopted in 1979. The seniority rule was not applied until the fall of 1982, when the company invoked it to lay off Lorance and the other plaintiffs. The plaintiffs promptly filed Title VII charges with the EEOC, asserting that the rule applied to them in 1982 had been motivated by discrimination.

A majority of the court held that the plaintiffs' claims were time barred because the statute of limitations begins to run when the seniority rule was adopted, not when it is applied to the complaining party. The unfairness of this rule is apparent. The holding in this case would require employees seeking to protect their interests to challenge immediately any new rule or practice that might conceivably be applied to adversely affect them in the future.

Under section 14, the limitation period begins to run on the later of the date when an alleged discriminatory seniority system is adopted, when an individual becomes subject to a seniority system, or when an individual aggrieved is injured by the application of the seniority system.

Unfortunately, some lower courts have begun to apply the "*Lorance* rationale" outside of the context of seniority systems, for example to bar challenges to allegedly discriminatory promotion policies unless the challenge is made at the time the policies are adopted, rather than when they were applied to deny a promotion to the claimant. *Davis* v. *Boeing Helicopter Co.* (E.D. Pa. October 24, 1989). It has also been applied to bar a challenge under the Age Discrimination in Employment Act to a suit challenging application of an early retirement plan. *EEOC* v. *City Colleges of Chicago*, No. 90-3162 (7th Cir. Sept 16, 1991). This legislation should be interpreted as disapproving the extension of this decision rule to contexts outside of seniority systems.

This legislation should not be interpreted to affect the sound rulings of the Supreme Court regarding "continuing violations" theory under Title VII. See *Delaware State College* v. *Ricks*, 449 U.S. 250 (1980).

SECTION 21: SEVERABILITY

Section 21 expresses the sponsors' intention that, in the event that any section, subsection, or provision of the Act, any amendment made by the Act, or any application of a section, subsection, or provision of the Act to any person or in any circumstances is held invalid, the remainder of the Act, of the amendments made by the Act, or the application of such provision to other persons and in other circumstances shall not be affected.

SECTION 22: EFFECTIVE DATE

The bill provides that, unless otherwise specified, the provisions of this legislation shall take effect upon enactment and shall not apply retroactively.

John C. Danforth, William S. Cohen, Mark O. Hatfield, Arlen Specter, John H. Chafee, Dave Durenberger, James M. Jeffords.

Mr. KENNEDY. Mr. President, as the principal Democratic sponsor of the Danforth-Kennedy substitute amendment, I want to state my agreement with the views set forth in Senator DANFORTH's interpretive memorandum.

I would also like to state, however, my understanding with regard to the bill's effective date. Section 22 of the bill states that "[e]xcept as otherwise specifically provided, this Act and the amendments made by this Act shall take effect upon enactment." Section 22(b) provides that nothing in the act shall apply to any disparate impact case for which a complaint was filed before March 1, 1975, and for which an initial decision was rendered after October 30, 1983.

It will be up to the courts to determine the extent to which the bill will apply to cases and claims that are pending on the date of enactment. Ordinarily, courts in such cases apply newly enacted procedures and remedies to pending cases. That was the Supreme Court's holding in *Bradley* v. *Richmond School Bd.*, 416 U.S. 696 (1974).

And where a new rule is merely a restoration of a prior rule that had been changed by the courts, the newly restored rule is often applied retroactively, as was the case with the Civil Rights Restoration Act of 1988. That is what the courts have held in *Leake* v. *Long Island Jewish Medical Center*, 695 F. Supp. 1414 (E.D.N.Y. 1988), aff'd, 869 F.2d 130 (2d. Cir. 1989), *Ayers* v. *Allain*, 893 F.2d 732 (5th Cir. 1990), and *Bonner* v. *Arizona Department of Corrections*, 714 F. Supp. 420 (D. Ariz. 1989). But see *DeVargas* v. *Mason & Hanger-Silas Mason Co., Inc.*, 911 F.2d 1377 (10th Cir. 1990). It was with that understanding that I agreed to be the principal Democratic sponsor of the Danforth-Kennedy substitute.

I would also like to state my views on the relationship between S. 1745 and the Americans with Disabilities Act of 1990 [ADA].

Section 10 of S. 1745 provides that an unlawful employment practice is established when a plaintiff demonstrates that a protected class status was a motivating factor for an employment practice. This policy is comparable to the standard already adopted under the ADA. (See e.g., Sen. Rpt. No. 101-116 at page 45; H. Rpt. No. 101-485, Part 2, at 85-86.)

Other sections of the Civil Rights Act of 1991, which amend section 706 of title VII, are explicitly incorporated into the ADA through section 107(a) of the ADA.

Section 5 of S. 1745 states explicitly that damages are available under the ADA for all cases of unlawful intentional discrimination; that is, not an employment practice that is unlawful

because of its disparate impact, or for violations of the reasonable accommodation provision in section 102(b)(5) of the ADA.

Causes of action for disparate impact are limited to section 102(b)(3)(A) and part of section 102(b)(6) of the ADA—except for practices intended to screen out individuals with disabilities.

Section 1977A(a)(3) provides that damages are not available if the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

It is my intent that a demonstration of good faith efforts must include objective evidence that the process of determining the appropriate reasonable accommodation has been conscientiously complied with by the covered entity. This process is described in the Senate Report accompanying the ADA (S. Rpt. 101-116) at pages 34-35 and the analysis accompanying the final regulations implementing title I of the ADA promulgated by the EEOC (56 Fed. Reg. 35748-49 (July 26, 1991)).

The legal mandate that the reasonable accommodation provides the individual with a disability an "equally effective opportunity" means an opportunity to attain the same level of performance, or to enjoy the same level of benefits and privileges of employment as are available to the average similarly situated employee without a disability. (See analysis by the EEOC accompanying the regulation implementing title I of the ADA (56 Fed. Reg. 35748 (July 26, 1991)).

Mr. KOHL. Mr. President, I rise in support of the Danforth-Kennedy substitute to the Civil Rights Act of 1991. After more than a year of opposition by the President—often including volatile political rhetoric on quotas—we now have a bipartisan civil rights bill that is substantially similar to what was first introduced over a year and a half ago. The sad truth is that while scores of individuals suffer from discrimination in the workplace, politics plays a controlling role in the President's strategy.

It is painfully obvious that the 1992 election cycle has begun. In recent months the civil rights debate has been extremely misleading, focusing on issues meant to distract rather than inform. But make no mistake, this proposal—the Danforth-Kennedy compromise—addresses substantive issues.

Mr. President, for nearly three decades title VII of the Civil Rights Act has been the cornerstone of protection against employment discrimination. However, in the past few years the protection provided by title VII was eroded by several Supreme Court decisions. This bipartisan measure before the Senate properly reverses or modifies those decisions and, in addition, enables victims of intentional discrimination based on sex, religion, or disability to be compensated for bias on the job. This is a bill against discrimination and a bill against sexual harassment.

Before the 1989 Supreme Court case of Wards Cove Packing, Inc. versus Atonio, the burden of proof in a "disparate impact" discrimination case, a case where the business practices in question are fair in form, but discriminatory in practice, rested with the employer. In Wards Cove, the Court shifted the burden to the employee. This bill returns to pre-Wards Cove law, and places the burden of proof on the employer.

Under this proposal employers must justify work rules if the employee shows that the rules have a disparate impact on women and minorities. That is what the Supreme Court held in Griggs. That is what we are trying to return to. Chief Justice Burger—who wrote the unanimous Griggs decision said that civil rights laws prohibit not only overt discrimination, but also "practices that are fair in form but discriminatory in operation." In other words, victims of insidious employers, as well as those who are hurt by outright bigots, should have the same remedy in court.

To this end, the substitute requires that job practices with disparate impact must be "job related for the position in question and consistent with business necessity." Although "business necessity" is not defined in the substitute, the substitute does reference business necessity concepts as they are discussed in Griggs.

In addition to addressing the burden of proof issue, the substitute also makes compensatory and punitive damages available in cases of intentional employment discrimination. It bears repeating that these damages are available only in intentional discrimination cases, not in disparate impact cases. Compensatory damages include such things as medical costs, emotional pain or suffering, future pecuniary losses, and mental anguish. And punitive damages are available only if an employee demonstrates that the employer engaged in discriminatory practice with malice or reckless indifference to the employee's federally protected rights.

The issue of damages is one of the more controversial areas addressed in this legislation. The compromise language of the substitute establishes a four-tiered structure limiting awards, depending on the number of employees at a particular firm. Total pain and suffering, future pecuniary losses, and punitive damages are capped at $50,000 for companies with 100 employees or fewer. For companies with 101 to 200 employees damages are limited to $100,000. Firms which employ between 201 and 500 employees face a maximum of $200,000 in damages. And companies with more than 500 employees are limited to $500,000 damages.

Mr. President, with most compromises, few parties are completely satisfied with the end product. That is the case here. Those business interests fearful of large damage awards argued forcefully for lower dollar limits. And those advocating the interests of discrimination victims, and in particular women, sought to eliminate damage caps all together. Neither side thinks the compromise language is perfect, but it is a vast improvement over current law and its passage is long overdue. It should have become law long ago, and probably would have, had the issue not become embroiled in an ugly game of partisan politics.

Nevertheless, even if we enact this important legislation—and in light of President Bush's change of heart, enactment seems certain—job equality will not suddenly come to pass. Recent studies have indicated as much, suggesting that it will take decades for anything close to income parity for women and minorities. Congress cannot simply wield a magic wand and change the way our country views the problem of discrimination.

Why is this so? I believe it is because of fear. Fear that fuels prejudice. At a time when the economic pie grows smaller and smaller, many people do not want to share their piece with others. Especially with others they perceive to be different, or weak, or minorities.

This fear takes many forms. It is unequal pay for equal work. It is the glass ceiling encountered by women and minorities in corporate America. It is a vote cast for a candidate who runs on an unspoken platform of racism.

Sadly, the Civil Rights Act will not eliminate this fear. We cannot legislate against fear. We cannot legislate against immorality, and we cannot legislate against hatred. But we can pass laws which punish those who act on these fears by discriminating. We can say to those who choose to treat women and minorities as second-class workers that there is a severe cost for such actions. And we can send a message to the majority of Americans—yes, women and minorities combined are the majority—that in the eyes of the law they are equal.

Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I have an issue of utmost concern to Hispanic and other minority constituents in Arizona concerning national origin discrimination and the application of title 42, United States Code, section 1981, the Federal statute guaranteeing equal rights under the law. Section 1981 does not specifically prohibit either na-

tional origin discrimination or racial discrimination.

The Supreme Court, in its 1976 decision Runyon versus McCrary, interpreted section 1981 to prohibit all racial discrimination in the making of private as well as public contracts, including employment contracts. In Saint Francis College versus Al-Khazarahi, a 1987 decision of the Supreme Court, section 1981 was construed to extend to discrimination based on "ancestry or ethnic characteristics," both of which are part of the accepted meaning of "national origin."

The Court in St. Francis College demonstrated that when Congress enacted this statute it intended to protect from discrimination a wide variety of groups that were then considered racial groups but are now considered national origin or ethnic minority groups. Characterictics that identify national origin groups are ethnic characteristics such as language, speech accent, culture, ancestry, birthplace, and certain physical characteristics.

Since that St. Francis College decision confirming the coverage of national origin groups within section 1981, there has been some confusion among courts applying this precedent. I would like to reaffirm my understanding that Congress originally intended and continues to intend that section 1981 cover and apply to what are now known as national origin groups. Furthermore, to state a valid cause of action under section 1981, it should be sufficient for a complaining party to allege discrimination based solely on national origin, rather than racial discrimination.

Congress needs to clearly recognize that section 1981 prohibits intentional national origin discrimination as well as racial discrimination in accordance with the St. Francis College decision. National origin groups such as Hispanics and racial groups such as native Americans and Asian-Americans have suffered from institutional segregation and discrimination, and were intended to be covered under section 1981.

AMENDMENT ON DISCRIMINATION TESTERS

Mr. SIMPSON. Mr. President, I would like to clarify my position on an amendment which I had intended to offer to S. 1745 which would place limits on discrimination testers.

I had intended to offer an amendment to this legislation which would have established certain rules for persons who pose as job applicants solely to test whether that employer might be discriminating. My amendment would not prevent such testing programs—as many in the business community advocate—but rather would only prohibit these discrimination testers from misrepresenting their education, experience, or other qualifications when applying for the job vacancy.

There have been two programs that I am aware of where spurious job applicants have lied about their credentials in order to test whether employers are discriminating: First, in a 1989 urban institute study; and second, in a case pending in Federal district court here in Washington: Fair Employment Council versus BMC Marketing Corporation, my concern over these testing programs is that, if the testers are allowed to lie about their credentials, then the employers might not be rejecting the minority applicants because of a discriminatory motive, but rather because the employer did not find their representation of their credentials credible. Some reviewers of the Urban Institute study observed that it was the educational difference of the job applicants—not a discriminatory motive on the part of the tested employers—which caused any disparities in hiring.

I am very concerned about false positives in the employment discrimination areas. As we have just seen from the Clarence Thomas hearings, the mere allegation of discrimination or harassment can have devastating effects. I simply want to avoid a situation where an employer is unfairly charged with discriminating, when in fact he or she was making a valid choice of employees based on education, experience or other qualifications.

Mr. President, it simply is not fair to employers to decide whether they have discriminated based on job applicants who have lied about their résumés.

Let me place in the RECORD the copy of my initial amendment on testers, and the EEOC's response to that amendment.

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

On page 19, following line 23, insert the following new section:

SEC. 15A. PROHIBITION ON FRAUD OR MISREPRESENTATION BY PERSONS TESTING THE EXISTENCE OF EMPLOYMENT DISCRIMINATION.

Section 709 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-8) is amended by inserting at the end the following new subsection:

"(f)(1) In any program conducted, utilized, or approved by the Commission that is designed to test the existence of unlawful employment practices in section 703, no purported prospective employee may use fraud or misrepresentation when presenting the education, experience, or other qualifications of the prospective employee in an attempt to apply for a job vacancy.

"(2)(A) No charge filed by or on behalf of a person who uses fraud or misrepresentation in presenting qualifications as described in paragraph (1) shall be valid. The Commission shall dismiss such a charge and take no further action based upon such a charge.

"(B) The Chairman of the Commission shall take an action covered by subchapter II of chapter 75 of title 5, United States Code, against any officer or employee of the Commission who takes any action pursuant to the charge described in paragraph (2) knowing that the purported prospective employee used fraud or misrepresentation in an attempt to apply for a job vacancy.

"(3) No civil action brought in Federal court by or on behalf of a person who uses fraud or misrepresentation in presenting qualifications as described in paragraph (1) shall be valid. The court before which the civil action is brought shall dismiss the action.".

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, DC.

Hon. ALAN SIMPSON,
U.S. Senate, Dirksen Senate Building, Washington, DC.

DEAR SENATOR SIMPSON: I have been asked by a member of your staff to comment on a proposed amendment to the Civil Rights Act of 1991 that would prohibit misrepresentation by persons testing the existence of employment discrimination. It is my experience that unlawful hiring discrimination is still quite prevalent in the United States and that it is a particularly difficult type of discrimination to detect. It is my view, and it has long been my position, that testing for discriminatory hiring practices by persons who apply for employment, but who do not intend to accept employment, is one powerful weapon that is available in the battle against hiring discrimination. On November 20, 1990, I approved an EEOC policy guidance setting forth the EEOC's position that "testers" have standing to file charges under title VII of the Civil Rights Act of 1964. However, this does not mean EEOC can utilize Agency employees as testers.

Because I fear that a prohibition against misrepresentation by "testers" will effectively preclude their use, I do not favor such a prohibition.

Sincerely,

EVAN J. KEMP, Jr.,
Chairman.

Mr. SIMPSON. Frankly, I am quite astounded by the reply from Chairman Evan Kemp, someone whom I have the highest respect for, and with whom I agree on nearly every other civil rights issue. In essence, Chairman Kemp is saying that, unless we allow testers to lie about their credentials, the testing program cannot be operated. That is surely disturbing news to any employer.

In my mind, that is no answer at all. If we cannot run a fair testing program with a minimal amount of deceit—and mind you, I am already accepting the deceit that the testers practice when they assert they are actually interested in employment—then we should not run testing programs at all. However, I do not believe such a serious level of deceit is necessary. I believe a fair testing program is possible which would utilize testers who are presenting their own resumes. I would have no objection to such a program.

Nonetheless, given my great respect for the EEOC, I then proposed a compromise amendment which did two reasonable things: First, ordered a GAO report on the reliability of testing programs which depended on testers misrepresenting their age, experience, or other qualifications; and second, suspended any EEOC final action on charges based on tester data until GAO reported to Congress. This amendment did not bar EEOC from accepting or in-

vestigating tester-based charges, nor did it prevent EEOC from moving forward to final action on such a case once the 6 months was up—no matter what the GAO found.

I now place in the RECORD a copy of that amendment, and the EEOC's rejection of that proposal as well.

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

Insert at the appropriate place the following new section:

SEC. . STUDY ON MISREPRESENTATION BY PERSONS TESTING THE EXISTENCE OF EMPLOYMENT DISCRIMINATION.

(a) REPORT.—(1) The Comptroller General shall conduct a study on the reliability of any program designed to test the existence of unlawful employment practices described in section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) which utilizes purported prospective employees who misrepresent their education, experience, or other qualifications.

(2) The report referred to in paragraph (1) shall be submitted within 180 days after the date of enactment of this Act to the Committees on the Judiciary of the Senate and House of Representatives, to the Committee on Labor and Human Resources of the Senate, and to the Committee on Education and Labor of the House of Representatives.

(b) ACTIONS OF COMMISSION.—The Equal Employment Opportunity Commission shall issue no right to sue letter based on charges of discrimination which rely on data developed by any program described in subsection (a) before the report described in such subsection has been delivered to the appropriate committees of Congress.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, DC, October 29, 1991.

Hon. ALAN SIMPSON,
U.S. Senate, Dirksen Senate Building, Washington, DC.

DEAR SENATOR SIMPSON: I have been asked by a member of your staff to comment on a proposed amendment to the Civil Rights Act of 1991 that would authorize a study on misrepresentation by persons testing the existence of employment discrimination. I have no objection to the Comptroller General conducting a study on the reliability of a program designed to test the existence of unlawful employment practices under Title VII.

However, I do not favor the proposal prohibiting the Commission from issuing a finding of discrimination or a right to sue letter in the interim.

Sincerely,

EVAN J. KEMP, Jr.,
Chairman.

Mr. SIMPSON. Needless to say, Mr. President, I find EEOC's position on this proposal to be quite remarkable. What EEOC is saying then is that it wants to be able to give plaintiffs who base their charges on tester data the right to sue in Federal court—even before we know whether tester programs founded on misrepresentation are reliable indicators of discrimination. Mr. President, there are serious adverse consequences for defendants in such cases: The most egregious of those adverse consequences are terribly heavy legal fees.

Let me insert in the RECORD at this point a letter from the Center for Individual Rights, which is representing the defendant in the suit in Federal district court based on tester data: BMC Marketing Corp. This small, five-person company has incurred legal fees that exceed $85,000 thus far—and the court has not yet even ruled on the defendant's motion to dismiss.

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

CENTER FOR INDIVIDUAL RIGHTS,
Washington, DC, October 18, 1991.

Hon. ALAN K. SIMPSON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SIMPSON: I am very pleased to learn of your interest in the issue of whether federal courts should be willing to recognize race discrimination claims brought by "testers" (i.e., persons who apply for employment with false resumes and with no intent to accept a job, but instead are being paid to look for and discover instances of employment discrimination). The issue is one of exceptional importance to all employers and is in particular need of Congressional scrutiny in light of the Equal Employment Opportunity Commission's recent and, to my mind, wholly untenable decision to accept employment discrimination charges from "testers."

The Center for Individual Rights ("CIR") is currently involved in one of the few federal cases raising the issue of whether testers should indeed be granted standing in the employment discrimination context: *Fair Employment Council, et al.* v. *BMC Marketing Corporation*. CIR is representing the defendant in the case, BMC, and we have filed a motion to have the plaintiff's lawsuit dismissed. We believe that a ruling in our favor will have a major impact in deterring individuals and groups from concocting these types of abusive lawsuits in the future and we anticipate that our motion will be argued and decided early next year.

To help familiarize you and your staff with the underlying merits of the litigation, I have taken the liberty of enclosing a copy of the brief which we filed in support of our motion to have the case dismissed. It sets out our arguments in detail and there is no need to dwell on them in this letter. However, the "hidden" financial aspects and inequities of the litigation are a different matter. The case has generated substantial costs to our client and you may find a word or two about them to be useful to your general understanding of the problems posed by allowing "tester" suits.

First, you should know that BMC is a small, female-owned, job referral agency which is faring quite poorly in the midst of the current economic recession. In fact, BMC was nearly bankrupt at the time that the Fair Employment Council's lawsuit was filed. BMC's principals did not have the financial resources to hire any attorney—let alone one skilled in the intricacies of federal civil rights litigation—to defend the company in court against the charges made against it and were it not for CIR's involvement,[1] it is likely that the lawsuit would have driven the company completely out of business.[2]

Second, you should know that the plaintiffs in the suit, which consist of two black "testers" as well as the organization which trained and paid them to apply for jobs through BMC, the Fair Employment Council ("FEC") of Greater Washington, are not similarly disadvantaged. Needless to say, the two phoney job testers are not having to foot the bill for any expenses generated in the case and as for the FEC, it is having a bevy of lawyers at Arnold & Porter, one of Washington's largest and most powerful firms, provide it will all of the free legal services it requires.

In addition to these inequities in size and manpower, there is the matter of our client's legal bills. Shortly after agreeing to defend BMC, the Center allocated $40,000 of its total operating budget to this one case. (As a public interest law firm, we are, of course, providing our legal services to BMC on a *pro bono* basis.) As our legal strategy was (and remains) to get the lawsuit dismissed early on in the proceeding, we believed that this sum would be more than adequate to achieve that goal. We also believed, and BMC agreed, that we should hire the law firm of Paul, Hastings, Janofsky & Walker to provide us with "of counsel" assistance in the case.[3]

Unfortunately, things did not turn out exactly as planned. The case against our clients was filed in the U.S. District Court for the District of Columbia on May 2 of this year. In the short five months time since then, BMC has already run up legal fees and costs for Paul, Hastings' services in excess of $85,000. This is a staggering sum of money, especially if one considers that our motion to dismiss has yet to be argued and that, if it is denied, BMC may have to face a full-blown trial on the merits.

The monetary predicament BMC finds itself in sets a sobering example to other employers who may be similarly targeted by the FEC in the future. Indeed for many of these struggling companies, the only rational option may be to settle the discrimination claims which have been alleged against their companies rather than fight them out in court. If only for this reason, the fact that "testers" are able to present themselves to unsuspecting employment agencies as legitimate job seekers and then force them to spend tens of thousands of dollars in legal fees defending concocted legal claims of racial discrimination is truly unconscionable.

I hope you may be able to do something about this sad state of affairs and trust that you or the members of your staff will not hestiate to contact me if I can provide you with additional information or be of any other assistance to you as regards this important subject.

Thank you very much.

Yours truly,

MICHAEL P. MCDONALD,
President and General Counsel.

Mr. SIMPSON. Mr. President, these legal fees are outrageous. I think no employer should be subject to such fees where the whole basis for the suit—a finding of discrimination based on testers who lie about their résumés—has not yet even been proven "reliable."

Mr. President, the managers of this bill have told me they wish to avoid

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[1] CIR is a two-attorney law firm with an annual operating budget of $450,000. Information on CIR also accompanies this letter.

[2] BMC's franchisor, Snelling and Snelling, is able to afford legal counsel however it is not yet a party to the litigation and, in any event, both it and BMC's insurer have notified BMC that they will not pay for any costs it incurs in defending this lawsuit.

[3] Paul, Hastings has litigation and employment law experience which CIR lacks, and, in addition, generously agreed to provide us with substantial amounts of *pro bono* services of its own in connection with the normal, billable legal services which it performed on BMC's behalf.

amendments which would cause a conference with the House on this bill. Quite frankly, I fail to see how a 6-month delay in the processing of cases based on tester data would cause a conference. However, in deference to my colleagues, I will save this amendment for yet another day. Nonetheless, let me make it clear that my resolve on this issue has not changed one whit.

U.S. employers are only asking for fairness from the Government, and from the laws which we apply to business. Fraud, misrepresentation, lying, and deceit are fundamentally unfair. I will work hard to change our policy on this matter during the remainder of this Congress.

Mr. BROWN. Mr. President, earlier this week we voted unanimously to approve a Senate resolution which condemned sexual harassment and pledged to consider appropriate changes in the laws of the United States and the rules of the Senate. We should not forget this commitment.

Mr. KENNEDY. I agree with the Senator from Colorado. This resolution cannot represent a conclusion of our efforts in this area. The only conclusion that one can reach from reading the newspapers and the letters to the editor is that the attention of the Nation has been focused on this issue, and on the terrible consequences to individuals who are subjected to sexual harassment in the course of their efforts to work, to earn a living, and to contribute to our economy and society.

Mr. BROWN. The issue of sexual harassment in the workplace is one of paramount concern. The EEOC has developed guidelines and regulations relating to sexual harassment in the workplace. I intended to offer an amendment to this bill which would codify our prohibitions on sexual harassment. We need to expand our efforts to ensure this type of behavior does not occur in the workplace.

Mr. KENNEDY. Sexual harassment is a very important issue, and the Senate should carefully consider whether additional changes to the law, such as eliminating the caps on damages in this bill, are required in order to safeguard the rights of our citizens in the workplace. I oppose the caps on damages for sex discrimination. I will work to have those caps eliminated expeditiously, and I hope the Senator from Colorado will join me. I would suggest that it would be appropriate for the Senate to hold hearings on the state of the law regarding this very serious problem.

Mr. BROWN. These hearings can provide a valuable step forward on the important issue of sexual harassment, and the Senator from Massachusetts is to be commended for taking the lead in this matter.

Mr. DECONCINI. I commend Senator KENNEDY for his leadership in the area of civil rights and would like to know if it is also his understanding that the Supreme Court's holding in St. Francis College versus Al-khazraji is a correct interpretation of section 1981?

Mr. KENNEDY. Yes, I believe the decision is a correct interpretation of section 1981.

Mr. DECONCINI. Is there anything in the substitute to S. 1745 that would affect in any way the Court's holding in this case?

Mr. KENNEDY. No, the bill does not in any way repeal the St. Francis College decision. The discrimination described by the court in St. Francis College is, in effect, national origin discrimination, which is the term used in title VII of the Civil Rights Act to identify this particular type of discrimination.

Mr. DECONCINI. Is it the Senator's understanding that "national origin discrimination" is discrimination based upon characteristics common to a specific ethnic group, such as ancestry, culture, linguistic characteristics—including language and speech accent—physical characteristics, and birthplace?

Mr. KENNEDY. Yes, that is my understanding.

Mr. DECONCINI. Consistent with this interpretation, would the Senator agree that Congress intended that, to state a cause of action under section 1981, it is sufficient to allege discrimination based solely upon national origin.

Mr. KENNEDY. Yes, I agree.

Mr. DECONCINI. I thank the Senator. I also have another matter that I would like to discuss. This is the issue of workplace rules which require the speaking of only one language. Many of my constituents have brought to my attention an increasing problem with nonjob related discipline and termination of people for speaking languages other than English in the workplace. Is the Senator aware of the EEOC regulations dealing with this problem?

Mr. KENNEDY. Yes, the EEOC promulgated such regulations in 1980.

Mr. DECONCINI. These regulations reflect the fact that the primary language of an individual is often an essential national origin characteristic. Does the Senator agree that these regulations found in 29 CFR 16067.7 provide a sound and effective method for dealing with this problem?

Mr. KENNEDY. Yes, I agree that this regulation has worked well during the past 11 years it has been in effect.

Mr. DECONCINI. Does the substitute to S. 1745 in any way adversely affect the EEOC regulation on language use in the workplace.

Mr. KENNEDY. No, it does not.

Mr. DECONCINI. Therefore, if S. 1745 is passed and signed into law by the President, the EEOC regulations would be consistent with title VII as amended by S. 1745.

Mr. KENNEDY. That is correct.

Mr. DECONCINI. I would like to thank my distinguished colleague from Massachusetts. That is all I have.

Mr. LEAHY. Mr. President, I rise today to speak about a matter of crucial importance to the American people, the Civil Rights Act of 1991.

The United States was founded on the fundamental principles that all men and women are created equal; that they are endowed with the inalienable right to prosper through hard work and ingenuity.

However, the sobering fact is that for many citizens, the promise of equal opportunity—a centerpiece of our democracy—remains illusory. The Civil Rights Act of 1991 is an effort to vindicate this founding principle. It is an effort to adjust the reality of life in the United States today to accord with the history lessons our children are taught daily in school.

REVERSAL OF RECENT SUPREME COURT CASES

The act overturns several recent Supreme Court cases which, taken together, severely erode protections that have benefited Americans for decades.

The act restores to the employer the burden of justifying employment practices that have a discriminatory impact on minority hiring. This bill returns the law of disparate impact and in particular business necessity to the condition it was in from 1971 until the Supreme Court's 1989 decision in Wards Cove Packing versus Atonio.

By overturning Martin versus Wilks and by limiting challenges to consent decrees, the act also creates incentives to settle civil rights cases and provides a measure of finality to complicated litigation.

Furthermore, the act reinvigorates section 1981 of the Civil Rights Act of 1866, a law which, prior to the Supreme Court's 1989 decision in Patterson versus McLean Credit Union, had been used effectively since the 19th century to combat racial discrimination The Patterson decision drastically limited section 1981's application to circumstances involving only the formation and enforcement of contracts. The Civil Rights Act of 1991 returns the originally intended broad scope of this statute.

The act also restores protections for American workers employed in American companies abroad and allows workers to challenge discriminatory seniority plans that are applied against them.

STRENGTHENING REMEDIES FOR INTENTIONAL DISCRIMINATION

The Civil Rights Act of 1991 puts teeth into the sanctions faced by employers who purposefully and intentionally discriminate against their employees. For the first time, women and the disabled could recover damages and have jury trials for claims of intentional discrimination. But even this bill does not do enough to protect the women of this Nation.

Violations of fundamental civil rights must be taken seriously in our society. Too often, victims of discrimination end up as victims of the process. It is the person who harasses, who refuses to hire, who passes over a proven employee's promotion, who is the wrongdoer. And it is high time that Federal civil rights law recognized this by offering meaningful remedies.

Under existing civil rights laws, the best a woman who is intentionally harassed in the workplace can hope for from our legal system is a court order saying that her boss should stop. If her boss starts to harass her again, the only thing she can do is go back to court to get yet another order telling her boss to behave. Still without the improvements of the Civil Rights Act of 1991, there would be no penalty for the employer, no adequate compensation for the victim.

If a woman were forced to quit her job as a result of intentional harassment, the best she could hope for from current civil rights laws is backpay and reinstatement to a job that her employer may already have made unbearable. She would not be entitled to recover for the damage to her professional career or for the psychological and physical trauma she may have suffered. Nor would her boss be subject to any sort of punitive damages to deter misconduct. Thus, faced with little change of any meaningful recovery, and confronted by the very real prospect of an assault on her character, women too often fail to speak out.

The same is true for the disabled, who are too often the target of intentional discrimination.

Contrast our civil rights laws with those protecting property rights. If I back into someone else's car in the parking lot outside, I can be brought to court and forced to explain my conduct before a jury. If the jury so decides, I can be required to compensate the owner of the car for damages, even if I did not act intentionally. If I acted maliciously, I can be subjected to punitive damages or even criminal penalties.

This is the norm. This is how our judicial system works for most legal claims.

But it is not how the system works for civil rights. If, for example, an employer intentionally harasses or otherwise persecutes an employee solely on account of race, the current civil rights laws cannot require the employer to compensate that person fully for the damage he has caused, no matter how great or how real. Nor can the employer be forced to pay punitive damages no matter how outrageous his conduct has been. By overturning the Supreme Court's decision in Patterson versus McLean Credit Union, the Civil Rights Act of 1991 would remedy this injustice.

The penalties for civil rights violations—for depriving citizens of the fundamental principles of equality and fairness on which this Nation was founded—should not be inferior to legal claims for breaching a contract, violating the Sherman Act, or infringing a copyright. This bill goes a long way toward setting this priority straight and recognizing the importance of protecting all Americans from discrimination by providing a meaningful legal remedy.

This act achieves these significant ends while recognizing the danger of unnecessarily shackling free enterprise. In the careful wording of its provisions, this act takes into account employers' legitimate interests in minimizing the threat of litigation and governmental intrusion into their businesses.

A WORTHWHILE COMPROMISE

While I believe this was the best bill we could get the President to sign, I, like many of my colleagues, do not believe that passage of this legislation ends the necessity for further reform in the area of civil rights. Like others, I believe that the inequity of placing limits on damages for those discriminated against on the basis of sex or disability, but not for those discriminated against on the basis of race, will need to be addressed in future legislation. However, I recognize that the current bill, as amended by the Danforth-Kenney substitute, is the product of an extremely hard-fought compromise. Senators KENNEDY, DANFORTH, and others have worked painstakingly to craft legislation that the administration would not veto.

You build a house brick by brick. In 1990, I was proud to cosponsor legislation introduced by Senators KENNEDY and JEFFORDS that would have advanced the cause of civil rights in the workplace. President Bush vetoed this proposal, dismissing it as a quota bill. He similarly promised to veto as quota bills two other compromise proposals and the unamended version of this bill, S. 1745. Now, finally, President Bush has agreed that the Danforth-Kennedy substitute is not quota legislation. I agree that this bill is not a quota bill. In my estimation, neither were its predecessors—all were compromise measures sponsored by Members of the President's party. But I am pleased that the President has seen the light and agreed to support this much-needed legislation.

While this bill is not the final chapter in providing for civil rights in this Nation, it is a large and profoundly important step. Passage of this bill is something all Americans should be proud to have achieved together.

CONCLUSION

Finally, I would like to emphasize that I hope this compromise means an end to the game of exploiting racial tensions for political advantage. I hope that the compromise reached with the administration represents a new spirit of cooperation between Congress and the White House in solving the important domestic problems this country faces.

Mr. DURENBERGER. Mr. President, before we vote on this civil rights legislation, I want to take a moment to commend the distinguished senior Senator from Missouri [Mr. DANFORTH] for his courage, his dedication, his commitment, and his effort on behalf of civil rights.

For the past 2 years, JACK DANFORTH has been on a mission. He has refused to back down in his effort to bring equity and fairness into the workplace, to right wrongs and to craft remedies that ensure that every American, no matter their race, color, creed, or sex, does not suffer employment discrimination.

He has battled our President and many others in his effort to see this bill become law. He has engaged in months of arduous negotiations with those on the left and those on the right to try to reach a workable compromise.

One of my colleagues on the Senate Labor Committee also deserves more recognition than he has received. Senator JIM JEFFORDS championed the original bill in committee. He worked to improve it in markup, and he has never skipped a beat at 100 meetings over the last 18 months to try to reconcile our many views.

Mr. President, I am pleased to cosponsor this civil rights bill and hope that when we pass the bill, a period of sharp division in our country will end. This legislation overturns several 1989 Supreme Court decisions that narrowed the scope of laws protecting minorities and women in the workplace.

This has been a long journey through what has become familiar terrain for many of us—and those of us who have been involved in this struggle pray that it will not require revisiting for some time to come.

The most controversy in this debate has centered on what the term "business necessity" means in the context of the civil rights bill. I would like to clarify this Senator's view of the meaning of the term "business necessity" as that term is used in the pending Danforth-Kennedy civil rights bill.

The Danforth-Kennedy bill uses the phrase "job-related and consistent with business necessity." As ranking member of the Disability Policy Subcommittee, and an original cosponsor of the Americans With Disabilities Act, I am quite familiar with the derivation of this phrase. This phrase was taken directly from the Americans with Disabilities Act.

The ADA codified the standards contained in the 1973 Rehabilitation Act, which in turn borrowed the disparate impact analysis adopted by the Supreme Court in Griggs versus Duke Power.

In fact, in the House Judiciary Committee Report on the ADA, the report

made clear that the term "job-related" referred to the Griggs job-performance standard, because the committee cited a Rehabilitation Act circuit court case, Prewitt versus U.S. Postal Service. That case stated that the Rehabilitation Act adopted a "Griggs-type approach in the disparate impact handicap discrimination context. [The law] require[s] Federal agencies not to use any selection criterion that 'screen out or tends to screen out qualified handicapped persons' unless the criterion * * * is shown to be 'job-related for the position in question.'"

Accordingly, Mr. President, it seems clear to this Senator that the phrase "job-related" as used in the Danforth-Kennedy bill comes directly from the ADA—and the ADA and Rehabilitation Act both adopted the Griggs job-performance standard.

Using the language of the Americans With Disabilities Act should put to rest any charges that this bill will lead to quotas. Everyone agrees that the ADA is not a quota bill; placing the same ADA language in the Danforth-Kennedy bill does not transform this bill into a quota bill.

Mr. President, this civil rights legislation is the second major revision to the landmark Civil Rights Act of 1964. Among other things, the 1964 act prohibits discrimination in places of public accommodation, in schools, and in the workplace. The first major revision occurred in 1972, when Congress addressed the fact that title VII of the Civil Rights Act did not cover Federal employees. In order to rectify this inadequacy, Congress enacted section 717 of title VII and included Federal employees within the purview of title VII.

But since 1972, it has become painfully clear that there remains another shortfall in the original 1964 bill. The 1964 act provided equitable remedies for discrimination based on race, sex, religion, and national origin, but it failed to provide for jury trials with compensatory and punitive damages. Because Federal courts allowed racial minorities to sue under section 1981 of the Civil Rights Act of 1966, victims of sexual harassment and gender discrimination had little relief available, other than an order reinstating them to their job.

Mr. President, the bill that we are considering in the Senate closes this gigantic loophole in our discrimination laws. It is one of the most important reasons that we are amending title VII of the Civil Rights Act of 1964. Many individuals during the recent nomination hearings concerning Clarence Thomas wondered why, if Anita Hill's charges were true, she did not come forward with her sexual harassment claim while she was an employee at the Equal Employment Opportunity Commission.

One possible explanation why any person who claims to be victimized by sexual harassment may not come forward is that, although they suffer great emotional trauma, their only remedy is reinstatement, possibly back pay, and a court injunction ordering the employer to cease such conduct in the future. This is hardly the type of remedy that makes victims whole for their injury, and does not serve as an effective deterrent toward future unlawful conduct.

Mr. President, the Danforth bill, of which I am a cosponsor, places caps on damages based on company size. For employers with fewer than 100 employees, compensatory, "pain and suffering," and punitive damages are capped at $50,000. For employers with between 100 and 200 employees, damages are capped at $100,000; for employers with more than 200 and fewer than 500 employees, damages are capped at $200,000, and for employers with more than 500 employees, damages are capped at $300,000.

Mr. President, although these amounts are considerable, I believe that there should be no distinction between the remedies that are available for sex discrimination and the remedies available for discrimination on the basis of race. As I indicated yesterday, I intended to offer an amendment that would have provided equity in remedies for all forms of discrimination.

But in the name of temporary compromise, in the name of getting this civil rights bill to become law, I have withdrawn that amendment. But that amendment will be back before the Senate on another day, and I will not cease to fight to remedy this inequity.

Mr. President, I urge my colleagues to vote for this bill. This measure represents an important victory in the fight against discrimination in the workplace and I hope that we can put this painful period behind us.

• Mr. KERREY. Mr. President, I rise today to express my support for the civil rights compromise, a culmination of the tireless and diligent efforts of my colleagues Senator DANFORTH and Senator KENNEDY. This legislation is just that—a compromise. It does not satisfy everyone, but I believe it will go a long way toward redressing serious civil rights problems that have arisen in the wake of recent Supreme Court decisions.

The Civil Rights Act is designed principally to restore important rights which existed under Federal law prior to a series of Supreme Court cases in the late 1980's. Restoring these safeguards against discrimination, in my judgment, is extremely important.

The goal of this legislation is to enhance the employment opportunities of minorities and women by permitting victims of discrimination to challenge unfair employment practices. Under this legislation, employers may not implement employment practices that are not job related or consistent with business necessity. In addition, victims of intentional discrimination will be provided with suitable remedies, particularly the collection of damage awards.

I believe that this bill will move us in the direction of a society where all people are treated with equal concern and respect. Individuals eager to find personal satisfaction through their achievements in employment should not be prevented from pursuing their goals simply because of the color of their skin, their sex, their religion, or their disability status.

The civil rights bill is important legislation and therefore I support it. However, I do not believe this legislation by itself will resolve the major issues affecting minorities or women. What minorities and women need in addition to technical legislation regarding litigation processes is for our Nation to address seriously the conditions which are at the root of so many of our social problems. These concerns include the need for adequate health care, decent housing, good education, effective job programs, and responsible city infrastructures. Our Nation must confront an array of social obstacles facing minorities and women in addition to protecting their rights to litigate.

Nonetheless, this legislation takes an important step in embracing and advancing the fundamental rights upon which our Nation was established by promoting equal access in employment. Sadly, civil rights has recently been mischaracterized as an extension of special protections for selective groups. The need to enact this bill demonstrates the hurdles we have yet to jump through to secure equality for all Americans.

The civil rights bill will encourage employers to examine their present policies and make required changes, and it will enable minority groups and women to seek redress when discrimination occurs.

I extend my commitment to this legislation and other measures which guarantee to all Americans equal protection under law.•

Mr. WALLOP. Mr. President, for nearly 2 years now, we have been trying to reach an agreement on civil rights legislation. Now that a compromise has been fashioned, our divisiveness has reached a new level and we are in a quandary as to who are the winners and who are the losers. I am not one for rash predictions, Mr. President, but I hazard a guess that the losers in this battle will be our Nation's small businesses.

I commend the Senator from Missouri [Mr. DANFORTH] for his efforts to modify the damages allowed under this bill. I remain concerned, however, that this bill does not provide adequate protections for those companies which

might be subjected to economically devastating lawsuits.

It was originally my intent to offer an amendment to allow a judge to reduce damages awarded by a jury if the amount of the award would be a de facto bankrupting of the company. But I was discouraged from offering my amendment by those who worked hard to forge this fragile compromise. Yet their reasons for deterring me from offering my amendment are even more frail than the final proposal.

My amendment was criticized for favoring economics over justice and civil rights. That is simply not the case. I believe no employer, no matter how small, should be allowed to discriminate.

Yet just as we did with family leave legislation, the unemployment compensation package and a host of other bills, we have failed to measure both their economically useful and economically destructive aspects and modify them where practical.

My amendment was about job creation, economic growth, and competitiveness, the very issues about which several Members of this body have been pontificating. It is unfortunate that their swagger was not as convincing as the decibel level of their disputations.

The Danforth proposal would permit plaintiffs to recover unlimited damages for out-of-pocket costs as well as pecuniary damages, damages for pain and suffering and punitive damages, up to certain limits. This remedy would be in addition to the existing remedies of back pay. Moreover, S. 1745 places no cap on monetary damages for past harm, except in bias cases based on statistical comparisons. When faced with possible jury awards, attorneys' fees, discovery costs, not to mention court costs, bankruptcy is just around the corner for the average small business owner with an average taxable income of $25,000 a year.

The caps on damages contained in this bill therefore offer no real solution. Small businesses will simply not be able to survive the legal fees, much less the damages from the flood of litigation this measure invites. This bill paves just one more avenue to legal antics where no one benefits but the attorneys.

So I say to my colleagues that, by its very nature, this bill continues to foster an already antientrepreneurial environment in this country. The adverse impact will most strongly be felt by the small businesses, particularly those in my home State of Wyoming which happens to have the largest per capita percentage of small employers in the country.

It is not the large corporations such as AT&T and General Motors which will have to deal with the resentments and frustrations of stagnant incomes which may arise as a result of this legislation. It is the entrepreneurs and the job creators—those in the low- and middle-income brackets.

Yes, lawsuits can and should be used to deter wrongdoing. But where the civil rights of individuals are paramount, so, too, is the right to economic prosperity.

The United States stands alone as the most litigious society in the world. And who pays? We all do. We pay in higher insurance rates, and higher grocery prices. The list goes on. And the cost to business is staggering, putting them at a severe competitive disadvantage.

U.S. companies spend more than $20 billion a year on litigation, not including the cost of settlements and judgments. Civil cases cost on the average of $80,000 for small businesses, often forcing them to cover these costs by cutting into budgets otherwise earmarked for sales or product development.

The unavoidable result is a significant drop in business earnings, followed by a precipitous decline in employment and few entrepreneurs capable of applying the kind of cost-benefit analysis that lends discipline to various aspects of their business.

Over the last few years, we have been consumed by the prospects of making inroads in the global marketplace. But this legislation is the anthithesis of any competitive spirit we take pride in as Americans. It does not promote equal opportunity and job creation. It promotes authority over economic and competitive interests.

In the "Economic Analysis of Law," Judge Richard Posner, tells us that "one of the most tenacious fallacies about the economics of law is that it is about money. On the contrary, it is about resource use, money being merely a claim on resources." But it is mobile resources that gravitate to the most valuable and cost-effective uses.

And if voluntary exchanges are permitted through competitive market forces, we can reasonably predict an increase in efficiency and employment opportunities. Yet this bill erects another barrier to the most efficient paths for achieving those goals.

Mr. President, I agree there is more to justice than economics, but there is also much to be said for what a society must sacrifice for the ideals of justice. As Judge Posner has pointed out, "justice is not independent of its price." And that price is much too high for the small businesses of this country.

There is one last point which needs to be made about today's decision. There is a myth afoot that our civil rights are endangered absent the passage of this legislation. The reality is that individual rights have not diminished since the court decisions which we would now overturn. Our Nation remains the bastion of civil rights in a world that acknowledges such rights all too begrudgingly. Our rights continue, with or without this legislation. In fact, this bill leads us down the path of diminishing our rights. It moves us away from our common law heritage to a system more akin to the continental, roman law. One result is to prejudge the accused as guilty and force them to prove their innocence in court. This is a dangerous reversal of our rights. I would recommend my colleagues read an article by Gordon Crovitz from today's Wall Street Journal which discusses the dangers of substituting political necessity for legal principles. I ask that this article be printed at this point in the RECORD

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

[From the Wall Street Journal, Oct. 30, 1991]

BUSH'S QUOTA BILL: (DUBIOUS) POLITICS TRUMPS LEGAL PRINCIPLE

(By L. Gordon Crovitz)

Liberals always thought the key to racial and sexual equality is lawyers litigating for punitive damages, but President Bush at least used to complain about a "lawyers' bonanza." Maybe Mr. Bush thinks that enriching lawyers with a quota bill will reverse the recession for one industry, even if it's at the legal-fees-by-the-hour expense of all other businesses.

Not quite all other businesses. Senators understand the terrifying implications of the law they wrote well enough to deny their employees the right to sue them. Mr. Bush, despite his brave words about making congressmen abide by the law, gave them a pass here.

Senators yesterday devised ways to avoid the jury trials they plan for others. The George Mitchell-Charles Grassley compromise would let Senate workers appeal from internal procedures to a federal appeals court, but unlike private-sector workers they couldn't get jury trials or punitive damages.

Senators tried to justify their exemptions by invoking separation of powers, but the Constitution lists all the immunities: Congressmen can't be arrested while at or going to or from Capitol Hill (except arrests for treason, felony and breach of the peace), and they can't be sued for what they say on the floor of the Senate or House. There is no immunity for discrimination or sexual harassment. The first private-sector employer sued under this bill should bring an equal-protection clause defense arguing that it's been singled out as a defendant for not being Congress.

One reason Congress is so edgy about being sued is that this bill has little to do with what most Americans consider discrimination—international discrimination. The entire debate instead is about the lawyers' invention of disparate-impact analysis, which starts with the assumption that there is "discrimination" unless every job filled by every employer perfectly reflects—no less and no more—the available labor pool of women, blacks, Greek-Americans, Jews, Aleuts.

The Supreme Court tried in cases such as *Wards Cove v. Atonio* to avoid this hyperlitigious world by crafting clear defenses for employers. The justices ruled that plaintiffs must identify seemingly objective job requirements such as tests or educational requirements that excluded them. Plaintiffs would then have to prove that

these factors have no significant relation to any "business necessity" of the employer. The civil-rights bill blessed by Mr. Bush reverses the burden of proof, adding insult to lawsuit by refusing to define business necessity.

This non-definition definition hints at the mischief of this bill, which ensures years of costly lawsuits as judges try to fathom what Congress meant by a bill that intentionally doesn't say what it means. The following section, entitled "Exclusive Legislative History" (even though Ted Kennedy immediately went to the floor of the Senate to give his own interpretation), is supposed to guide judges as they in effect write the law:

"The terms 'business necessity' and 'job related' are intended to reflect the concepts enunciated by the Supreme Court in *Griggs v. Duke Power Co.* and in other Supreme Court decisions prior to *Wards Cove v. Atonio*." Under this non-standard the justices could simply re-adopt the constitutional protections they gave defendants. After all, they thought much of *Wards Cove* was simply a continuation of their *Griggs* analysis of disparate-impact cases. It was in a case decided before *Wards Cove* that the court insisted that "the ultimate of proof" must remain "with the plaintiff at all times."

No law can amend the Constitution to deprive parties of the due process so the provision depriving third parties of the right to challenge consent decrees likely remains unconstitutional. The bill also gives the justices a new reason to declare punitive damages unconstitutional. Damages for sexual harrassment would increase with the irrelevancy of the size of the workforce, not with the heinousness of the offense. Harassment remains undefined.

Why did Mr. Bush cave? He must know that labor lawyers today are advising clients to avoid litigation by hiring by the numbers. The likeliest explanation is politics. There's probably no better motive for inserting politics into law than for a Republican president to twist the law in ways he thinks will appeal to blacks, but does Mr. Bush think it's good politics to sacrifice legal principle for supposed racial ends? Judging by recent flip-flops by the White House, the answer is yes. The quota bill is the latest tea leaf that for this administration, racial politics trumps law:

Mr. Bush this month instructed Solicitor General Kenneth Starr to withdraw a key argument in a brief he'd submitted to the Supreme Court. The question in *U.S.* v. *Mabus* is how much spending Mississippi must do to attract applicants to historically black public universities. Mr. Starr said the State needs to do more, but that separate but equal is a dead doctrine. "The idea is to end duplication, not to ensure it by ensuring that separate schools are in fact equal," he wrote.

Mr. Starr, who helped craft Dan Quayle's civil-justice reform proposals, warned about the litigation nightmare if the justices insist on precisely equal spending. He said this would invite "enormous and endlessly litigious undertaking to ensure that there are no longer any spending disparities."

This brief was filed in July, but in September a group of black college administrators lobbied Mr. Bush to disavow this legal argument. He sent the word to Mr. Starr, who on Oct. 10 filed a rare, perhaps unprecedented, withdrawal with the Supreme Court. "The time has now come to eliminate those disparities" in spending, Mr. Starr wrote. "Suggestions to the contrary in our opening brief," a footnote explained, "no longer reflect the position of the U.S." Team-player Starr, who often speaks of the importance of the unitary executive branch, quietly went along with this order from the boss.

Months before Lamar Alexander took over at the Education Department, the agency's top civil-rights official, Michael Williams, declared race-specific scholarships unconstitutional. One of Secretary Alexander's first acts was to put on deep freeze this legal opinion by a politically incorrect black lawyer.

Mr. Williams' legal analysis was a routine application of the 1978 Bakke decision and other cases prohibiting race-linked policies except to remedy specific past discrimination. Yet Mr. Alexander announced that race-based scholarships could continue while Mr. Williams' opinion was under review. No word on when, or if, a final decision will be reached.

Liberals in Congress bear the chief responsibility for the litigation madhouse this bill creates, but David Duke is likelier to make Mr. Bush bear the political costs. Clarence Thomas proved that all blacks do not bow before the interest groups that insisted on this bill. It's doubtful that anyone thinks better of Mr. Bush for breaking his no-new-quota pledge.

It won't take long for resourceful lawyers to pump this lawsuit cow for all the cash it's worth. Expect years of divisive cases pushing this bill's peculiar definition of discrimination. After all this, at least no one will be able to argue that litigation leads to harmony.

Mr. KERRY. Mr. President, the struggle to enact this civil rights bill has been, as the columnist Ellen Goodman recently wrote, a classic example of why Americans hate politics. For 2 years, we have argued about this bill, exchanged partisan charges about it, wrestled with the language, and debated every paragraph. Despite this, most Americans outside the Beltway do not understand what the bill is really all about. It is not that the issues dealt with are unimportant; they are very important. But they are not the issues that most American families deal with on a daily basis. Back in my State, most people can't afford to worry about suing their bosses—they just want to keep their jobs.

There is cause for celebration, nevertheless, in the fact that we finally have a bill that Congress will pass and that the President will sign. The bill will help clarify, as a matter of law, where we draw the line between illegal race or sex discrimination and the legitimate judgment of an employer that one candidate happens to be more qualified for a particular job than another candidate.

As a result, employers will clearly be prohibited from creating irrelevant job qualifications that effectively screen out women or minorities. In other words, employers will not be able to require that a janitor have a high school diploma if that is not needed to do the work and the requirement makes it less likely that a woman or a minority will be hired. It is this provision that, until last Thursday, President Bush said would lead to quotas. Now, he acknowledges what has been true all along, which is that it will not lead to quotas. After 2 years of divisive rhetoric, the President has finally admitted that Senator KENNEDY and Senator DANFORTH were right and that he was wrong, and for that we should be very grateful.

Obviously, this is not a perfect bill; it is a compromise bill. It will not make the law fully clear or fully just or fully fair. It will narrow, but not remove, the distinction in remedies available to those who suffer from discrimination on the basis of gender or religion as opposed to race. The fight to establish complete equity in the law must, unfortunately, wait until next year.

But although the bill is not perfect, there is no question that it will provide women and minorities with a far greater degree of protection than would continued stalemate under current law. I salute those who worked so hard to forge this compromise; I believe it is an important step forward for our country and that it will be viewed as one of the significant achievements of this Congress.

I wish to offer my sincere commendation and appreciation to the distinguished senior Senator from my State, Senator KENNEDY, the senior Senator from Missouri, Senator DANFORTH, and other Senators who labored long and diligently with the objective of crafting a worthwhile bill that could become law despite the inflexible stance taken by President Bush. The enactment of this bill will serve as a much more fitting tribute to their perseverance and commitment than my words, but I must express my compliments nonetheless.

Mr. MURKOWSKI. Mr. President, I rise today in support of the compromise reached on S. 1745, the Civil Rights Act of 1991. I commend the President and Senator DANFORTH on their efforts to reach a compromise that we call can support. I personally met with the President on more than one occasion to discuss this legislation and I know how committed he is to enacting meaningful civil rights legislation.

Mr. President, everyone in this body agrees with the goals of S. 1745. We all agree that discrimination, in any form, is unacceptable. As a free society, we can never rest until every individual is given an equal opportunity—that is what the American dream is all about. The compromise that has been reached represents a consensus on the best way to achieve this goal. I was pleased to join in this effort by adding my name to the compromise's list of cosponsors.

Most importantly, the compromise is no quota bill. Quotas do great harm to the cause of civil rights. They are demeaning to minorities and a source of animosity for everyone. In addition, questions about the retroactive application of this legislation have been ad-

dressed. Retroactivity is fundamentally unfair. Parties that begin litigation under one set of rules should not have the rules changed on them in the middle of the game.

Wards Cove Packing, a large employer in my State, has spent over 20 years and $2 million in legal fees proving itself innocent of employment discrimination. In eight separate decisions, no court has ever found this company guilty of discriminatory hiring practices.

The now famous Wards Cove litigation began in 1971, almost a generation ago. When the district court and the appeals court first considered this case, they decided it under the prevailing Griggs versus Duke Power Company standard. Both courts found Wards Cove innocent. Both courts even assigned Wards Cove the complete burden of proof and still found Wards Cove innocent. The case went to the Supreme Court which remanded it. In January of this year, the district court issued its remand decision. The district court found no reason to change its prior conclusions about Wards Cove's innocence stating: "The court * * * finds that the defendants hired individuals * * * based on their qualifications, and not upon their race."

After 20 years and eight losing decisions, the plaintiffs' attorney has filed yet another appeal, now seeking his ninth decision. The plaintiffs have had their day in court. This case is over. The only argument left to the plaintiffs is that Congress is changing the law and that this case, which has already been decided under Griggs, should be retired.

After 20 years of litigation, Wards Cove would like to decline the honor of relitigating this case. Regardless of whether we in Congress think the law is being changed, the plaintiffs' attorney is determined to force Wards Cove to litigate that issue. And if the plaintiffs' attorney can convince the court we are changing this law, Wards Cove will be forced into still more litigation in which its 1971 employment practices will be judged by standards first created in 1991. And if the court finds Wards Cove guilty under the standards the court says we are now establishing, Wards Cove will be in the very curious position of being found innocent under the Griggs standard the legislation seeks to restore but guilty under the standards the court says we have actually established.

Mr. President, the Wards Cove case is not still pending because there are outstanding issues on the merits. The case is not pending because the plaintiffs have been denied their day in court. The case is pending only because the plaintiffs' attorney wants to keep it alive. In three separate briefs, the plaintiffs' attorney has argued the case should be kept open and litigated based on the pending civil rights legislation. In fact, this was the plaintiffs' attorney's lead argument before the district court on remand.

The brief filed in support of the plaintiffs' attorney's most recent appeal again argues a decision should be deferred until Congress passes this law at which time the case can be retried. The brief states "Barring special circumstances, courts apply amendments which go into effect while a case is pending."

Mr. President, this case is a special circumstance. But it is not a special circumstance justifying relitigation. It is a special circumstance which justifies the inclusion of language in this bill, which I authored, allowing this case to go to closure regardless of how a court may interpret the effective date provisions of S. 1745.

I have been informed by the sponsors of this legislation that their intent is that the bill not apply retroactively. I strongly support this intent.

The inclusion of language regarding this case should not be interpreted as a precedent for any other case. Nor should it be viewed as creating an implication regarding whether or not this legislation applies retroactively generally. It is to be interpreted as a congressional determination that regardless of how the general retroactivity issue is resolved, the Wards Cove case is one in which it is clear that this legislation should not apply retroactively.

Mr. LAUTENBERG. Mr. President, employees of the U.S. Senate should have the same civil rights as their counterparts in the private sector. And as an employer, the Senate and Senator should abide by the same standards of nondiscrimination that apply to employers in the private sector.

Yet, Mr. President, we need to take account of things about the Senate which are unique and different from the private sector as we apply these standards. The Senate is part of a separate branch of Government. It is a political body, often in conflict with the other branches of Government. Senators in some ways have less flexibility than private sector employers to respond to discrimination complaints. In examining proposals to extend the civil rights laws to the Senate I was guided by my desire to hold the Senate to the same standard of behavior that we apply to the private sector, while recognizing the uniqueness of this institution. For that reason, I opposed amendments that would open the door to political abuse. I opposed amendments that would violate the constitutional concept of the separation of powers. And I opposed amendments that did not take account of the inability of Senators to protect themselves against personal liability by incorporating under our Nation's laws like private businesses.

The Grassley-Mitchell amendment to S. 1745, the Civil Rights Act of 1991, developed in a bipartisan manner, was designed to ensure equal application of the civil rights laws to the Senate. This amendment provides victims of discrimination access to our judicial system, by allowing them to have a U.S. appeals court review or the decision obtained in the Senate. I did not believe that the judicial review contained in this amendment was unconstitutional. Accordingly, I voted against a constitutional point of order against the Grassley-Mitchell amendment raised by Senator RUDMAN.

However, it is important that the constitutional separation of powers be maintained. I believe that unlimited review of the legislative branch by the judicial branch is unconstitutional and will likely breed political abuse. As everyone knows, Federal district judges are political appointees and have to go through a Senate confirmation process. A Senator who voted against the nomination of a district judge may have to face that same judge in a trial someday. The Nickles amendment, No. 1287, which provided for a totally new trial in Federal court, along with the threat of punitive damages, for which Senators could be personally liable, crossed the constitutional line. For that reason, I voted to table this amendment.

On the matter of personal liability for discrimination by Senators, I voted to table the Rudman amendment because Senators do not have the protections that incorporated organizations do against any type of lawsuit. This tabling motion failed and the amendment was adopted. Under our laws, business owners can shield themselves from personal liability by incorporating, but Senators would not be eligible for this type of protection. Therefore, Senators would be personally liable for compensatory damages in relation to a discriminatory action conducted personally by a U.S. Senator. Officers in private companies are not personally liable for similar damages.

Political abuse can also arise when political appointees in the executive branch enforce rules in the legislative branch. I support the application of all labor and safety laws to the Senate in the same way as they are applied to the private sector. I urge the Senate Rules Committee to move forward and establish internal labor and safety regulations. I don't believe, however, that political appointees of executive branch agencies should investigate and enforce work rules within the Senate. I voted to table the Nickles amendment, No. 1284, because there is a great potential for political abuse if Republican political employees were investigating Democratic politicians or vice versa. We should not allow politics to become part of the enforcement of our Nation's labor and safety laws in the U.S. Senate.

So, Mr. President, while the Grassley-Mitchell amendment provided a

slightly different mechanism for resolving discrimination complaints, it established the same standard of behavior for the Senate, and provided employees with the same rights, as apply to the private sector.

Mr. RIEGLE. Mr. President, I rise in support of the Civil Rights Act of 1991. This bill is urgently needed to protect all Americans from discrimination in the workplace.

The Senate should act to reserve civil rights protections that were eroded by a series of Supreme Court decisions that overturned long-standing law. These decisions mark a retreat from the course we have set in our fight for equal opportunity. I believe that Congress has the duty to return the law to its previous standing and tighten it where appropriate.

The Senate has worked for well over a year to develop a proposal that can become law. Last year, Congress agreed to over 25 changes in the bill requested by the President in order to reach a compromise. That compromise passed the Senate three times with widespread support, yet the President vetoed the bill. The Senate failed by just one vote to overturn that veto.

The bill before the Senate today will receive support from Members of both parties, just as last year's bill did. This indicates agreement in Congress and outside, that employment practices that only have the effect of excluding individuals on the basis of race, color, religion, or sex should be eliminated.

Further, the consensus reflects the understanding that individuals should be protected from intentional discrimination and that those who do discriminate in employment should face severe penalties.

The timing of Senate debate on this bill is also appropriate in light of the national debate on sexual harassment in the workplace because the Civil Rights Act toughens penalties for sexual harassment in employment. Unfortunately, these penalties are limited by caps on the amount a victim of intentional sex discrimination can recover. I believe the bill ought to be modified to remove those caps. Tougher sanctions are needed to help eliminate discriminatory actions that make it difficult for women to reach their full potential at work.

Apparently, the President will support this civil rights bill. While there are some differences between the bill before the Senate today and the bill that was passed by the Senate last year, it is substantially the same. The bill overturns the same Supreme Court decisions that would have been overturned in the bill passed last year. The President was wrong to call the bill passed by the Senate last year a quota bill—it was not a quota bill. It is a disgrace that the President vetoed the civil rights act last year and that it took so long for the President to support legislation that will protect civil rights in the workplace.

We must do more to root out discrimination in our society. While we have made a great deal of progress over the past three decades, much work must be done to ensure that each and every citizen has equal opportunity. As chairman of the Banking, Housing, and Urban Affairs Committee, I have had the opportunity to hold hearings on the plight of the black male in America. These hearings vividly illustrate the fact that significant barriers remain to many within our country. Dramatic testimony reconfirmed that minorities often face deep-rooted discrimination and prejudice in our society. The hearings also showed that when those barriers are removed, and people are given a chance, they succeed.

Women have also enjoyed tremendous success and have taken advantage of greater opportunity in the work force. In 1950, 34 percent of women worked, last year, 58 percent of women in America worked. With the increase in women in the work force, we have unleashed a great deal of talent. I strongly believe that we would benefit from even greater participation by women in politics, in business, in manufacturing, or in any other field in which women want to work.

Unfortunately, like the progress we have made in opening opportunity for racial and religious minorities, the progress our society has made with regard to women has also been limited. In many cases there is a glass ceiling that prevents women from rising beyond a certain level. The hearings recently held by the Judiciary Committee, and Professor Hill's testimony, brought foorward a deep concern about difficulties that many women face in the workplace.

Discrimination that keeps talented citizens out of jobs wastes a great deal of our economic strength. We cannot afford to continue to allow prejudice to divide our Nation; we must work as a team in order to compete in the global economy. We have never faced tougher competition from abroad. Tens of thousands of high-paying jobs have moved overseas over the last 10 years. We need to keep these jobs here at home and create new jobs if we are going to have a society in which our children have greater opportunity than we have.

This bill will help us become more competitive because when we fight for equal opportunity, we free talent and ability that had previously been underused. The Senate should pass this legislation, and it must also begin to develop a plan that continues to expand opportunity for all of our people.

This means that we must guarantee that each and every citizen has the opportunity to obtain a top-notch education. We must pass legislation to ensure that all Americans have access to high-quality and affordable health care. And we must develop a sound economic plan that creates new jobs and new opportunities for every citizen.

I am also pleased that this legislation includes a compromise that provides civil rights protections to Senate employees, while protecting the separation of powers as laid out in our Constitution.

Mr. President, America is known as the land of opportunity. Every person deserves the right to have that opportunity on an equal basis. We must provide added protection to workers. When the Senate votes on the civil rights bill, I will vote in favor of it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DIXON. Mr. President, as an original cosponsor of the substitute to S. 1745, the Civil Rights Act of 1991, I want to acknowledge the perserverance of Senators DANFORTH, KENNEDY, and many others who developed the compromise that we have before us today.

This subtitle ends a 2-year dispute with the President over civil rights. I am pleased that this amendment maintains the core of the original proposal—that it still effectively overturns a series of ill-conceived Supreme Court decisions that impaired enforcement of what, until now, had been considered well-settled workplace antidiscrimination law.

Among other major provisions, the bill:

First, returns to the employer the burden of proving business necessity in disparate impact cases; and

Second, for the first time, establishes compensatory and punitive damages in cases of intentional discrimination against the disabled and women.

Mr. President, I have heard from a number of Illinoisans who have expressed concern about the caps on damages in the bill. I understand these concerns, and it is true that having damage limitations in cases of intentional discrimination against the disabled and women, but not against minorities, is in itself discriminatory.

I have stood against discrimination in all its forms throughout my career, and I am opposed to a dual system of remedies in cases involving intentional discrimination. In fact, during the 101st Congress, I cosponsored S. 2104, the Civil Rights Act of 1990, when it had no caps on punitive damages for women.

However, the political reality today is such that if we really want a civil

rights bill, the only way to get it is to accept the damage limitations. That is the only way to get this bill signed by the President.

The distinguished majority leader has given this body assurance that the limitation on damages issue will be addressed in legislation next year. I welcome the opportunity to debate the issue.

Mr. President, I generally support adding discrimination protection for congressional and executive branch employees in the workplace. The President has publicly stated his support for congressional coverage, and I believe that he would also want coverage for his employees. I understand that an amendment on this issue has been adopted.

I call on my colleagues to join me and vote for S. 1745.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DANFORTH. Mr. President, yesterday I expressed my appreciation to a number of staff people who have done outstanding work in bringing this bill about, and I would like to add to that list today the following individuals: Dennis Shea, who has worked with Senator DOLE on this matter, has been tireless. He has pursued the difficult job of reaching a compromise between the advocates of the legislation and the White House, and it was largely because of his efforts that we were able to put together the agreement of last Thursday; Jeff Blattner, Carolyn Osolinik, and Mary Dent, with Senator KENNEDY, were tough but flexible, if necessary, in order to bring the bill about; Mark Disler and Sharon Prost, with Senator HATCH, similarly were very effective representatives of Senator HATCH, very competent; and Anita Jensen, with Senator MITCHELL, also was a major participant.

This, as has been pointed out many times, has been complicated legislation, has involved many months, years even, of effort involving a lot of people. It is fitting to express the appreciation of those Senators who have been involved for the excellent staff work that has been done.

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

The PRESIDING OFFICER. The distinguished Senator from Missouri suggests the absence of a quorum.

The distinguished Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we are waiting for the last two technical amendments for clearance. As I understand, we still have 30 minutes for general remarks. I think I will save the Senate's time by making what very brief concluding remarks I have at this time.

Mr. President, this bill is a resounding victory for civil rights. The action we will make is all the more satisfying because it involves a welcome restoration of the bipartisan coalition in Congress and between Congress and the administration that has been responsible for so much of the historic progress we have made in the past half century.

Civil rights has always been the unfinished business of America, and it will continue to be our unfinished business for many years to come. For much of our history, the noble promises of the American Revolution, the Declaration of Independence, and the Constitution were not available to all of our citizens.

A century ago, we fought a Civil War to resolve our differences over slavery. In our own time, when the legislative and executive branches of Government were too slow in their responses to injustice, the modern civil rights movement was born. And for a time, the Supreme Court became the conscience of the country.

But Congress and the administration took up the challenge in the 1960's. The Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968 are among the most important measures that any Congress at any time in our history has ever passed.

They laid the groundwork for what has been called the second American Revolution, the revolution of civil rights.

The two most important characteristics of that revolution are that it is a peaceful revolution, and it is a continuing revolution.

The measure we will soon pass is in the best of that tradition. I commend all those who have brought us safely to this day, especially our colleague from Missouri, Senator DANFORTH. He has been a profile in courage throughout the many months of this difficult and painful and profoundly important debate.

Because of his leadership, and because of the tireless efforts of many others, we have succeeded in taking the next great step on civil rights.

We were tested, and we were not found wanting. We hesitated, but we did not turn back. The action we are taking is the latest milestone in America's unique and continuing journey to justice.

I also want to pay tribute to Members of my staff whose long hours and hard work have made so much difference to our efforts.

Jeff Blattner's outstanding work is well known to many of us on the Judiciary Committee. Throughout the past 2 years leading to this successful vote, beginning with the day the Ward's Cove case was decided in 1989, he mastered all of the complex details of these issues and the many intricate versions of this legislation. In doing so, he never lost sight of the fundamental goals we are trying to achieve, and the Nation is in his debt.

Carolyn Osolinik was equally impressive in her ability to reach out to those on both sides of the aisle and to deal effectively with widely divergent groups around the country. Through her skillful work, we were able to narrow our differences, and extract the maximum consensus on these intricate issues that mean so much to millions of our fellow citizens.

In addition, Mary Dent and Mike Frazier deserve great credit for their excellent work and their skill in helping us to reach this compromise.

I commend all of them for their invaluable assistance. Their work was indispensable, and far above and beyond the call of duty. They have served the Senate well, and they have advanced the cause of civil rights.

I would also like to thank Laverne Walker, Annie Rossetti, and Amy Reginelli for their efforts.

I also want to extend my appreciation to Senator DANFORTH'S staff. I know he has mentioned them, but I too want to express my appreciation to Jonathan Chambers and Peter Leibold. They have been enormously talented and creative in trying to find common ground in these areas.

On Senator METZENBAUM'S staff I'd like to note the efforts of Jim Brudney and Greg Watchman. Senator METZENBAUM was very involved in fashioning this legislation and in initiating his own proposals, in the early days following the Supreme Court's decisions. He has worked very closely with all of those on our Human Resources Committee involved with this legislation.

For Senator JEFFORDS, who is also on the Labor and Human Resources Committee and was the prime sponsor in the early days of our consideration of this issue. Mark Powden and Reg Jones, both members of Senator JEFFORDS staff, were enormously helpful;

I would also like to express our appreciation to the minority leader and Dennis Shea;

To Senator MITCHELL, and Anita Jensen, who worked very closely with all of us;

To Senator HATCH, and Mark Kisler and Sharon Prost; and to Senator CHAFEE, and Amy Dunathan.

Again, I extend my appreciation to the leader, Senator MITCHELL, whose constant assistance has helped bring this issue to the Senate last year, during the veto override effort and during the effort to ensure that the conference report would reflect the considered judgment of this institution, he kept after this issue and kept it on the agenda.

We tested his patience with 2 or 3 days of continuing quorum calls when we were attempting to find a common ground. It is never easy when he has as many responsibilities as he has in wide areas of public policy. He was extremely patient with all of those who were involved. At the critical moments when we needed the strong, firm, guiding hand of a leader, he worked his will. This legislation certainly would not have been where it is today if it had not been for his very strong support.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 10 minutes without charging it to the pending bill.

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

Mr. AKAKA. Mr. President, I rise in support of S. 1745, the Civil Rights Act of 1991.

I commend Senator DANFORTH and Senator KENNEDY for their persistent efforts to reach agreement with the administration on the compromise civil rights legislation before us.

I want to express particular gratitude to my friend, the senior Senator from Massachusetts, for his leadership, diligence, and commitment to the cause of civil rights. In a public service career spanning almost 3 decades, Senator KENNEDY has worked continually to assure that every American received the equal opportunity and equal justice guaranteed by the Constitution.

Mr. President, passage of the Civil Rights Act of 1991 is essential to halt the erosion of equal job opportunity and antidiscrimination protection for working men and women caused by recent Supreme Court decisions.

S. 1745 also strengthens the ability of women and minorities to vigorously challenge discrimination and harassment in the workplace, and thereby be assured of equal employment opportunity.

This bill overrules the Supreme Court's decision in Wards Cove Packing Co. versus Atonio, and restores the right to challenge discriminatory workplace practices by reestablishing the precedent set 20 years ago by the Griggs versus Duke Power Co. decision. The bill affirms the right of an employee to challenge an employment practice with a disparate impact under title VII of the Civil Rights Act of 1964. The bill also codifies the procedures for adjudicating disparate impact cases.

In addition, S. 1745 reverses other recent Supreme Court rulings which have diminished an employee's protection and right to redress under title VII. The combined effect of this legislation will be to better protect workers from discriminatory seniority systems, mixed motive discrimination, and discrimination and harassment on the job, as well as in hiring.

Mr. President, along with recovering ground lost in the past few years as a result of adverse court decisions, the Civil Rights Act of 1991 extends civil rights remedies to victims of intentional discrimination based on gender, religious belief, or disability. For the first time, women, religious minorities, and the disabled who suffer intentional discrimination will be able to receive compensatory and punitive damages.

Unfortunately, this new protection falls short of fulfilling the promise of fairness, justice, and equality of opportunity we extend to other Americans under the 1964 Civil Rights Act. I understand the need for cooperation and compromise in the legislative process. However, I regret the inclusion of statutory caps on damages for some victims of intentional discrimination.

Mr. President, I had intended to join Senators WIRTH, DURENBERGER, and MIKULSKI in offering an amendment to eliminate the limitation on damages for sex-based and religious discrimination. The amendment will not be offered to this bill in order to preserve administration support for the bipartisan agreement. Instead, legislation to ensure that all Americans have the necessary legal remedies to protect against discrimination in the workplace must be considered at another time.

Under current law, racial minorities have the right to seek compensatory and punitive damages for employment discrimination without caps on recovery. Women, disabled workers, and certain religious minorities deserve equal treatment when faced with intentional discrimination and harassment. It is a matter of simple equity.

The bill currently provides for a fourtiered system which would cap punitive damages for intentional discrimination suffered by women, people with disabilities, and certain religious minorities. Further, these caps on compensatory and punitive damages are based upon the size of the employer's work force, not the maliciousness or pervasiveness of the discriminatory practice.

What message do we send to the women, disabled, and religious minorities who are victims of intentional discrimination or harassment by establishing arbitrary limits on damages? What signals are we sending to employers and the American people by providing these people second-class protection compared to that extended employees discriminated against on the basis of race or national origin? By differentiating in remedies, we continue to deny fair and equal treatment to the same working men and women this bill seeks to protect from discriminatory practices. The next step forward in the civil rights struggle must be the correction of this inequity.

Mr. President, S. 1745 symbolizes the progress our Nation has made, and the setbacks we have encountered, in safeguarding civil rights and providing equal opportunity since 1964. The bill under consideration enables all Americans to enforce their right to equal job opportunity in a workplace free of harassment and discrimination. Yet, to echo what Senator KENNEDY said earlier in the debate, civil rights remains the unfinished business of America.

Mr. President, S. 1745, despite its limitations, is a significant step forward in protecting civil rights. The bill reverses the retreat from equal opportunity evident since 1988, and establishes bipartisan dialogue for continued progress towards the goal of equality and justice. I urge my colleagues to support the Civil Rights Act of 1991.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I thank the Senator from Hawaii for his remarks, and I thank Senators KENNEDY and DANFORTH for their leadership on this bill.

Mr. President, from the apartment where Sheila, my wife, and I live, early in the morning—when I get time—I run down toward the Washington Monument, and then beyond that to the Lincoln Memorial, where Dr. Martin Luther King, Jr., in 1963, gave his "I Have A Dream" speech. And I turn around as I am running, and I see before me the Capitol and then the Supreme Court—the Supreme Court, which for years and years and years I believed helped translate Dr. King's dreams into reality.

In 1989 in the Wards Cove decision, the Supreme Court, sadly but truly—sounded a retreat. As a result of that, a bill was introduced last year, the 1990 Civil Rights Act, which only returned to us the law of the land prior to some of the 1989 Supreme Court decisions, which really overturned 25 years of peoples' history in the struggle to end discrimination and end the struggle for racial equality.

Now with this law that will be enacted by the Senate tonight, we take an important step forward, an important step forward for racial minorities, and I believe for others as well. I join with the Senator from Hawaii and many others in saying that we have yet more to do. It does not seem fair that there are caps when it comes to monetary damages for victims of discrimination who are women or people with disabilities. It does not seem fair at all. Whatever side we were on in the nomi-

nation process, we all felt the pain of what happened when allegations were raised about sexual harassment. We all felt the pain of what happened when Anita Hill came here. And then I think it was a disgrace that, not too long thereafter, three women said they would not testify before one of our committees here in the Senate, because they were concerned about what kind of treatment they might get, what might happen to a woman when she steps forward with those kinds of questions and those kinds of allegations.

So we have to do more. But I want to say on the floor of the U.S. Senate tonight that I am in a positive mood; I am not in a negative mood. And I think this act, this piece of legislation that so many have labored so hard on—Senator DANFORTH being right there in the lead—does take us in the right direction. I hope no longer will we have a politics of dividing people by race. I hope no longer will we ever see the Willie Horton-type of ads. And I believe that this act, most important of all, sends a powerful message that here in the United States of America, we will tell those who would discriminate against racial minorities, or women, or those with disabilities, that they will not be able to violate the civil rights of our citizens with impunity.

And we also send the message to those who are the victims of discrimination that they will have a remedy through the law of our land.

One more time, Mr. President, let me emphasize that it is appealing to the best instincts of America to talk about the importance of pluralism, the importance of opportunity, the importance of fairness, the importance of ending discrimination.

Let me say one more time that in our country the spirit of discrimination must be eliminated. We have yet a long ways to go. But we have taken an important step in the right direction.

Certainly there will be Senators, and I will be one of them, who immediately will introduce legislation to take off those caps when it comes to damage suits. And I think that absolutely has to be done, absolutely has to be done. But I am glad that we are going to pass this legislation. I am glad that we passed the Civil Rights Act.

I think it is important for our country. And, yes, I do not think it ends it, but at least puts one battle behind us as we move forward and we fight other fights that have to be made.

There are many people who still do not have jobs. We are in a recession. And there are many children who are hungry. And there are many children who do not receive an adequate education. And there are many people who are struggling in their communities. And there is so much we need to do yet to end discrimination by age, race, and gender. But as Dr. Martin Luther King, Jr., said so well, "Although the arc of the universe is long, it always bends towards justice." I think also those words represent the spirit of Senator Hubert Humphrey, from my State of Minnesota.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Minnesota yields the floor.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I suggest that we use some of the time to get some of the statements over before the half-hour begins and maybe we can waive that time at the end. I would like to make a few comments about the bill and about what has really happened, and perhaps get those out of the way at this point. We still have at least, I think, one if not two technical amendments that probably will have to be placed in this bill before we finally have our final vote.

But, Mr. President, I would like to tell my colleagues on both sides of the aisle that this bill is a good bill. It has been a very difficult process for the last 2 years, especially for us on the Labor Committee because there have been wide shifts in viewpoint. There have been great disparities in approach here.

Frankly, the White House, in my opinion, has been right in calling the original bill a quota bill and most of the other bills up to the current bill quota bills. The business necessity test of earlier revisions was so difficult for any employer to meet that it would have caused the cost of litigation in this area to escalate so rapidly that business people would have had no alternative other than to go to quotas, Mr. President. The language of this compromise makes dramatic changes in this language. Prior versions of this language are what has been the principal objection of the White House during the intervening years. This prior language is no longer in this bill.

In the process, Senator DANFORTH and I tried to resolve this last year, as everybody will recall. I worked at it day and night with Bill Coleman, former Secretary of Transportation. We could not come up with the language that was acceptable to the White House, with the full understanding that I would not support the compromise if the White House did not. I had taken that position from the beginning.

But I have to tell you that when Senator DANFORTH got into it, he did a terrific job, particularly in the past week, in bringing the parties together and in trying to accommodate and reach certain language that people could accept. I want to pay him special tribute for the efforts that he has made. I watched him during the Thomas hearings give day and night to his friend Judge Thomas, our friend really. He did do a tremendous job in helping Judge Thomas become confirmed and now a Member of the Supreme Court of the United States of America, with the formal swearing in this next Friday.

But he also has given an inordinate amount of time to this particular issue as well. I want to thank him for it personally because without his excellent leadership, and without his ability to try and bring both sides together, I do not think this would have come to pass. So I want to pay special tribute to him at this time.

But there have been a lot of colleagues on both sides of the aisle who have been working on this for over a 2-year period to get the civil rights bill to the broad consensus that it is in today.

I express my appreciation especially to President Bush. There has never been a doubt in my mind, having met with him on numerous occasions concerning this particular bill, that he wanted a civil rights bill. He wanted to support it, but he did want it to avoid quotas and, of course, he felt strongly that it should not be a litigation bonanza for lawyers. He has some difficulties with certain other provisions as well. The final and recent changes to this bill have been significant enough to lead to his support.

I think without President Bush we would not be here today either. He deserves major, major credit.

Certainly Senator KENNEDY has been willing to accommodate and try to resolve these problems, certainly more this year than at any other time. And I can personally attest to that. Without him it would not have happened. And even as late as late yesterday we had to make some changes that literally were necessary in order to accommodate people around here, and I have to say Senator KENNEDY was reasonable in helping to make those changes.

The language has been extremely crucial and important. Employment law is one of the most difficult areas in all law in our country, and what appears to be the smallest words to those not skilled or not experienced in this area actually happen to be very, very important words to make a difference between making or breaking many of the businesses in our country and, I might add, providing jobs for many employees in our country.

So we have to take these concerns into account so that everybody can benefit at the same time that we try to institute the greatest forms of civil rights that we can.

I think by standing firm on principle President Bush showed courage, and I think that the President took a courageous stand against this bill in its earlier forms. I think he also took a difficult step of vetoing the prior bill that deserved to be vetoed. It took courage on the part of various Members of the Senate to sustain that veto as well, because nobody wants to be against the civil rights bill.

Nobody does in my opinion. I do not see any reason for anybody to want to be against a true civil rights bill. But in any event, he not only vetoed the earlier bill, and was sustained, but he was willing to continue negotiation for a compromise. I think in the process President Bush has protected the American people, and in particular all of the employers in this country, and I might add employees as well, from, for my thinking, the inevitable and widespread adoption of quotas that would have occurred had this bill been passed and the veto overridden in its prior form. I believe that his willingness to take a strong stand on previous very objectionable legislation is what ultimately led to this strong and fair civil rights bill we can all support today.

Yesterday I explained in detail the changes in the disparate impact provisions of the bill and why the President can now accept its provisions. At the same time, we have overturned the Patterson versus McLean case, to cover racial discrimination in terms and conditions of contracts under section 1981. All postcontract matters will now be covered by the racial provisions of section 1981, and that is a good step. President Bush has been willing to overturn Patterson versus McLean from the beginning, and so have all of us. We have also long been willing to overturn the Lorrance case to make it easier to challenge the intentional discrimination seniority systems and to provide for damages under title VII for sexual harassment cases. And these are major civil rights advances in my opinion.

I think it is important to point out that the President basically got his language with regard to the definition of business necessity and other issues involving disparate impact and got rid of what he considered to be the quota aspects of the bill. He got language that is important on particularity, that we think goes a long way to solving some of the problems he has raised in the past. He gave in on damages to a certain degree because that was not nearly as important as those other two matters. He wanted a $150,000 limit. We go to as high as $300,000 lid on damages for cases of intentional discrimination. And I felt that that was a reasonable compromise on his part.

The area where he gave in that I had the most difficulty with is in allowing the transfer of the burden of proof to be shifted to the defendant employer. So, once the disparate impact statistical analysis is made and the particular practice causing that impact identified, a prima facie case is joined and the employer must come forward and meet the burden not only of production, what the employer also had to do, but the burden of persuasion as well. The President has agreed on the burden shift issue, and that, I think, was a concession that can be justified.

Mr. President, I have to say that this has been an arduous and difficult process. Again, I thank the President of the United States and I thank Senator DANFORTH for the leadership that he has provided. I thank Senator KENNEDY, without whom in his usual way, without his ability to negotiate and compromise, this matter would never have been brought to this floor and to the position we are in. I thank Senator DOLE, who in his own inimitable way really brought the parties together and helped to bring the White House on board, and I think did a terrific job as minority leader. I thank Senator MITCHELL, who of course is majority leader, and is very skilled in these areas and many times sat us down to try to see if we could resolve some of these conflicts and problems, and did so with distinction and with ability.

I also want to especially thank and praise Senator GORTON who played a key role in this entire process. He has consistently shown a remarkable grasp of very difficult and technical legal issues and assisted so many others who tried to come to grips with these issues. Senator GORTON was pivotal in helping to lead the fight against earlier objectionable versions of this bill—a fight which has led to this successful compromise we can all support.

I also think that it is very appropriate to praise some other key Senators, including Senators SPECTER, JEFFORDS, KASSEBAUM, DURENBERGER, CHAFEE, COHEN, and RUDMAN. And there are others. And also I thank the excellent staff people that we have on Capitol Hill for the long, hard hours that they have worked throughout these few years, and certainly over these last number of months.

On Senator DANFORTH's staff, Peter Liebold and John Chambers did terrific work for Senator DANFORTH and everybody here and they deserve a lot of credit.

On Senator KENNEDY's staff, there are others, but I want to particularly mention Jeff Blattner, Carolyn Oslenick, and Mary Dent who always work hard in these areas and without whom we would not have come this far.

On Senator DOLE's staff, you cannot say enough good about Dennis Shea, who was a principal catalyst among staff members in helping to bring this about.

There are others, of course. On Senator MITCHELL's staff, Anita Jensen who worked hard on this and did a very good job. And on my own staff, I want to especially thank Mark Dislen, Miller Baker, and Sharon Prost. They are fine lawyers who worked long and hard on this effort.

But again I would like to praise the President. John Sununu has been in this battle from the beginning and when it came time to make some tough decisions at the end he was willing to make them and I have to say he did a very good job.

Dick Thornburgh did a very good job on this bill until the time he left the Attorney General's Office. He was extremely articulate on this and helped all of us to understand it better. I felt he did a very good job.

Boyden Gray has taken a lot of abuse by some people here in the Senate from time to time, but I have to tell you I have great admiration for Boyden Gray.

Nelson Lund, Nick Wise and, of course, Lee Liberman, from the White House and Justice Department and who have worked very hard on this bill and were constructive all through this, and most particularly in helping us in our recent efforts toward a compromise.

There are others I am sure I missed, and I feel badly about that.

Let me just say this. We now have a bill. I think the five principals at least believe that it is an excellent bill, that it is going to make a difference in this country that is going to really help people in a civil rights sense, in a true civil rights sense, and for the first time is going to bring rights to women that they have not had in the past. It is a terrific bill. It has taken a lot of effort, a lot of good thinking, and it has taken a lot of compromise and hard work on the part of everybody concerned.

But there are a number of other principals as well. But in these last few weeks, certainly two leaders in this body have been Senator KENNEDY, and Senator DANFORTH. And I hope I have been able to play a constructive role as well, at least I intended to.

Mr. President, this is an important bill. I hope every Senator will consider voting for this bill. I think that with what we have worked out and the way things have gone, there is reason for every Senator on this floor to vote for this bill. I know not all will, and we have already had a couple who have announced they will not. But I believe this bill deserves this kind of support, and I hope it will have overwhelming support because civil rights bills deserve it.

When we propound these bills in the future, I hope we will propound them in a way that brings people together rather than divides them. I think if we do that, if we put the same type of spirit of compromise and willingness to sit down and work things out together at the outset on these bills, we would not have to have 2 years of hard fighting and infighting to get it to the point where we have it today.

This is the end result of a number of compromises, a number of major changes, a number of rewrites in the bill, a number of substitutes. But this last substitute is a terrific substitute. It is a major improvement from earlier versions. And I encourage all Members of the Senate to vote for it. I think it is the right thing to do. I think you will be proud of having voted for it. And, yes, even though some of our constituents out there still are a little wary of it and do not quite understand,

I think over the long run the thing that makes this country the greatest country in the world is because of moral virtues, the fact that we do not want people to be treated less than equal in this country, we do not want people to lack civil rights.

I agree with Senator KENNEDY. This is a large step, but it is only one of many in a continuing process of trying to bring equality to everybody in our society and equal opportunity to everybody as well.

Mr. President, I have spoken long enough on this and, of course, I have said enough throughout the years on it—some acceptable and some not—to some of my colleagues. But the fact is I believe in this bill. I believe in what we have done. I believe it deserves the support of all us.

And with that, I yield the floor.

Mr. KENNEDY. Mr. President, I want to thank my colleague and friend from Utah for his generous references. As friends on our Human Resources Committee know, we have areas in which we agree on and areas in which we differ on. I am delighted that in the closing hours of this extremely important piece of legislation, we have been able to work together for its successful passage.

I am very grateful for all of his comments and for his help and assistance in bringing us to this time, which I hope will be very soon.

Mr. DANFORTH. Mr. President, I guess what we are trying to do now is to do our closing statements before the close and I get these technical amendments back and adopt them and then move on and pass the bill.

So I will make my closing statement at this point, trusting that eventually the two technical amendments will arrive. It is so characteristic of the bill that we have been waiting around for a couple of hours for amendments that could not conceivably take more than 10 minutes to draft. But that has been the nature of this odyssey that we have been involved in for the past nearly 2 years in trying to deal with the legislation. So it will be done.

The expectation is that we will end up seeing somewhere around 80 or more votes in the Senate for this bill. I do not know how many people will end up voting for it, but there is a lot of speculation that it could be 80, 85 votes for the bill. That is unbelievable. One week ago I never would have guessed that there was any chance that we would get anything like that. We were fighting for 67. And then the logjam broke and we ended up with what we have today, a bill that has been cosponsored by, among others, Senator KENNEDY and Senator HATCH.

Senator HATCH described it as a terrific bill. The President has signed on, and not just with grudging agreement with the bill but really enthusiastic support for it. The President last Friday was very enthusiastic about the bill.

Some Senators have expressed reservations about this point or that in it. For something this complicated, that is not unusual. What is unusual is that something that has been this hard fought will receive this kind and has received this kind of enthusiastic support.

Everybody is claiming victory—Democrats, Republicans, liberals, conservatives—in passing this bill. I think that everybody is right to claim victory because this is a victory, it is a victory for our country.

So often in the last year and a half we have been focusing on issues that are so narrow that in order to describe them it took so much time that the audience went to sleep. We got involved in endless debates on the narrowest of points, important points, but very narrow points. A single word could become the answer to passing the bill or not passing the bill. And we got involved for hours on end debating words, debating word formulations, trying to find the right combination of words in the Griggs case, arguing about "significant" and "substantial" and "manifest" and other words. What is the meaning of "accumulation"? That was something that we were hung up on as recently as yesterday. That has been the nature of the debate.

But there is a bigger principle that is involved that is much more important than any of the narrow points that so focused our attention, and the bigger principle has to do with forming and reforming a national consensus on the issue of equal treatment for American people. And that, really, is the basic principle that is involved here.

There is no doubt in my mind that there is a consensus among the American people on issues of equality. On the basic question of civil rights, Americans overwhelmingly want other Americans to be treated fairly, not to be discriminated against and not to be discriminated for on the basis of race or religion or gender or national origin. But these questions, particularly the question of race, are so close to the surface of the American psyche that it is very easy, at least temporarily, to cause to ignite bursts of passion, and to do it politically, and we have seen that.

I had a desk a few years ago in the Senate; when I first took this desk I opened up the lid and we have the names of Senators who have previously used the desk, and I saw "Bilbo, Mississippi." There are people like that even today, politicians who get support at least for a temporary period of time by playing the race issue. And there are incidents. I read about it in the newspaper very often, episodes of Ku Klux Klan marches in my State, or the painting of swastikas at the Jewish community center in St. Louis County.

It still goes on. Not to the extent that it did when I was a boy. I did not grow up in the Deep South, but I grew up in the St. Louis area in a very segregated society, segregated as a matter of law. We had a dual school system and blacks could not go to white movie theaters and the baseball stadium was segregated. Baseball teams were segregated in those days. That was what I knew when I was a boy and when I was a teenager growing up in St. Louis.

How times have changed and how the American people have embraced that change. Not only legal changes have occurred, but changes in attitude have occurred. But there are always the little reversions to the past. There are always the nasty little episodes that crop up. And, it seems to me, that the mission of all of us has to be to keep moving forward, to keep progress moving ahead, as a matter of law and as a matter of public attitude.

That is why it is important to speak out when we see an episode of bigotry or racism. And that is why it is important, when there is a reversion, not to let the clock be turned back for long but to turn it forward again.

So what was wrong in 1989 was not simply that the Supreme Court wrongly decided a half a dozen cases, some of them dealing with technical issues such as how to define business necessity. What was wrong was that in the year 1989 the Supreme Court chose to turn the clock back, and that can never happen in civil rights; it can never be allowed to happen.

So it seems to me that our job is twofold. One, to make sure that what Senator KENNEDY has said is true, namely that the business of civil rights must always be unfinished business; and, second, to make sure that those of us who have any kind of public platform must be voices that appeal to the best in the American people and not to the worst instincts that are occasionally played to for political purposes.

So the great victory in this legislation is not so much a legalistic victory, changing the law. The great victory is that by an overwhelming majority we are going to pass this in the U.S. Senate and it will be agreed to in the House and the President will sign it. The great victory is reconstituting a consensus politically, in this country, that had been threatened. That is the great victory in this legislation.

This is momentous legislation. It is not momentous because of the details. It is momentous because it plays a part in what must be the continuing drama of life in our country.

I want to close, Mr. President, by just a short personal word. The last 2 months of my life in the Senate, beginning right after the Labor Day recess, have certainly been the most interesting 2 months of my 15 years in the Senate. And they have been the most challenging 2 months. And they have been

exciting, and they have been trying. And some days really trying.

Throughout this time I know that I have not always been the most pleasant or jovial of Senators, and I recognize that. This, apparently, is the season for recognizing yourself, so I do recognize that. And I do want to express my appreciation for the tolerance and the kindness and the generosity of people who work with me in my office—my staff people—and particularly of my colleagues in the Senate during these last 2 months. I have been something of a pest, but my period of pestiness will not last forever.

I yield the floor.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Utah.

Mr. HATCH. I am glad to hear from Senator DANFORTH that that period of pestiness will not last forever. Since we are all baring our souls, I know I have gotten on a lot of nerves for the last month or so, and I have not wanted to or meant to.

But I really respect the people in the Senate who worked so hard on this bill. It really is a monumental bill. It is the type of bill we can all be proud of and I think will do a lot of good. We are right at the end of the process. We are just checking on the last few amendments and if we can get those approved on both sides—and we think we are almost there—we will wind this up and have a vote. So we tell our colleagues we hope within the next 5 or 10 minutes we can proceed to a vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, we have gotten down to the last two technical amendments, and there was a third, but we could not get approval on that.

AMENDMENT NO. 1296 TO AMENDMENT NO. 1274

(Purpose: To provide for an expedited review by the Supreme Court of any decision concerning the constitutionality of certain provisions)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for himself and Mr. DOLE, proposes an amendment numbered 1296.

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

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

The amendment is as follows:

At the end of the title entitled "Government Employee Rights", add the following new section:

SEC. . INTERVENTION AND EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) INTERVENTION.—Because of the constitutional issues that may be raised by section 209 and section 220, any member of the Senate may intervene as a matter of right in any proceeding under section 209 for the sole purpose of determining the constitutionality of such section.

(b) THRESHOLD MATTER.—In any proceeding under section 209 or section 220, the United States Court of Appeals for the Federal Circuit shall determine any issue presented concerning the constitutionality of such section as a threshold matter.

(c) APPEAL.—

(1) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by the United States Court of Appeals for the Federal Circuit ruling upon the constitutionality of section 209 or 220.

(2) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in paragraph (1), advance the appeal on the docket and expedite the appeal to the greatest extent possible.

Mr. DOLE. Mr. President, this amendment has two purposes.

First, it requires the court of appeals for the Federal circuit to examine the constitutionality of the judicial review provisions contained in the congressional coverage section of the Danforth-Kennedy substitute.

Second, the amendment directs the Supreme Court to review—on an expedited basis—the court of appeals decision on constitutionality.

Last night, the Senate considered a constitutional point of order that claimed that the judicial review provisions in the congressional coverage section violate the constitutional principle commonly known as separation of powers.

Although the Senate overwhelmingly rejected the point of order, there are still some lingering doubts as to the constitutionality of these provisions.

These doubts should be resolved by the best arbiter of constitutional issues, the Supreme Court itself, and as quickly as possible.

Mr. President, there is precedent for fast-track review of constitutional issues by the Supreme Court.

In 1989, Congress passed the Flag Protection Act, which contained an identical provision directing the Supreme Court to review the constitutionality of that statute on an expedited basis.

The Supreme Court—in the United States versus Eichman decision—followed Congress' fast-track directive, but ultimately struck down the Flag Protection Act as violating the first amendment.

Mr. President, I fully support the congressional coverage provisions of the Grassley-Mitchell amendment. But if Congress is to live under these provisions, we need to determine—as quickly as possible—whether they are, in fact, constitutional.

Mr. HATCH. This amendment is a technical amendment that helps to resolve issues with regard to intervention and expedited review of certain appeals. I believe that it is acceptable to both sides of the aisle and to all Members of the Senate, or at least as far as I know.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY. Mr. President, we have no objection.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1296) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1297

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of the majority leader, Senator MITCHELL, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. MITCHELL, proposes an amendment numbered 1297.

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

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

The amendment is as follows:

Insert in section 209(a) after the phrase "section 208(d)", the following: ", or any Member of the Senate who would be required to reimburse the appropriate Federal account pursuant to the section entitled "Payments by the President or a Member of the Senate" and a final decision entered pursuant to section 208(d)(2)(B),".

Mr. HATCH. Mr. President, this technical amendment has also been approved by the appropriate parties, and I believe it is acceptable to both sides of the floor.

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

Mr. KENNEDY. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1297) was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, we are now down to the final few minutes of this debate, and we are awaiting the majority leader to come to the floor and make his final comments and then I think we can vote.

Have the yeas and nays been ordered on the bill?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HATCH. Then I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, has the substitute been accepted?

The PRESIDING OFFICER. The substitute has not been agreed to.

Mr. HATCH. I urge adoption of the substitute.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment (No. 1274) in the nature of a substitute, as amended, was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator GLENN be recognized to address the Senate for 3 minutes, and that, following his remarks, I be recognized to address the Senate for 3 minutes, and that, following my remarks, the Senate proceed to vote on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I thank the majority leader very much for his consideration.

Mr. President, I rise to express my support for the Civil Rights Act of 1991. I cosponsored a similar measure in the last Congress, because, frankly, I am outraged that the Supreme Court in its wisdom has seen fit to overrule laws which provide protections against discrimination in the workplace.

I have long been an antidiscrimination advocate. I am opposed to discrimination against women, minorities, the handicapped, the aged. I oppose discrimination in all forums: private industry, government, and Congress, which I will discuss later in more detail.

The Civil Rights Act provides for the award of compensatory and punitive damages to women and minorities who have experienced discrimination in the workplace. The message to employers is simply that workplace discrimination is against the law and will not be tolerated.

The Civil Rights Act of 1991 would reverse the Supreme Court's 1989 decision in Wards Cove versus Atonio and restore the Court's decision in Griggs versus Duke Power Co. In Griggs, the Supreme Court held that practices which disproportionately exclude qualified women and minorities for the workplace are unlawful unless they serve a business necessity.

The definition of "business necessity," which caused heated controversy in the last Congress, is the same language which was passed in the ADA. Specifically, the bill provides that, in determining whether to hire an individual, the qualification standards, employment tests, or other selection criteria used by an employer must bear a "manifest relationship to the employment in question."

For example, height requirements for police officers tend to screen out women candidates because women naturally tend to be shorter. Therefore, such requirements are permissible only if they enable the police department to select better officers—a business necessity for public safety.

Congress has already granted similar relief to handicapped Americans in the Americans with Disabilities Act. I see no reason that women and minorities should not also be afforded these protections. With the ADA, Congress has started to address the problem of workplace discrimination. Let's not stop short of full protections for all Americans who are subjected to workplace discrimination.

Last year, the President commended the ADA as landmark legislation that "embodies what must be at the heart of all civil rights struggles." Earlier this year, the President said the ADA standard should not be applied to the Civil Rights Act.

I don't understand this, Mr. President. Both bills prohibit employment practices that have a disparate impact on members of protected classes. There is no reason to give different levels of protection to persons with disabilities than to persons who suffer discrimination based on their race, sex, religious beliefs, national origin, or color.

The debate over the Civil Rights Act is not a debate over legal technicalities. It is a fundamental debate about whether we—Congress and the administration—are committed to making equal job opportunity a reality. I am committed to that cause.

Last week, the Governmental Affairs Committee, which I chair, heard from two current and two former Federal employees who had been victims of discrimination in the workplace. Their stories were compelling and revealing. I commended them at the hearing, and I commend them here on the floor of the Senate for filing complaints and testing the system. Where and when that system is found wanting or ineffectual, we must move to improve it.

Discrimination is a cancer that we must work at removing and, if we cannot remove it from our hearts and minds, then we must at least make it illegal in the workplace—even if the workplace is on Capitol Hill.

Mr. President, one of the complaints I have heard from many business leaders in my State of Ohio is that Congress doesn't police itself; that we make laws for the rest of the country, but, we don't apply those laws to ourselves. This clearly smacks of a double standard.

Discrimination in the workplace is wrong and we should say so in the most forceful manner possible. If it is wrong in a plant in Cleveland, it is wrong in an office in the Hart Senate Office Building. And if the worker in Cleveland has a remedy—and he or she does—then, the worker in the Senate should also have a remedy.

In 1977, the late Senator Lee Metcalf and I joined in holding a series of hearings on the problem of employment discrimination by the U.S. Senate. At that time, there were only a handful of minorities and women who held professional positions among U.S. Senate staff.

As junior Senators, we took on an issue that was regarded as a taboo subject. The testimony from that hearing was truly startling. There were horror stories about Senators imposing unnecessary and ridiculous dress codes for women employees, flatly refusing to hire minority group members, and even conditioning jobs on water signs of the zodiac.

I especially remember the poignant testimony of the late and great Clarence Mitchell, who was the chief lobbyist for the National Association for the Advancement of Colored People. He not only testified about rampant racial discrimination in Senate offices, but he also told us of Senate offices and facilities—public facilities—from which he was banned because he was a black man.

These hearings led to the introduction of legislation which I developed.

That legislation proposed to establish an in-house body to hear and decide allegations of employment discrimination in the Senate.

In 1978, I attempted to attach this legislation as an amendment to the Humphrey-Hawkins economic package. That amendment was filibustered and then tabled in an emotional debate in which its opponents attacked the proposal as being totally without merit. Those opponents, many of whom are now supporting this measure, threatened to defeat or delay the entire Humphrey-Hawkins bill had this measure passed.

Throughout the years, I have maintained an interest in this cause and attempted—unsuccessfully—to advance it. In 1980, I reintroduced the bill and, later as Chairman of the Governmental Affairs Committee, proceeded to hold hearings.

In 1989, I reintroduced a new and improved version of the bill, and again held hearings in the Governmental Affairs Committee. The committee heard from many witnesses who discussed the legislation from an objective and substantive viewpoint. The Department of Labor and the Equal Employment Opportunity Commission each gave testimony which proved helpful to us.

The staff of the Governmental Affairs Committee worked diligently to receive input from the Senators on the committee. Unfortunately, we failed to get a consensus on the bill. However, much of the legislation which I had introduced and worked on was included in the Americans With Disabilities Act. For the first time, Senate employees had a defined avenue to travel if they had grievances. While Senate employees still lagged behind other public and private sector employees, with the ADA, we had made a start.

During the hearings which were held in my committee on September 14, 1989, I learned some startling facts about the labor force on Capitol Hill. I am not referring to the legislative assistants or the professional committee staff. Rather, I am talking about the window washers, the painters, the day workers, the cashiers, the groundskeepers, the plumbers and all the other workers who keep this place operating. They have expectations and should have the same protections that others in the private sector doing similar jobs have.

The American people look at us and say that we, Congress, make the rules but we do not play the game. We apply those rules to everyone else but we will not apply them to ourselves. That is harsh criticism, Mr. President, but it is true. After today, I am hopeful that it will no longer be true, at least in the area of civil rights.

Mr. President, what we are doing today is very much worth the effort. I am going to vote for this. But it deals with the narrow area of civil rights and important as those are, there are other areas that have not been addressed as well.

I believe the late Senator Ervin was right when he said of the exemptions passed by Congress: "It's a little like a doctor prescribing medicine for a patient that he himself would not take."

So I am not concerned about who gets credit for these things, whether it is my friend from Vermont, Mr. LEAHY, who has worked hard on this issue and I am sure he, too, takes a measure of satisfaction as the Senate moves, ever so slowly, forward toward addressing this issue.

The Grassley-Mitchell amendment before us today is similar to legislation which I introduced on June 13, 1989. Compare some of these things. We look at some of the things proposed in the past. We are very gradually catching up. Maybe we are going to pass some of these things.

After we finish comparing all these things and hoping to get them through, we should be passing things that will also address OSHA, address the other parts that we have not covered yet. But this is a good step forward.

Both my bill and the Grassley-Mitchell amendment would establish an office of in-house review for aggrieved congressional employees, the Grassley amendment limited to Senate employees.

Both would establish a tiered procedure which would include counseling and mediation, and an opportunity for filing a formal complaint as well as for a hearing before an in-house review panel. One key difference is the availability of judicial review.

The Grassley-Mitchell amendment would provide a Senate employee who does not receive satisfaction through the in-house procedure to petition for review by the U.S. Court of Appeals for the Federal Circuit.

Last night, the Senate voted down a point of order against the Grassley amendment because this provision was felt to be violative of the U.S. Constitution. My bill does not include the provision for this reason. However, I voted against the point of order because I support the precepts of the bill, obviously, and would like to see us legislate these rights to our employees.

Further similarities between my bill and the Grassley amendment include the available remedies. Both measures provide injunctive relief, costs and attorney fees, as well as reinstatement and back pay.

Both measures provide exemptions for political affiliation and place of residence.

My bill did not provide for coverage of presidential appointees. The Grassley amendment provides for such coverage.

Finally, the bills differ in the scope of coverage. The Grassley amendment would provide for coverage only under the 1964 Civil Rights Act, section 15 of the Age Discrimination in Employment Act of 1967, and for handicap or disability as defined by section 501 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

I support the Grassley amendment, but I believe that we should go further. The statutes cited in the Grassley amendment are all well and good. But, we need to extend the protections into other areas as well.

In addition to the statutes in the Grassley amendment, my bill would extend coverage also under the Fair Labor Standards Act and the Occupational Safety and Health Act of 1970.

I will continue my efforts to make sure that we provide a full range of protections for congressional employees.

Mr. President, I believe it was Bobby Kennedy who said, "It's remarkable what can be accomplished when it doesn't matter who gets the credit". I cannot vouch for the correctness of the quote. However, I can certainly vouch for the appropriateness of the sentiment. I do not care if the Senate passes my bill, Senator LEAHY's bill, or an amendment to the Civil Rights Act of 1991. I just hope we can put in place a process that allows a victim of sexual, racial, age, physical disability or any other type of discrimination, regardless of where they work, to have their complaint fairly heard and fairly judged.

I say in closing, with the time restraints we have here, the people, real, live flesh-and-blood employees on Capitol Hill, hurt no less from discrimination that other Americans, and they deserve to be treated fairly.

This bill addresses only part of the problem but it is a good start, a big first step which we must continue until discrimination, particularly on Capitol Hill, is no more.

I urge adoption of this bill.

Mr. MITCHELL. Mr. President, I commend Senator GLENN for the leadership which he has provided in the area of protection of Senate employees against discrimination. It was his pioneering legislation that was the framework within which the Grassley-Mitchell amendment was developed. And the internal procedures contained now in this bill are largely drawn from Senator GLENN's earlier legislation.

Mr. President, many other Senators deserve credit for the important step which the Senate is about to take, a step that is enormously significant, both in terms of the right that it will provide for wrongs which occur in our society, but almost as important for an end to divisiveness and division, at least we hope for some time, that has so tragically dominated this bill and this issue over the past 2 years.

Among those who deserve credit are the Senator from Utah, Senator HATCH, Senator DOLE, that group of Repub-

lican Senators who stood with Senator DANFORTH to forge this compromise and, of course, Senator MIKULSKI, Senator METZENBAUM, Senator BOREN, who contributed significantly on our side.

But I think in the final analysis we all recognize that two men are primarily responsible for this significant action. They are Senator KENNEDY, whose determination and leadership and perseverance over this difficult 2-year period, over all of the ups and downs that have occurred on this bill, has led us to this point. He has been an articulate, effective spokesman for the people whose rights will be vindicated by this legislation. And he has not wavered or sagged or grown weary in this effort to get us to this point.

I think even he would acknowledge that despite his enormous efforts he would not have been able to get us to this point were it not for the leadership of Senator DANFORTH. With determination, with conviction, and with an unshakeable commitment to the goal of society free of discrimination, Senator DANFORTH stepped in at the crucial moment and provided the leadership that has made this legislation possible.

They deserve the gratitude of their colleagues, and the gratitude of all Americans, not just those living today in our society, but those for years to come who will enjoy a society with less discrimination, with fewer racial divisions than would otherwise have been the case.

This is an important time. We owe a great debt of gratitude to many Senators, most especially Senators KENNEDY and DANFORTH for their leadership. I commend them and I think them.

Mr. President, I urge all Senators to vote for this important bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On the question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 5, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—93

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

NAYS—5

Coats	Smith	Wallop
Helms	Symms	

NOT VOTING—2

Kerrey	Wofford

So the bill (S. 1745), as amended, was passed as follows:

S. 1745

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace;

(2) the decision of the Supreme Court in Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989) has weakened the scope and effectiveness of Federal civil rights protections; and

(3) legislation is necessary to provide additional protections against unlawful discrimination in employment.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace;

(2) to codify the concepts of "business necessity" and "job related" enunciated by the Supreme Court in Griggs v. Duke Power Co., 401 U.S. 424 (1971), and in the other Supreme Court decisions prior to Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989);

(3) to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); and

(4) to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.

TITLE I—FEDERAL CIVIL RIGHTS REMEDIES

SEC. 101. PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

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

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

(2) by adding at the end the following new subsections:

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

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

SEC. 102. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

The Revised Statutes are amended by inserting after section 1977 (42 U.S.C. 1981) the following new section:

"SEC. 1977A. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION IN EMPLOYMENT.

"(a) RIGHT OF RECOVERY.—

"(1) CIVIL RIGHTS.—In an action brought by a complaining party under section 706 or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5) against a respondent who engaged in unlawful intentional discrimination (not an employment practice that is unlawful because of its disparate impact) prohibited under section 703, 704, or 717 of the Act (42 U.S.C. 2000e-2 or 2000e-3), and provided that the complaining party cannot recover under section 1977 of the Revised Statutes (42 U.S.C. 1981), the complaining party may recover compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(2) DISABILITY.—In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 or 717 of the Civil Rights Act of 1964 (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)), and section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)), respectively) against a respondent who engaged in unlawful intentional discrimination (not an employment practice that is unlawful because of its disparate impact) under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and the regulations implementing section 501, or who violated the requirements of section 501 of the Act or the regulations implementing section 501 concerning the provision of a reasonable accommodation, or section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112), or committed a violation of section 102(b)(5) of the Act, against an individual, the complaining party may recover compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(3) REASONABLE ACCOMMODATION AND GOOD FAITH EFFORT.—In cases where a discriminatory practice involves the provision of a reasonable accommodation pursuant to section 102(b)(5) of the Americans with Disabilities Act of 1990 or regulations implementing section 501 of the Rehabilitation Act of 1973, damages may not be awarded under this section where the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

"(b) COMPENSATORY AND PUNITIVE DAMAGES.—

"(1) DETERMINATION OF PUNITIVE DAMAGES.—A complaining party may recover pu-

nitive damages under this section against a respondent (other than a government, government agency or political subdivision) if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

"(2) EXCLUSIONS FROM COMPENSATORY DAMAGES.—Compensatory damages awarded under this section shall not include backpay, interest on backpay, or any other type of relief authorized under section 706(g) of the Civil Rights Act of 1964.

"(3) LIMITATIONS.—The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed, for each complaining party—

"(A) in the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000;

"(B) in the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000; and

"(C) in the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $200,000; and

"(D) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000.

"(4) CONSTRUCTION.—Nothing in this section shall be construed to limit the scope of, or the relief available under, section 1977 of the Revised Statutes (42 U.S.C. 1981).

"(c) JURY TRIAL.—If a complaining party seeks compensatory or punitive damages under this section—

"(1) any party may demand a trial by jury; and

"(2) the court shall not inform the jury of the limitations described in subsection (b)(3).

"(d) DEFINITIONS.—As used in this section:

"(1) COMPLAINING PARTY.—The term 'complaining party' means—

"(A) in the case of a person seeking to bring an action under subsection (a)(1), the Equal Employment Opportunity Commission, the Attorney General, or a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

"(B) in the case of a person seeking to bring an action under subsection (a)(2), the Equal Employment Opportunity Commission, the Attorney General, or a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(2) DISCRIMINATORY PRACTICE.—The term 'discriminatory practice' means the discrimination described in paragraph (1), or the disparate treatment or the violation described in paragraph (2), of subsection (a).

SEC. 103. ATTORNEY'S FEES.

The last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting ", 1981A" after "1981".

SEC. 104. DEFINITIONS.

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

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

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

"(n) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 717.".

SEC. 105. BURDEN OF PROOF IN DISPARATE IMPACT CASES.

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

"(k)(1)(A) An unlawful employment practice based on disparate impact is established under this title only if—

"(i) a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity; or

"(ii) the complaining party makes the demonstration described in subparagraph (C) with respect to an alternative employment practice and the respondent refuses to adopt such alternative employment practice.

"(B)(i) With respect to demonstrating that a particular employment practice causes a disparate impact as described in subparagraph (A)(i), the complaining party shall demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one employment practice.

"(ii) If the respondent demonstrates that a specific employment practice does not cause the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(C) The demonstration referred to by subparagraph (A)(ii) shall be in accordance with the law as it existed on June 4, 1989, with respect to the concept of 'alternative employment practice'.

"(2) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this title.

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

(b) No statements other than the interpretive memorandum appearing at Vol. 137 Congressional Record S 15276 (daily ed. Oct. 25, 1991) shall be considered legislative history of, or relied upon in any way as legislative history in construing or applying, any provision of this Act that relates to Wards Cove—Business necessity/cumulation/alternative business practice.

SEC. 106. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST SCORES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 105) is further amended by adding at the end the following new subsection:

"(l) It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex, or national origin.".

SEC. 107. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 105 and 106) is further amended by adding at the end the following new subsection:

"(m) Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended—

(1) by designating the first through third sentences as paragraph (1);

(2) by designating the fourth sentence as paragraph (2)(A) and indenting accordingly; and

(3) by adding at the end the following new subparagraph:

"(B) On a claim in which an individual proves a violation under section 703(m) and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

"(i) may grant declaratory relief, injunctive relief (except as provided in clause (ii)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 703(m); and

"(ii) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, described in subparagraph (A).".

SEC. 108. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 105, 106, and 107 of this title) is further amended by adding at the end the following new subsection:

"(n)(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

"(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

"(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had—

"(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely

affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

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

"(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

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

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

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

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

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

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

SEC. 109. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT.

(a) DEFINITION OF EMPLOYEE.—Section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) and section 101(4) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(4)) are each amended by adding at the end the following: "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.".

(b) EXEMPTION.—

(1) CIVIL RIGHTS ACT OF 1964.—Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) is amended—

(A) by inserting "(a)" after "SEC. 702."; and

(B) by adding at the end the following:

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

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

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

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

"(A) the interrelation of operations;

"(B) the common management;

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

"(D) the common ownership or financial control,

of the employer and the corporation.".

(2) AMERICANS WITH DISABILITIES ACT OF 1990.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c) COVERED ENTITIES IN FOREIGN COUNTRIES.—

"(1) IN GENERAL.—It shall not be unlawful under this section for a covered entity to take any action that constitutes discrimination under this section with respect to an employee in a workplace in a foreign country if compliance with this section would cause such covered entity to violate the law of the foreign country in which such workplace is located.

"(2) CONTROL OF CORPORATION.—

"(A) PRESUMPTION.—If an employer controls a corporation whose place of incorporation is a foreign country, any practice that constitutes discrimination under this section and is engaged in by such corporation shall be presumed to be engaged in by such employer.

"(B) EXCEPTION.—This section shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

"(C) DETERMINATION.—For purposes of this paragraph, the determination of whether an employer controls a corporation shall be based on—

"(i) the interrelation of operations;

"(ii) the common management;

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

"(iv) the common ownership or financial control,

of the employer and the corporation.".

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

SEC. 110. TECHNICAL ASSISTANCE TRAINING INSTITUTE.

(a) TECHNICAL ASSISTANCE.—Section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4) is amended by adding at the end the following new subsection:

"(j)(1) The Commission shall establish a Technical Assistance Training Institute, through which the Commission shall provide technical assistance and training regarding the laws and regulations enforced by the Commission.

"(2) An employer or other entity covered under this title shall not be excused from compliance with the requirements of this title because of any failure to receive technical assistance under this subsection.

"(3) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1992.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 111. EDUCATION AND OUTREACH.

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

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

(2) by adding at the end the following new paragraph:

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

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

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

SEC. 112. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

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

(1) by inserting "(1)" before "A charge under this section"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of this section, an unlawful employment practice occurs, with respect to a seniority system that has been adopted for an intentionally discriminatory purpose in violation of this title (whether or not that discriminatory purpose is apparent on the face of the seniority provision), when the seniority system is adopted, when an individual becomes subject to the seniority system, or when a person aggrieved is injured by the application of the seniority system or provision of the system.".

SEC. 113. AUTHORIZING AWARD OF EXPERT FEES.

(a) REVISED STATUTES.—Section 722 of the Revised Statutes is amended—

(1) by designating the first and second sentences as subsections (a) and (b), respectively, and indenting accordingly; and

(2) by adding at the end the following new subsection:

"(c) In awarding an attorney's fee under subsection (b) in any action or proceeding to enforce a provision of sections 1977 or 1977A of the Revised Statutes, the court, in its discretion, may include expert fees as part of the attorney's fee.".

(b) CIVIL RIGHTS ACT OF 1964.—Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including expert fees)" after "attorney's fee".

SEC. 114. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

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

(1) in subsection (c), by striking "thirty days" and inserting "90 days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties.".

SEC. 115. NOTICE OF LIMITATIONS PERIOD UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

Section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)) is amended—

(1) by striking paragraph (2);

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

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

(4) by adding at the end the following:

"If a charge filed with the Commission under this Act is dismissed or the proceedings of

the Commission are otherwise terminated by the Commission, the Commission shall notify the person aggrieved. A civil action may be brought under this section by a person defined in section 11(a) against the respondent named in the charge within 90 days after the date of the receipt of such notice.".

SEC. 116. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION, AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this title shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements, that are in accordance with the law.

SEC. 117. COVERAGE OF HOUSE OF REPRESENTATIVES AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

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

(2) EMPLOYMENT IN THE HOUSE.—

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

(B) ADMINISTRATION.—

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

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

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

(b) INSTRUMENTALITIES OF CONGRESS.—

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

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, except for the employees who are defined as Senate employees, in section 301(c)(1).

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

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

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

SEC. 118. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

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

TITLE II—GLASS CEILING

SEC. 201. SHORT TITLE.

This title may be cited as the "Glass Ceiling Act of 1991".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

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

(2) artificial barriers exist to the advancement of women and minorities in the workplace;

(3) United States corporations are increasingly relying on women and minorities to meet employment requirements and are increasingly aware of the advantages derived from a diverse work force;

(4) the "Glass Ceiling Initiative" undertaken by the Department of Labor, including the release of the report entitled "Report on the Glass Ceiling Initiative", has been instrumental in raising public awareness of—

(A) the underrepresentation of women and minorities at the management and decisionmaking levels in the United States work force;

(B) the underrepresentation of women and minorities in line functions in the United States work force;

(C) the lack of access for qualified women and minorities to credential-building developmental opportunities; and

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

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

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

(B) promote work force diversity;

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

(7) a national award recognizing employers whose practices and policies promote opportunities for, and eliminate artificial barriers to, the advancement of women and minorities will foster the advancement of women and minorities into higher level positions by—

(A) helping to encourage United States companies to modify practices and policies to promote opportunities for, and eliminate artificial barriers to, the upward mobility of women and minorities; and

(B) providing specific guidance for other United States employers that wish to learn how to revise practices and policies to improve the access and employment opportunities of women and minorities; and

(8) employment quotas based on race, sex, national origin, religious belief, or disability—

(A) are antithetical to the historical commitment of the Nation to the principle of equality of opportunity; and

(B) do not serve any legitimate business or social purpose.

(b) PURPOSE.—The purpose of this title is to establish—

(1) a Glass Ceiling Commission to study—

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

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

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

(2) an annual award for excellence in promoting a more diverse skilled work force at the management and decisionmaking levels in business.

SEC. 203. ESTABLISHMENT OF GLASS CEILING COMMISSION.

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

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

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

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 21 members, including—

(A) six individuals appointed by the President;

(B) six individuals appointed jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate;

(C) one individual appointed by the Majority Leader of the House of Representatives;

(D) one individual appointed by the Minority Leader of the House of Representatives;

(E) one individual appointed by the Majority Leader of the Senate;

(F) one individual appointed by the Minority Leader of the Senate;

(G) two Members of the House of Representatives appointed jointly by the Majority Leader and the Minority Leader of the House of Representatives;

(H) two Members of the Senate appointed jointly by the Majority Leader and the Minority Leader of the Senate; and

(I) the Secretary of Labor.

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

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

(B) hold management or decisionmaking positions in corporations or other business

entities recognized as leaders on issues relating to equal employment opportunity; and

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

(3) BALANCE.—In making the appointments under subparagraphs (A) and (B) of paragraph (1), each appointing authority shall seek to include an appropriate balance of appointees from among the groups of appointees described in subparagraphs (A), (B), and (C) of paragraph (2).

(c) CHAIRPERSON.—The Secretary of Labor shall serve as the Chairperson of the Commission.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

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

(f) MEETINGS.—

(1) MEETINGS PRIOR TO COMPLETION OF REPORT.—The Commission shall meet not fewer than five times in connection with and pending the completion of the report described in section 204(b). The Commission shall hold additional meetings if the Chairperson or a majority of the members of the Commission request the additional meetings in writing.

(2) MEETINGS AFTER COMPLETION OF REPORT.—The Commission shall meet once each year after the completion of the report described in section 204(b). The Commission shall hold additional meetings if the Chairperson or a majority of the members of the Commission request the additional meetings in writing.

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

(h) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

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

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

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

SEC. 204. RESEARCH ON ADVANCEMENT OF WOMEN AND MINORITIES TO MANAGEMENT AND DECISIONMAKING POSITIONS IN BUSINESS.

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

(1) examine the preparedness of women and minorities to advance to management and decisionmaking positions in business;

(2) examine the opportunities for women and minorities to advance to management and decisionmaking positions in business;

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

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

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

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

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

(1) the findings and conclusions of the Commission resulting from the study conducted under subsection (a); and

(2) recommendations based on the findings and conclusions described in paragraph (1) relating to the promotion of opportunities for, and elimination of artificial barriers to, the advancement of women and minorities to management and decisionmaking positions in business, including recommendations for—

(A) policies and practices to fill vacancies at the management and decisionmaking levels;

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

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

(D) the use of enforcement (including such enforcement techniques as litigation, complaint investigations, compliance reviews, conciliation, administrative regulations, policy guidance, technical assistance, training, and public education) of Federal equal employment opportunity laws by Federal agencies as a means of eliminating artificial barriers to the advancement of women and minorities in employment.

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

SEC. 205. ESTABLISHMENT OF THE NATIONAL AWARD FOR DIVERSITY AND EXCELLENCE IN AMERICAN EXECUTIVE MANAGEMENT.

(a) IN GENERAL.—There is established the National Award for Diversity and Excellence in American Executive Management, which shall be evidenced by a medal bearing the inscription "Frances Perkins-Elizabeth Hanford Dole National Award for Diversity and Excellence in American Executive Management". The medal shall be of such design and materials, and bear such additional inscriptions, as the Commission may prescribe.

(b) CRITERIA FOR QUALIFICATION.—To qualify to receive an award under this section a business shall—

(1) submit a written application to the Commission, at such time, in such manner, and containing such information as the Commission may require, including at a minimum information that demonstrates that the business has made substantial effort to promote the opportunities and developmental experiences of women and minorities to foster advancement to management and decisionmaking positions within the business, including the elimination of artificial barriers to the advancement of women and minorities, and deserves special recognition as a consequence; and

(2) meet such additional requirements and specifications as the Commission determines to be appropriate.

(c) MAKING AND PRESENTATION OF AWARD.—

(1) AWARD.—After receiving recommendations from the Commission, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) PRESENTATION.—The President or the designated representative of the President shall present the award with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(3) PUBLICITY.—A business that receives an award under this section may publicize the receipt of the award and use the award in its advertising, if the business agrees to help other United States businesses improve with respect to the promotion of opportunities and developmental experiences of women and minorities to foster the advancement of women and minorities to management and decisionmaking positions.

(d) BUSINESS.—For the purposes of this section, the term "business" includes—

(1)(A) a corporation, including nonprofit corporations;

(B) a partnership;

(C) a professional association;

(D) a labor organization; and

(E) a business entity similar to an entity described in subparagraphs (A) through (D);

(2) an education referral program, a training program, such as an apprenticeship or management training program or a similar program; and

(3) a joint program formed by a combination of any entities discribed in paragraph 1 or 2.

SEC. 206. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission is authorized to—

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

(2) take such testimony;

(3) have such printing and binding done;

(4) enter into such contracts and other arrangements;

(5) make such expenditures; and

(6) take such other actions;

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

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

(c) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such infor-

mation as the Commission may require to carry out its duties.

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

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

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

SEC. 207. CONFIDENTIALITY OF INFORMATION.

(a) INDIVIDUAL BUSINESS INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding section 552 of title 5, United States Code, in carrying out the duties of the Commission, including the duties described in sections 204 and 205, the Commission shall maintain the confidentiality of all information that concerns—

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

(B) individual employees of the businesses.

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

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

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

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

SEC. 208. STAFF AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Commission may appoint and determine the compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(2) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

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

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

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

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this title. The sums shall remain available until expended, without fiscal year limitation.

SEC. 210. TERMINATION.

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

(b) AWARD.—The authority to make awards under section 205 shall terminate 4 years after the date of the enactment of this Act.

TITLE III—GOVERNMENT EMPLOYEE RIGHTS

SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Government Employee Rights Act of 1991".

(b) PURPOSE.—The purpose of this title is to provide procedures to protect the right of Senate and other government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

(c) DEFINITIONS.—For purposes of this title:

(1) SENATE EMPLOYEE.—The term "Senate employee" or "employee" means—

(A) any employee whose pay is disbursed by the Secretary of the Senate;

(B) any employee of the Architect of the Capitol who is assigned to the Senate Restaurants or to the Superintendent of the Senate Office Buildings;

(C) any applicant for a position that will last 90 days or more and that is to be occupied by an individual described in subparagraph (A) or (B); or

(D) any individual who was formerly an employee described in subparagraph (A) or (B) and whose claim of a violation arises out of the individual's Senate employment.

(2) HEAD OF EMPLOYING OFFICE.—The term "head of employing office" means the individual who has final authority to appoint, hire, discharge, and set the terms, conditions or privileges of the Senate employment of an employee.

(3) VIOLATION.—The term "violation" means a practice that violates section 302 of this title.

SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.

All personnel actions affecting employees of the Senate shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102-104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112-14).

SEC. 303. ESTABLISHMENT OF OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES.

(a) IN GENERAL.—There is established, as an office of the Senate, the Office of Senate Fair Employment Practices (referred to in this title as the "Office"), which shall—

(1) administer the processes set forth in sections 305 through 307;

(2) implement programs for the Senate to heighten awareness of employee rights in order to prevent violations from occurring.

(b) DIRECTOR.—

(1) IN GENERAL.—The Office shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President pro tempore, upon the recommendation of the Majority Leader in consultation with the Minority Leader. The appointment shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. The Director shall be appointed for a term of service which shall expire at the end of the Congress following the Congress during which the Director is appointed. A Director may be reappointed at the termination of any term of service. The President pro tempore, upon the joint recommendation of the Majority Leader in consultation with the Minority Leader, may remove the Director at any time.

(2) SALARY.—The President pro tempore, upon the recommendation of the Majority Leader in consultation with the Minority Leader, shall establish the rate of pay for the Director. The salary of the Director may not be reduced during the employment of the Director and shall be increased at the same time and in the same manner as fixed statutory salary rates within the Senate are adjusted as a result of annual comparability increases.

(3) ANNUAL BUDGET.—The Director shall submit an annual budget request for the Office to the Committee on Appropriations.

(4) APPOINTMENT OF DIRECTOR.—The first Director shall be appointed and begin service within 90 days after the date of enactment of this Act, and thereafter the Director shall be appointed and begin service within 30 days after the beginning of the session of the Congress immediately following the termination of a Director's term of service or within 60 days after a vacancy occurs in the position.

(c) STAFF OF THE OFFICE.—

(1) APPOINTMENT.—The Director may appoint and fix the compensation of such additional staff, including hearing officers, as are necessary to carry out the purposes of this title.

(2) DETAILEES.—The Director may, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(3) CONSULTANTS.—In carrying out the functions of the Office, the Director may procure the temporary (not to exceed 1 year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(d) EXPENSES OF THE OFFICE.—In fiscal year 1992, the expenses of the Office shall be paid out of the Contingent Fund of the Senate from the appropriation account Miscellaneous Items. Beginning in fiscal year 1993, and for each fiscal year thereafter, there is authorized to be appropriated for the expenses of the Office such sums as shall be necessary to carry out its functions. In all cases, expenses shall be paid out of the Contingent Fund of the Senate upon vouchers approved

by the Director, except that a voucher shall not be required for—

(1) the disbursement of salaries of employees who are paid at an annual rate;

(2) the payment of expenses for telecommunications services provided by the Telecommunications Department, Sergeant at Arms, United States Senate;

(3) the payment of expenses for stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) the payment of expenses for postage to the Postmaster, United States Senate; and

(5) the payment of metered charges on copying equipment provided by the Sergeant at Arms, United States Senate.

The Secretary of the Senate is authorized to advance such sums as may be necessary to defray the expenses incurred in carrying out this title. Expenses of the Office shall include authorized travel for personnel of the Office.

(e) RULES OF THE OFFICE.—The Director shall adopt rules governing the procedures of the Office, including the procedures of hearing boards, which rules shall be submitted to the President pro tempore for publication in the Congressional Record. The rules may be amended in the same manner. The Director may consult with the Chairman of the Administrative Conference of the United States on the adoption of rules.

(f) REPRESENTATION BY THE SENATE LEGAL COUNSEL.—For the purpose of representation by the Senate Legal Counsel, the Office shall be deemed a committee, within the meaning of title VII of the Ethics in Government Act of 1978 (2 U.S.C. 288, et seq.).

SEC. 304. SENATE PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

The Senate procedure for consideration of alleged violations consists of 4 steps as follows:

(1) Step I, counseling, as set forth in section 305.

(2) Step II, mediation, as set forth in section 306.

(3) Step III, formal complaint and hearing by a hearing board, as set forth in section 307.

(4) Step IV, review of a hearing board decision, as set forth in section 308 or 309.

SEC. 305. STEP I: COUNSELING.

(a) IN GENERAL.—A Senate employee alleging a violation may request counseling by the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the alleged violation forming the basis of the request for counseling occurred. No request for counseling may be made until 10 days after the first Director begins service pursuant to section 303(b)(4).

(b) PERIOD OF COUNSELING.—The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

(c) EMPLOYEES OF THE ARCHITECT OF THE CAPITOL AND CAPITOL POLICE.—In the case of an employee of the Architect of the Capitol or an employee who is a member of the Capitol Police, the Director may refer the employee to the Architect of the Capitol or the Capitol Police Board for resolution of the employee's complaint through the internal grievance procedures of the Architect of the Capitol or the Capitol Police Board for a specific period of time, which shall not count against the time available for counseling or mediation under this title.

SEC. 306. STEP II: MEDIATION.

(a) IN GENERAL.—Not later than 15 days after the end of the counseling period, the employee may file a request for mediation with the Office. Mediation may include the Office, the employee, and the employing office in a process involving meetings with the parties separately or jointly for the purpose of resolving the dispute between the employee and the employing office.

(b) MEDIATION PERIOD.—The mediation period shall be 30 days beginning on the date the request for mediation is received and may be extended for an additional 30 days at the discretion of the Office. The Office shall notify the employee and the head of the employing office when the mediation period has ended.

SEC. 307. STEP III: FORMAL COMPLAINT AND HEARING.

(a) FORMAL COMPLAINT AND REQUEST FOR HEARING.—Not later than 30 days after receipt by the employee of notice from the Office of the end of the mediation period, the Senate employee may file a formal complaint with the Office. No complaint may be filed unless the employee has made a timely request for counseling and has completed the procedures set forth in sections 305 and 306.

(b) HEARING BOARD.—A board of 3 independent hearing officers (referred to in this title as "hearing board"), who are not Senators or officers or employees of the Senate, chosen by the Director (one of whom shall be designated by the Director as the presiding hearing officer) shall be assigned to consider each complaint filed under this section. The Director shall appoint hearing officers after considering any candidates who are recommended to the Director by the Federal Mediation and Conciliation Service, the Administrative Conference of the United States, or organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters. A hearing board shall act by majority vote.

(c) DISMISSAL OF FRIVOLOUS CLAIMS.—Prior to a hearing under subsection (d), a hearing board may dismiss any claim that it finds to be frivolous.

(d) HEARING.—A hearing shall be conducted—

(1) in closed session on the record by a hearing board;

(2) no later than 30 days after filing of the complaint under subsection (a), except that the Office may, for good cause, extend up to an additional 60 days the time for conducting a hearing; and

(3) except as specifically provided in this title and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code.

(e) DISCOVERY.—Reasonable prehearing discovery may be permitted at the discretion of the hearing board.

(f) SUBPOENA.—

(1) AUTHORIZATION.—A hearing board may authorize subpoenas, which shall be issued by the presiding hearing officer on behalf of the hearing board, for the attendance of witnesses at proceedings of the hearing board and for the production of correspondence, books, papers, documents, and other records.

(2) OBJECTIONS.—If a witness refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with the proceedings of a hearing board, the hearing board shall rule on the objection. At the request of the witness, the employee, or employing office, or on its own initiative, the hearing board may refer the objection to the Select Committee on Ethics for a ruling.

(3) ENFORCEMENT.—The Select Committee on Ethics may make to the Senate any recommendations by report or resolution, including recommendations for criminal or civil enforcement by or on behalf of the Office, which the Select Committee on Ethics may consider appropriate with respect to—

(A) the failure or refusal of any person to appear in proceedings under this or to produce records in obedience to a subpoena or order of the hearing board; or

(B) the failure or refusal of any person to answer questions during his or her appearance as a witness in a proceeding under this section.

For purposes of section 1365 of title 28, United States Code, the Office shall be deemed to be a committee of the Senate.

(g) DECISION.—The hearing board shall issue a written decision as expeditiously as possible, but in no case more than 45 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the employee and the employing office. The decision shall state the issues raised by the complaint, describe the evidence in the record, and contain a determination as to whether a violation has occurred.

(h) REMEDIES.—If the hearing board determines that a violation has occurred, it shall order such remedies as would be appropriate if awarded under section 706 (g) and (k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5 (g) and (k)), and may also order the award of such compensatory damages as would be appropriate if awarded under section 1977 and section 1977A (a) and (b)(2) of the Revised Statutes (42 U.S.C. 1981 and 1981A (a) and (b)(2)). In the case of a determination that a violation based on age has occurred, the hearing board shall order such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)). Any order requiring the payment of money must be approved by a Senate resolution reported by the Committee on Rules and Administration. The hearing board shall have no authority to award punitive damages.

(i) PRECEDENT AND INTERPRETATIONS.—Hearing boards shall be guided by judicial decisions under statutes referred to in section 302 and subsection (h) of this section, as well as the precedents developed by the Select Committee on Ethics under section 308, and other Senate precedents.

SEC. 308. REVIEW BY THE SELECT COMMITTEE ON ETHICS.

(a) IN GENERAL.—An employee or the head of an employing office may request that the Select Committee on Ethics (referred to in this section as the "Committee"), or such other entity as the Senate may designate, review a decision under section 307, including any decision following a remand under subsection (c), by filing a request for review with the Office not later than 10 days after the receipt of the decision of a hearing board. The Office, at the discretion of the Director, on its own initiative and for good cause, may file a request for review by the Committee of a decision of a hearing board not later than 5 days after the time for the employee or employing office to file a request for review has expired. The Office shall transmit a copy of any request for review to the Committee and notify the interested parties of the filing of the request for review.

(b) REVIEW.—Review under this section shall be based on the record of the hearing board. The Committee shall adopt and publish in the Congressional Record procedures for requests for review under this section.

(c) REMAND.—Within the time for a decision under subsection (d), the Committee

may remand a decision no more than one time to the hearing board for the purpose of supplementing the record or for further consideration.

(d) FINAL DECISION.—

(1) HEARING BOARD.—If no timely request for review is filed under subsection (a), the Office shall enter as a final decision, the decision of the hearing board.

(2) SELECT COMMITTEE ON ETHICS.—

(A) If the Committee does not remand under subsection (c), it shall transmit a written final decision to the Office for entry in the records of the Office. The Committee shall transmit the decision not later than 60 calendar days during which the Senate is in session after the filing of a request for review under subsection (a). The Committee may extend for 15 calendar days during which the Senate is in session the period for transmission to the Office of a final decision.

(B) The decision of the hearing board shall be deemed to be a final decision, and entered in the records of the Office as a final decision, unless a majority of the Committee votes to reverse or remand the decision of the hearing board within the time for transmission to the Office of a final decision.

(C) The decision of the hearing board shall be deemed to be a final decision, and entered in the records of the Office as a final decision, if the Committee, in its discretion, decides not to review, pursuant to a request for review under subsection (a), a decision of the hearing board, and notifies the interested parties of such decision.

(3) ENTRY OF A FINAL DECISION.—The entry of a final decision in the records of the Office shall constitute a final decision for purposes of judicial review under section 309.

(e) STATEMENT OF REASONS.—Any decision of the Committee under subsection (c) or subsection (d)(2)(A) shall contain a written statement of the reasons for the Committee's decision.

SEC. 309. JUDICIAL REVIEW.

(a) IN GENERAL.—Any Senate employee aggrieved by a final decision under section 308(d), or any Member of the Senate who would be required to reimburse the appropriate Federal account pursuant to the section entitled "Payments by the President or a Member of the Senate" and a final decision entered pursuant to section 308(d)(2)(B), may petition for review by the United States Court of Appeals for the Federal Circuit.

(b) LAW APPLICABLE.—Chapter 158 of title 28, United States Code, shall apply to a review under this section except that—

(1) with respect to section 2344 of title 28, United States Code, service of the petition shall be on the Senate Legal Counsel rather than on the Attorney General;

(2) the provisions of section 2348 of title 28, United States Code, on the authority of the Attorney General, shall not apply;

(3) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 308(d);

(4) the Office shall be an "agency" as that term is used in chapter 158 of title 28, United States Code; and

(5) the Office shall be the respondent in any proceeding under this section.

(c) STANDARD OF REVIEW.—To the extent necessary to decision and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision if it is determined that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. The record on review shall include the record before the hearing board, the decision of the hearing board, and the decision, if any, of the Select Committee on Ethics.

(d) ATTORNEY'S FEES.—If an employee is the prevailing party in a proceeding under this section, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

SEC. 310. RESOLUTION OF COMPLAINT.

If, after a formal complaint is filed under section 307, the employee and the head of the employing office resolve the issues involved, the employee may dismiss the complaint or the parties may enter into a written agreement, subject to the approval of the Director.

SEC. 311. COSTS OF ATTENDING HEARINGS.

Subject to the approval of the Director, an employee with respect to whom a hearing is held under this title may be reimbursed for actual and reasonable costs of attending proceedings under sections 307 and 308, consistent with Senate travel regulations. Senate Resolution 259, agreed to August 5, 1987 (100th Congress, 1st Session), shall apply to witnesses appearing in proceedings before a hearing board.

SEC. 312. PROHIBITION OF INTIMIDATION.

Any intimidation of, or reprisal against, any employee by any Member, officer, or employee of the Senate, or by the Architect of the Capitol, or anyone employed by the Architect of the Capitol, as the case may be, because of the exercise of a right under this title constitutes an unlawful employment practice, which may be remedied in the same manner under this title as is a violation.

SEC. 313. CONFIDENTIALITY.

(a) COUNSELING.—All counseling shall be strictly confidential except that the Office and the employee may agree to notify the head of the employing office of the allegations.

(b) MEDIATION.—All mediation shall be strictly confidential.

(c) HEARINGS.—Except as provided in subsection (d), the hearings, deliberations, and decisions of the hearing board and the Select Committee on Ethics shall be confidential.

(d) FINAL DECISION OF SELECT COMMITTEE ON ETHICS.—The final decision of the Select Committee on Ethics under section 308 shall be made public if the decision is in favor of the complaining Senate employee or if the decision reverses a decision of the hearing board which had been in favor of the employee. The Select Committee on Ethics may decide to release any other decision at its discretion. In the absence of a proceeding under section 308, a decision of the hearing board that is favorable to the employee shall be made public.

(e) RELEASE OF RECORDS FOR JUDICIAL REVIEW.—The records and decisions of hearing boards, and the decisions of the Select Committee on Ethics, may be made public if required for the purpose of judicial review under section 309.

SEC. 314. EXERCISE OF RULEMAKING POWER.

The provisions of this title, except for sections 309, 320, 321, and 322, are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. Notwithstanding any other provision of law, except as provided in section 309, enforcement and adjudication with respect to the discriminatory practices prohibited by section 302, and arising out of Senate employment, shall be within the exclusive jurisdiction of the United States Senate.

SEC. 315. TECHNICAL AND CONFORMING AMENDMENTS.

Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) through (5);

(B) by redesignating paragraphs (6) and (7) as paragraphs (2) and (3), respectively; and

(C) in paragraph (3), as redesignated by subparagraph (B) of this paragraph—

(i) by striking "(2) and (6)(A)" and inserting "(2)(A)", as redesignated by subparagraph (B) of this paragraph; and

(ii) by striking "(3), (4), (5), (6)(B), and (6)(C)" and inserting "(2)"; and

(2) in subsection (c)(2), by inserting ", except for the employees who are defined as Senate employees, in section 201(c)(1) of the Civil Rights Act of 1991)" after "shall apply exclusively".

SEC. 316. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) IN GENERAL.—It shall not be a violation with respect to an employee described in subsection (b) to consider the—

(1) party affiliation;

(2) domicile; or

(3) political compatibility with the employing office,

of such an employee with respect to employment decisions.

(b) DEFINITION.—For purposes of this section, the term "employee" means—

(1) an employee on the staff of the Senate leadership;

(2) an employee on the staff of a committee or subcommittee;

(3) an employee on the staff of a Member of the Senate;

(4) an officer or employee of the Senate elected by the Senate or appointed by a Member, other than those described in paragraphs (1) through (3); or

(5) an applicant for a position that is to be occupied by an individual described in paragraphs (1) through (4).

SEC. 317. OTHER REVIEW.

No Senate employee may commence a judicial proceeding to redress discriminatory practices prohibited under section 302 of this title, except as provided in this title.

SEC. 318. OTHER INSTRUMENTALITIES OF THE CONGRESS.

It is the sense of the Senate that legislation should be enacted to provide the same or comparable rights and remedies as are provided under this title to employees of instrumentalities of the Congress not provided with such rights and remedies.

SEC. 319. RULE XLII OF THE STANDING RULES OF THE SENATE.

(a) REAFFIRMATION.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate, which provides as follows:

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

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

"(b) discharge an individual; or

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

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

(b) AUTHORITY TO DISCIPLINE.—Notwithstanding any provision of this title, including any provision authorizing orders for remedies to Senate employees to redress employment discrimination, the Select Committee on Ethics shall retain full power, in accordance with its authority under Senate Resolution 338, 88th Congress, as amended, with respect to disciplinary action against a Member, officer, or employee of the Senate for a violation of Rule XLII.

SEC. 320. COVERAGE OF PRESIDENTIAL APPOINTEES.

(a) IN GENERAL.—

(1) APPLICATION.—The rights, protections, and remedies provided pursuant to section 302 and 307(h) of this title shall apply with respect to employment of Presidential appointees.

(2) ENFORCEMENT BY ADMINISTRATIVE ACTION.—Any Presidential appointee may file a complaint alleging a violation with the Equal Employment Opportunity Commission, or such other entity as is designated by the President by Executive Order, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission, or such other entity as is designated by the President pursuant to this section, determines that a violation has occurred, the final order shall also provide for appropriate relief.

(3) JUDICIAL REVIEW.—

(A) IN GENERAL.—Any party aggrieved by a final order under paragraph (2) may petition for review by the United States Court of Appeals for the Federal Circuit.

(B) LAW APPLICABLE.—Chapter 158 of title 28, United States Code, shall apply to a review under this section except that the Equal Employment Opportunity Commission or such other entity as the President may designate under paragraph (2) shall be an "agency" as that term is used in chapter 158 of title 28, United States Code.

(C) STANDARD OF REVIEW.—To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final order under paragraph (2) if it is determined that the order was—

(i) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(ii) not made consistent with required procedures; or

(iii) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(D) ATTORNEY'S FEES.—If the presidential appointee is the prevailing party in a proceeding under this section, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

(b) PRESIDENTIAL APPOINTEE.—For purposes of this section, the term "Presidential appointee" means any officer or employee, or an applicant seeking to become an officer or employee, in any unit of the Executive Branch, including the Executive Office of the President, whether appointed by the President or by any other appointing authority in the Executive Branch, who is not already entitled to bring an action under any of the statutes referred to in section 302 but does not include any individual—

(1) whose appointment is made by and with the advice and consent of the Senate;

(2) who is appointed to an advisory committee, as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.); or

(3) who is a member of the uniformed services.

SEC. 321. COVERAGE OF PREVIOUSLY EXEMPT STATE EMPLOYEES.

(a) APPLICATION.—The rights, protections, and remedies provided pursuant to section 302 and 307(h) of this title shall apply with respect to employment of any individual chosen or appointed, by a person elected to public office in any State or political subdivision of any State by the qualified voters thereof—

(1) to be a member of the elected official's personal staff;

(2) to serve the elected official on the policymaking level; or

(3) to serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

(b) ENFORCEMENT BY ADMINISTRATIVE ACTION.—Any individual referred to in subsection (a) may file a complaint alleging a violation with the Equal Employment Opportunity Commission, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission determines that a violation has occurred, the final order shall also provide for appropriate relief.

(c) JUDICIAL REVIEW.—Any party aggrieved by a final order under subsection (b) may obtain a review of such order under chapter 158 of title 28, United States Code. For the purpose of this review, the Equal Employment Opportunity Commission shall be an "agency" as that term is used in chapter 158 of title 28, United States Code.

(d) STANDARD OF REVIEW.—To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final order under subsection (b) if it is determined that the order was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) ATTORNEY'S FEES.—If the individual referred to in subsection (a) is the prevailing party in a proceeding under this subsection, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

SEC. 322. SEVERABILITY.

Notwithstanding section 401 of this Act, if any provision of section 309 or 320(a)(3) is invalidated, both sections 309 and 320(a)(3) shall have no force and effect.

SEC. 323. PAYMENTS BY THE PRESIDENT OR A MEMBER OF THE SENATE.

The President or a Member of the Senate shall reimburse the appropriate Federal account for any payment made on his or her behalf out of such account for an unfair employment practice judgment committed under the provisions of this title by the President or Member of the Senate not later than 60 days after the payment is made.

SEC. 324. REPORTS OF SENATE COMMITTEES.

(a) Each report accompanying a bill or joint resolution of a public character reported by any committee of the Senate (except the Committee on Appropriations and the Committee on the Budget) shall contain a listing of the provisions of the bill or joint resolution that apply to Congress and an evaluation of the impact of such provisions on Congress.

(b) The provisions of this section are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

SEC. 325. INTERVENTION AND EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) INTERVENTION.—Because of the constitutional issues that may be raised by section 309 and section 320, any Member of the Senate may intervene as a matter of right in any proceeding under section 309 for the sole purpose of determining the constitutionality of such section.

(b) THRESHOLD MATTER.—In any proceeding under section 309 or section 320, the United States Court of Appeals for the Federal Circuit shall determine any issue presented concerning the constitutionality of such section as a threshold matter.

(c) APPEAL.—

(1) IN GENERAL.—An appeal may by taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by the United States Court of Appeals for the Federal Circuit ruling upon the constitutionality of section 309 or 320.

(2) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in paragraph (1), advance the appeal on the docket and expedite the appeal to the greatest extent possible.

TITLE IV—GENERAL PROVISIONS

SEC. 401. SEVERABILITY.

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

SEC. 402. EFFECTIVE DATE.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall take effect upon enactment.

TITLE V—CIVIL WAR SITES ADVISORY COMMISSION

SEC. 501. CIVIL WAR SITES ADVISORY COMMISSION.

Section 1205 of Public Law 101-628 is amended in subsection (a) by—

(1) striking "Three" in paragraph (4) and inserting "Four" in lieu thereof; and

(2) striking "Three" in paragraph (5) and inserting "Four" in lieu thereof.

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

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

The motion to lay on the table was agreed to.

ENFORCEMENT OF OILSEEDS GATT PANEL RULING

The PRESIDING OFFICER. Under the previous order, the Finance Committee is discharged from further consideration of Senate Resolution 201.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 201) to express the sense of the Senate regarding enforcement of the oilseeds GATT panel ruling against the European Community.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will proceed to its immediate consideration.

The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, this is a sense-of-the-Senate resolution. Its purpose is to urge the administration to pursue the legal remedies available to our country under section 301 of the Trade Act. The facts are, in brief, as follows:

In December 1987, the American Soybean Association filed a 301 petition with the U.S. Trade Representative relating to subsidies on oilseeds and animal feed proteins by the European Community.

In December 1989, the GATT dispute settlement panel found in favor of the Soybean Association against the European Community.

In June 1991, the European Community Council of Ministers agreed that by October 31, 1991, it would comply with the GATT finding. However, the Commission of the European Community the following month announced a program of subsidies which would be approximately twice the world market price for oil seeds.

And therefore this sense-of-the-Senate resolution provides that if by October 31, 1991 the European Community Council of Ministers has not adopted a new oilseeds regime that is fully in conformity with its GATT obligations, the United States Trade Representative should immediately take action under section 301 to compensate for the trade losses caused by the European Community's failure to comply with the GATT panel ruling; and that the actions taken by the USTR should remain in full force and effect until such time as the European Community brings its oilseeds regime into conformity with its GATT obligations.

Mr. GRASSLEY. Mr. President, farmers are tired with the European Community's stonewalling on the reform of their oilseeds regime. Even before the GATT ruling in 1989, stating that the EC program violated international trade rules, the EC had continued to tell our representatives that a new system would be implemented soon. In fact, I do not believe that any neutral observer would be convinced that the EC has made a good faith effort to reform their oilseeds regime.

I am pleased to be a cosponsor of this resolution. It appears that Iowa may be the Nation's leader in the production of soybeans this year, which is America's most utilized oilseed. Exports are an important component of the price received by soybean farmers, and the EC's $12 billion export war chest easily dwarfs the $1 billion the United States is able to tap into for export assistance.

The EC has recently made moves to alter their Oilseeds Program. However, alter is a long way from reform. The changes they would make would likely result in paying EC farmers twice the world price for oilseeds. Clearly, this market-distorting plan will continue to encourage the overproduction and export of oilseeds and their byproducts. Right now, the EC program costs U.S. producers on the order of $2 billion a year in lost sales. This program is illegal, it should be abandoned immediately, and this resolution is an appropriate way for the United States to speak to this issue.

Mr. BAUCUS. Mr. President, I rise in strong support of this resolution.

EC oilseed subsidies are one manifestation of the EC's broad system of agricultural subsidies. Unfortunately, EC action in the oilseed sector is symptomatic of intransigence that threatens to undermine the Uruguay round of GATT negotiations.

In December 1989, a GATT dispute resolution panel directed the EC to reform its Oilseed Subsidy Program. The EC accepted this panel ruling in January 1990. Despite accepting the panel decision, the EC has done little to implement its international obligations.

The United States can no longer afford to tolerate EC footdragging. EC subsidies to oilseed producers will cost American farmers at least $2 billion a year in lost sales. This monetary loss translates directly into lost jobs.

U.S. credibility is at stake in our continuing dispute with the EC over oilseed subsidies. The EC promised last summer to reform its oilseed subsidy program by October 31, 1991. However, an EC plan to implement this promise continues to provide an unacceptable level of subsidization.

It is time for the Congress to send Europe a strong message: Either the EC lives up to its multilateral obligations and reforms its oilseed subsidies, or the United States takes unilateral action under section 301.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered on this resolution.

Mr. DANFORTH. Mr. President, I yield a minute to the Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague.

Mr. President, I rise in strong support of the resolution offered by my distinguished colleague from Missouri, Senator DANFORTH, and Senator PRYOR and others. This resolution expresses the sense of the Senate regarding enforcement of the oilseeds GATT panel ruling against the European Community.

Mr. President, I would like to stand up here today and tell you that everything is just fine with the American Soybean industry, but frankly, it is not. Plain and simple: The Europeans continue to drag their feet on reform of their oilseed regime. The EC's proposal to reform its oilseed subsidy system falls short of instituting any meaningful reforms.

While the European Community [EC] has expanded its oilseed exports, U.S. exports have fallen, domestic stocks have risen and prices for both oilseeds and oil have dropped. The ability of the EC to produce and export oilseeds is entirely dependent on subsidies. It is time the administration recognize that the EC has no intention of complying with its GATT commitments to reform its GATT illegal oilseed subsidy regime. It is clear to me and the Nation's soybean farmers that nothing less than certain retaliation against EC exports to the United States will convince the EC that the United States is completely serious. We will accept nothing less than the EC reforming its oilseed subsidy regime as it is required to do as a GATT signatory.

As the resolution indicates, the American Soybean Association [ASA] representing all U.S. soybean farmers, filed a section 301 petition against the EC in December 1987. The petition charged that the EC was impairing its duty-free bindings on soybeans and soybean meal by providing lucrative subsidies to growers and processors of EC-origin soybeans, rapeseed, and sunflower seed. The ASA petition was accepted by the Reagan administration in January 1988 and actively pursued through the GATT and in consultations with the EC.

In January 1989 the GATT Council of Ministers adopted a report of a dispute settlement panel that had considered the merits of the charges contained in the American Soybean Association's section 301 petition. The GATT Dispute Settlement Panel ruled that EC subsidies are a violation of GATT trading rules. As my colleague from Missouri pointed out, the EC accepted the results of the dispute settlement panel when it was presented to the GATT Council in January 1989. In so doing the EC agreed to bring its oilseed regime into compliance with the GATT and to eliminate the impairment of its

duty-free bindings. Tomorrow will be October 31, 1991, Halloween, and the EC continues to play tricks with their oilseed policies.

Soon, it will be 4 years since the ASA's section 301 petition was filled with USTR and 2 years since the EC's oilseed regime was found to be GATT-Illegal. Yet, the EC has yet to take action to come into compliance. Quite the opposite has occurred in fact. In 1986–87 marketing year, the time when ASA filed its petition, the EC produced a total of 6.9 million metric tons [MMT] of oilseeds. This year, the EC is expected to produce over 12 MMT of oilseeds, the largest crop in its history.

The EC budgeted the equivalent of $9 billion in 1990–91 to pay the cost of its subsidies for the production of oilseeds, protein crops, and olive oil, directly affecting demand in Europe for United States soybeans and soybean meal. That's almost as much as the United States spent in fiscal year 1991 on all domestic farm income and price supports. This year the EC is expected to export well over 1 MMT of highly subsidized rapeseed oil to markets previously supplied with U.S. soybeans and soybean oil.

It is important to consider the extent of the EC's subsidies. Here in the United States we guarantee our soybean farmers $4.92 for each bushel of soybeans they grow and 8½ cents per pound for each pound of sunflower seed and rapeseed they grow. That is below the cost of production for many farmers and well below the normal market price for those crops. In Europe farmers receive the excess of $12 to $15 per bushel for all of their soybeans and almost 20 cents per pound for each pound of rapeseed and sunflower seed they grow. By reimbursing EC oilseed processors for the higher price they must pay EC farmers for oilseeds, the EC is able to sell at a cost lower than the EC processors can purchase U.S. soybeans. United States soybeans and soybean meal simply cannot compete in the European market with EC-origin oilseeds. I ask my colleagues, what would be the reaction from the EC if we adopted their policy for oilseeds and applied it to wine? Without question they would retaliate.

This summer the EC promised U.S. Trade Representative Carla Hills and Secretary of Agriculture Ed Madigan that it would adopt a new Oilseeds Program that complied with the GATT panel's ruling by October 31 of this year. In August the EC's proposed oilseed plan was unveiled. The EC's plan for compliance with the December 1989, GATT panel's ruling merely continues the excessive oilseed subsidies of the past.

Mr. President, I am fed up with the EC's continued uncompromising position on the oilseeds case as well as with just about every other agricultural issue. The EC has had 2 years to make acceptable reforms. In the meantime, U.S. soybean farmers and processors are losing at least $1.5 billion annually in sales to the EC. It is my view that the EC will keep on stealing our soybean farmers' and processors' market in Europe if we do not retaliate.

Our soybean farmers and soybean processors should not have to wait any longer for the EC to act on the oilseeds issue. They have waited far too long already. The way to get ahead of the EC is to get behind the American producer. The administration must retaliate against the EC by taking action under section 301 to impose prohibitive import duties on no less than $1.5 billion in EC exports to the United States. Through such retaliation the United States will make the EC pay an economic price for its failure to make acceptable reforms and provide a reason for the EC to compete fairly. I urge my colleagues to support this resolution.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FOWLER. Mr. President, I yield time to myself.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, I will be uncharacteristically brief. Both Senators from Missouri stated the case for this resolution. They have my support. I hope my colleagues will join in the passage.

Mr. DURENBERGER. Mr. President, I join the distinguished senior Senator from Missouri [Mr. DANFORTH] in urging all of my colleagues to support this resolution affirming our rights under the GATT in relation to the unfair European Community trade subsidy policies as applied to soybeans.

Mr. President, for more than 5 years, the United States has been engaged in on-again, off-again, negotiations with all of the world's major trading nations at the Uruguay round of the GATT. Last December, our trade representatives walked out of the negotiations because the European Community refused to budge on the onerous and distorting agriculture subsidy policies that have cost American farmers billions of dollars in lost sales. At that time, I commended the administration for holding firm against the EC.

But Mr. President, even if we do ultimately achieve a breakthrough at the Uruguay round, the question remains how any commitments under the GATT will be enforced. The history of the oilseeds case clearly demonstrates that the current enforcement regime is unworkable.

Four years ago, the American Soybeans Association filed a section 301 petition charging that the European Community's production and processing subsidies on oilseeds and animal feed proteins were inconsistent with GATT and nullified the EC's duty-free bindings granted to the United States in 1962. After more than a year of fruitless negotiations, the U.S. Trade Representative took the dispute to a GATT Council dispute settlement panel.

In December 1989 the GATT panel found that the EC's oilseeds subsidies violated the GATT. Although the EC accepted the GATT panel ruling and committed to reforming its oilseeds regime, so far the EC has failed to live up to its commitment. The new oilseeds regime proposed by the Commission of the EC continues to provide unacceptably high subsidies for oilseeds, guaranteeing EC producers a return of approximately twice the world market price for oilseeds, and continues to impair the benefit of the duty-free bindings granted to the United States nearly 30 years ago.

Mr. President, it is estimated that the EC's existing oilseeds subsidy policy has cost the U.S. soybean farmer at least $1.5 to $2 billion a year in lost sales. This is intolerable.

This resolution sends a clear and direct signal to the EC, and all of our trading partners. The United States will no longer tolerate endless promises of reform and market access, followed by nothing but empty gestures and the same old subsidy-as-usual policy. We must exercise our rights under the GATT and under section 301 to remedy this fundamental inequity that our soybean farmers continue to face.

Mr. GRASSLEY. Mr. President, farmers are tired with the European Community's stonewalling on the reform of their oilseeds regime. Even before the GATT ruling in 1989, stating that the EC program violated international trade rules, the EC has continued to tell our representatives that a new system would be implemented soon. In fact, I do not believe that any neutral observer would be convinced that the EC has made a good faith effort to reform their oilseeds regime.

I am pleased to be a cosponsor of this resolution. It appears that Iowa may be the Nation's leader in the production of soybeans this year, which is America's most utilized oilseed. Exports are an important component of the price received by soybean farmers, and the EC's $12 billion export war chest easily dwarfs the $1 billion the United States is able to tap into for export assistance.

The EC has recently made moves to alter their oilseeds program. However, alter is a long way from reform. The changes they would make would likely result in paying EC farmers twice the world price for oilseeds. Clearly, this market-distorting plan will continue to encourage the overproduction and export of oilseeds and their byproducts. Right now, the EC program costs U.S. producers on the order of $2 billion a year in lost sales. This program is illegal, it should be abandoned imme-

diately, and this resolution is an appropriate way for the United States to speak to this issue.

Mr. WELLSTONE. Mr. President, I join as cosponsor to this resolution out of a determination to ensure that trade agreements serve their intended purpose: To bring nations into compliance with rules of free and fair trade, and to end damaging, trade-distorting practices, especially in the agricultural realm.

On the eve of what some say may be breakthroughs in Uruguay round agricultural trade negotiations under the auspices of GATT, I want to express my commitment to seeing that U.S. agricultural producers are not harmed by other countries' noncompliance with present GATT rules, nor by deals cut in ongoing negotiations which will leave our producers at an unfair competitive disadvantage.

The facts in this oilseeds case are quite clear. I joined many of my colleagues last April in writing to the President on the matter. Although the European Community has altered its oilseeds policy, the Community still is not in compliance with its GATT obligations.

Minnesota is the No. 3 soybean producing State in the country. Oil crop sales generate about $1 billion in annual sales for Minnesota producers. I want to send a clear signal that in this sector, as in others, Europe must comply with GATT panel rulings. I also want to send a signal that this Senate is paying close attention to agricultural trade matters, and will not stand for measures that harm our producers.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on Senate Resolution 201 occur immediately; that immediately upon disposition of that resolution the Senate proceed to the conference report on H.R. 2686, the Interior appropriation bill; and that the vote on the conference report occur immediately thereafter without any intervening action or debate.

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

Mr. MITCHELL. Mr. President, let me say that there will now be two rollcall votes, one on Senate Resolution 201, to be followed immediately by a vote on the conference report on the Interior appropriations bill. That second vote will be the last rollcall vote this evening. We will then deal with the amendments in disagreement tomorrow.

I have been discussing this with the distinguished chairman of the Appropriations Committee, and following consultation with the Republican leader, I hope to propound a proposed agreement to govern that bill tomorrow, or some portions of that bill, and other matters that will be discussed tomorrow.

VOTE

The PRESIDING OFFICER. The question is on agreeing to Senate Resolution 201. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—97

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

NAYS—0

NOT VOTING—3

Harkin	Kerrey	Wofford

So the resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 201

Whereas in 1962, the European Community agreed to duty-free bindings on imports of oilseeds and oilcakes, including those exported from the United States;

Whereas in December 1987, the American Soybean Association filed a section 301 petition with the United States Trade Representative charging that the European Community's production and processing subsidies on oilseeds and animal feed proteins were inconsistent with the General Agreement on Tariffs and Trade (GATT), and nullified and impaired the European Community's duty-free bindings granted to the United States in 1962;

Whereas in May 1988, after consultations failed to result in a satisfactory resolution of this dispute, the United States Trade Representative requested the GATT Council of Representatives to establish a dispute settlement panel to consider the matter;

Whereas in July 1988, the United States Trade Representative determined that the rights of the United States under the GATT were being denied by the European Community's oilseeds subsidies;

Whereas in December 1989, the GATT dispute settlement panel found that the European Community's oilseeds subsidies were inconsistent with its GATT obligations regarding national treatment, and nullified and impaired the benefit of the duty-free bindings granted to the United States in 1962;

Whereas in January 1990, the European Community accepted the GATT panel ruling and committed to reforming its oilseeds regime to bring it into conformity with its GATT obligations beginning in the 1991 crop year;

Whereas in June 1991, the European Community Council of Ministers agreed that it would adopt by October 31, 1991, a new oilseeds regime that would bring the European Community into conformity with its GATT obligations;

Whereas the new oilseeds regime proposed by the Commission of the European Community would continue to provide unacceptably high subsidies for oilseeds, guaranteeing European Community producers a return of approximately twice the world market price for oilseeds, and would continue to nullify and impair the benefit of the duty-free bindings granted to the United States in 1962; and

Whereas the European Community's existing oilseeds regime is seriously injuring the United States economy and is estimated to cost United States farm interests at least $2 billion annually in lost sales: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) if by October 31, 1991, the European Community Council of Ministers has not adopted a new oilseeds regime that is fully in conformity with its GATT obligations, the United States Trade Representative should immediately take action under section 301 to compensate for the trade losses caused by the European Community's failure to comply with the GATT panel ruling; and

(2) the actions taken by the United States Trade Representative under section 301 should remain in full force and effect until such time as the European Community brings its oilseeds regime into conformity with its GATT obligations.

Mr. FORD. Mr. President, I ask unanimous consent that I be listed as a cosponsor on Senate Resolution 201.

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

Mr. GORE. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the conference report on H.R. 2686 which the clerk will report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the

amendments of the Senate to the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 17, 1991.)

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The President pro tempore is recognized.

Mr. BYRD. I thank the Chair. Mr. President, the Senate will vote shortly on the adoption of the conference report on the Interior appropriations bill. No amendments in disagreement will be taken up this evening. There are one or two or three, I assume, amendments in disagreement. There will be one or more rollcall votes in connection with those amendments in disagreement tomorrow.

I shall put my statement concerning the conference report in the RECORD by unanimous consent and, to accommodate Members, as I have already indicated and as the majority leader has indicated, the vote on the conference report will occur tonight. It has to be voted up or down before we can get to the amendments in disagreement. If it is voted down, we will not get to it. If it is voted up, then we will get to them on tomorrow.

I believe the majority leader has indicated and Senator HELMS has indicated that he will be ready to go on his NEA amendment tomorrow, which he hopes to add to an amendment in disagreement. So there will be no further action on this conference report tonight. However, Senators may stay, if they wish, and talk on the conference report and the amendments. I know of one Senator who will want to do that.

Mr. President, I bring before the Senate today the conference report on H.R. 2686, the fiscal year 1992 Department of the Interior and related agencies appropriation bill.

The allocations for the Interior Subcommittee total $13.102 billion in budget authority and $12.050 billion in outlays. This bill is right at its allocation with respect to outlays, as scored by the Congressional Budget Office. Because of scoring differences between CBO and the Office of Management and Budget on firefighting and various other programs, the conferees have had to report a bill which is substantially below the CBO ceiling for budget authority in order that the bill would comply with the OMB scoring limits.

Mr. President, reaching our outlay target was not an easy task. Despite a series of painful reductions and eliminations of specific projects before the conferees, it was still necessary to include an across-the-board reduction of 1.26 percent in order to stay within the budget authority and outlays allocations.

I repeat that no outlays remain available, so any amendment for additional spending would not be in order under section 602(b) of the Budget Act.

This bill has been the subject of a great deal of scrutiny. Most Members have a direct interest in projects in the bill which affect their States, as well as in policy issues involving public lands, energy, and the arts.

The conferees on this bill met on four different days. Those formal discussions were preceded by 21 days of preconference negotiations. The bill passed by the Senate had 226 numbered amendments that had to be resolved. Moreover, the discrete differences addressed by the conferees totaled some 1,900 items. The conference agreement, by its nature, is a compromise. It will not satisfy all Members in every respect. However, it is time to complete action on this bill.

Given the numerous differences which I have noted, the lengthy period of time which it has taken to bring this conference agreement to the Senate, and the fact that we are already 1 month into the fiscal year, I urge my colleagues to avoid further disagreement with the House and to expedite the transmittal of this fiscal year 1992 Department of the Interior and related agencies appropriation bill to the President.

This Interior bill was difficult to fashion, given the tight budgetary constraints. The 602(b) outlay allocation for the subcommittee is $213 million less than the amount proposed by the President. New outlays in this bill are down some 8.1 percent below the CBO baseline for fiscal year 1992. So, this bill is fiscally responsible.

Mr. President, Senator NICKLES and I have worked well and closely together in protecting the Senate positions during this conference. I believe that the bill represents a bipartisan package. Every member of the Senate expressed an interest in at least one project or program in this bill. There is not enough money available to satisfy all of the more than 3,000 requests received by the Senate subcommittee and the many other requests that were proposed in the House.

I would like to call attention to some items of interest in the conference agreement.

The conferees funded fully the administration's request for presuppression activities related to firefighting on Federal lands, and established new emergency firefighting accounts to deal with the actual emergencies that occur once fires begin to burn. The tragic experience recently in Oakland and Berkeley, CA, brought to the forefront the devastations possible as a result of continued severe drought and pest infestation in the West.

Consistent with the position passed in the Senate by a vote of 60 to 38, no increase in the grazing fee is recommended in this appropriation bill. The managers did include report language encouraging the authorizing committees to take action to resolve this matter and other contentious public lands policy issues.

With respect to the National Endowment for the Arts, the conferees reinforce the directions provided under the authorizing statute for the NEA. These provisions state directly that obscenity is without artistic merit and should not be funded.

Total funding in the bill for land acquisition and State assistance is $321.4 million. This amount is $20.2 million below the fiscal year 1991 appropriation and $28.8 million below the President's request for fiscal year 1992.

Total funding for construction in the Bureau of Land Management, the Fish and Wildlife Service, the Park Service, and the Forest Service, amounts to $680.2 million. This total is $24.7 million above the fiscal year 1991 appropriation for these same construction accounts. So, in total, for land acquisition and construction accounts in these four agencies, we are essentially at last year's level.

Elsewhere, for Indian construction related to education, health clinics, and basic services, the conferees have recommended a total of $484 million, which is an increase of $340.7 million over the budget request.

With respect to other program and policy issues under the jurisdiction of the subcommittee, I offer the following highlights.

All House-passed bill language related to Outer Continental Shelf oil and gas leasing moratoria is retained.

Significant operating increases and facility construction funds are provided to address the most critical health and safety needs for our native American population.

A reduction of nearly $37 million is taken in the timber road construction program. This decrease is about 20 percent below the similarly funded programs last year.

And, lastly, no specific legislative protection is included regarding timber harvest and the spotted owl in the Pacific Northwest. Nor does this bill modify the Endangered Species Act in any way.

Mr. President, I would also like at this point to clarify or correct several items addressed in the Statement of the Managers.

With respect to Indian programs in the Bureau of Indian Affairs, on page 46 of the statement contained in House

report 102-256, the managers outlined the program for new Indian school construction. In the printing of the statement, under item No. 1, the fiscal year is omitted. The statement should reference the fiscal year 1992 priority list.

The managers agreed to provide $12,500,000 in essential tribal services. On page 42 of the statement, the managers discuss that tribes receiving restorations of $100,000 or more of fiscal year 1991 add-ons are not eligible for the essential tribal services money provided in fiscal year 1992. The intention of the managers is not to treat tribes receiving restorations differently than tribes whose fiscal year 1991 add-ons were continued in the President's fiscal year 1992 request. Thus, the managers intend that tribes retaining $100,000 or more of fiscal year 1991 add-ons, whether through the fiscal year 1992 budget request or congressional restoration, would not be eligible for essential tribal services funding in fiscal year 1992.

With respect to the land acquisition program of the Bureau of Land Management, the Statement of the Managers, on page 13, mistakenly, identifies an allowance of $750,000 for a Central Pacific Railroad parcel in Utah. Those funds are actually for the Central Valley Wetlands in California. No funds were provided in this bill for the former project.

Also, in the Forest Service land acquisition program, an amount of $3,499,000 is included for the Toiyabe National Forest. Of that amount, $1,000,000 is intended for the purchase of the fiberboard parcel and it would be my hope that the Congress will complete the purchase of the other parcel; Hope Valley, next year.

The managers have included no funds in the National Park Service construction account for the planning of the Denali southside visitor facilities because the Service has provided information indicating that the environmental impact statement associated with this project will not be completed in fiscal year 1992. This environmental impact statement is to be completed, within available funds, as expeditiously as possible and in no case later than November 1, 1992. The Service is expected to provide the Committees on Appropriations with a quarterly progress report on the efforts to complete the environmental impact statement for the southside visitor facilities.

Also in the National Park Service construction account, the conference agreement includes funding for several projects which, although not owned by the Park Service, are to be accomplished using the Secretary's authorities under the Historic Sites Act of 1935. Among others these projects include: Lane and Fisk Colleges, Montpelier, the New Jersey Urban History Project, Penn Center, and Kennicott. By including funding for these specific projects in this appropriation bill, the Congress has determined that these projects, all of which are on the National Register of Historic Places, are nationally significant properties.

Mr. President, I would like to clarify that the general reduction of $1,625,000 proposed for Fish and Wildlife Service research in the conference agreement should be applied on a pro rata basis to all projects or activities within the $85,588,000 provided for research.

Elsewhere, the Statement of the Managers on page 76 under item 7 reiterates the requirement for a December 1, 1991, report related the a generic heat exchanger facility. That report should be provided in the form of a public assessment document which should be made generally available.

Mr. President, in closing I would like to note that it has been my pleasure to work with Senator NICKLES throughout this appropriations cycle and especially in negotiating with the House conferees on the conference report before the Senate today. This is our first year working together as a team on the Interior bill and I appreciate the insights and help that Senator NICKLES has offered as the ranking member. In addition to this being Senator NICKLES' first time through as a manager of the Interior bill, this was also the first year on the Appropriations Committee for his staff, Cherie Cooper, and I commend both of them for their efforts and thoroughness.

In summary, Mr. President, I am not entirely happy with the conference agreement as modified by the House and sent to the Senate. But it is time to send this bill to the President. Any further disagreement with the proposals before us now will only further delay this important bill. Such disagreement may open the bill to even further disagreements in the House. For example, the grazing issue conceivably could be revived in the House if we return an amendment in disagreement.

Mr. President, one of the modifications adopted by the House affected the Hardwoods Training and Flexible Manufacturing Center in Mercer County, WV. This project was characterized in the other body as benefiting just West Virginia. I would like to clarify that this is not the case. The center will benefit the entire hardwoods industry, which exists throughout Appalachia. The proposed training and flexible manufacturing center seeks to provide greater domestic processing of the hardwood resources of this country. Far too many of this Nation's timber resources are exported and processed abroad. Many small timber companies are unable to process their resources as a result of insufficient capital to invest in the necessary processing equipment. The proposed center would allow for use by industry, on a time-shared basis, of equipment that will allow them to manufacture products rather than having to export the product for processing elsewhere. This would retain the economic benefit in the domestic market.

So, I urge the Senate to adopt the conference report and amendments thereto as proposed by the House.

I will yield to Senator NICKLES for any remarks he cares to make.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am pleased to support the chairman's remarks and his introduction of the conference committee report for the fiscal year 1992 Interior appropriations bill. I want to thank the chairman for his efforts in bringing the conference report to the Senate floor. Senator BYRD had made my first year as ranking member on this subcommittee much easier by providing me assistant and guidance through the process. I wish to express my sincere appreciation for Senator BYRD's help in the process. It is with his leadership that we are able to present a fine, balanced product with attentive consideration to the member requests.

A tremendous amount of work and energy has gone into putting this bill together this year. There were 226 amendments in the Interior bill and approximately 2,000 items of difference between the House and Senate bills. I am told that we have set records of longevity while working our way to the conclusion of the conference report that we submit to you today. We have faced challenges such as a moratorium on mining patents, compromises of energy-related matters, the setting of timber sale program levels, grazing fee increases, the National Endowment for the Arts amendments and others.

The conference report is within the 602(b) allocations of $13.102 billion for budget authority and $12.05 billion for outlays. The budget authority in this conference report has increased only by 1.2 percent over the fiscal year 1991 appropriation. Outlays have increased by 1 percent. The conference material before you presents the meshing of the priorities from both Houses, attention to agency needs, and consideration for Member requests. The decisions that are being made in this bill are not just for fiscal year 1992. Our recommendations, while at the allocation limits, carefully balance appropriations and revenue generation impacts in fiscal year 1992 and in future years. The conference committee's recommendations will contribute to a balanced Federal budget while continuing to provide the expected Government services.

During our conference deliberations, deep concerns have been expressed over the changing uses of public lands and its resources. Such shifts have drastic effects on local rural communities and economies and on the funding of local governments. While keeping within our

limitations, the conferees have recognized the importance of programs to employment, the economies, the infrastructure, and the social fabric of many rural communities. I believe we have been able to produce a bill which is acceptable to the administration.

Mr. President, again I wish to thank the chairman with whom I have worked very closely. I wish to express my appreciation to Senator BYRD's staff: Charlie Estes, Sue Masica, Rusty Mathews, Carla Burzyk, and Ellen Donaldson. The Senator from West Virginia and his staff have made this a bipartisan effort which makes the task certainly much easier and achievable.

Mr. DURENBERGER. Mr. President, I rise in support of the conference report on the Interior and related agencies appropriations bill. I am thankful for the number of Minnesota projects that were funded in this bill, especially given the fiscal constraints under which the Appropriations Committee was working.

I would like, however, to reiterate my commitment to two projects that I addressed in a colloquy with my colleague from Oklahoma, Senator NICKLES, in September. Specifically, they are the Grand Portage Visitors Center and the Upper Mississippi River Environmental Education Center.

The Grand Portage Visitors Center received planning money by the full Appropriations Committee in 1986 and 1990. This project is now ready for construction, and I want to remind the committee that I will be seeking funding for this worthy project again next year.

Second, regarding the Upper Mississippi River Environmental Education Center. I want to remind the committee of my interest in this project, as evidenced by my introduction of S. 1048, a bill authorizing appropriations for this project. I hope to enact this legislation in a timely fashion and would appreciate the committee's consideration of this project at that time.

Thank you, Mr. President. I yield the floor.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2686, the Interior appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $210 million and under its 602(b) outlay allocation by $1 million.

I compliment the distinguished manager of the bill Senator BYRD, and the distinguished ranking member of the Interior Subcommittee, Senator NICKLES on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Interior appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 2686, INTERIOR SUBCOMMITTEE—SPENDING TOTALS

[Conference; in billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2686:		
New BA and outlays	12.3	7.9
Enacted to date	.7	4.2
Adjustment to conform mandatory programs to resolution assumptions		
Scorekeeping adjustments	0	0
Bill total	13.0	12.1
Senate 602(b) allocation	13.2	12.1
Total difference	−.2	
Discretionary:		
Domestic	12.9	12.0
Senate 602(b)	13.1	12.1
Difference	−.2	
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	0	0
Senate 602(b)	0	0
Difference	0	0
Total Discretionary spending	12.9	12.0
Mandatory spending	.1	.1
Mandatory allocation	.1	.1
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	.8	−.2
House-passed bill	−.4	−.1
Senate-passed bill	−.1	−.1

Mr. ADAMS. Mr. President, I rise to support the conference report on H.R. 2686, the Interior and related agencies appropriations bill for 1992.

I want to thank Chairman BYRD and the conferees for their hard work under particularly difficult circumstances this year. I want to especially thank them for appropriations very important to my home State of Washington.

Included was $10.169 million for the Mount St. Helens Volcanic Monument. These funds are critical to allow construction to keep pace with overwhelming increases in visitation and to protect the monument's unique resources and ongoing research programs. This appropriation will match a bold and substantial offer by Cowlitz County of an additional $500,000 to keep construction of the project on schedule.

Mr. President, I also want to thank the committee for providing $1.6 million for the purchase of McGlynn Island for the Swinomish Tribe. The land acquisition will protect a pristine island for generations to come. I also thank the committee for including $125,000 for the Makah Tribal Fisheries program in my State.

I am especially pleased with the increases in BLM resource management funds for the Lake Creek project near Odessa, WA. These funds are needed to restore important wetlands and provide public access, recreational, and educational programs. My request was for $400,000 and I understand a significant portion of the general increases are to be used for the Lake Creek project.

There are numerous other requests the conferees honored. I will not go into each request here, but just let me say I appreciate the cooperation and evenhandedness displayed in crafting this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

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

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—93

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

NAYS—4

Brown	Roth
Helms	Smith

NOT VOTING—3

Harkin	Kerrey	Wofford

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, this request has been cleared with Senator NICKLES, my colleague on the Appropriations Subcommittee on the Department of the Interior. It has his approval.

I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the amendments of the Senate with the exception of amendments Nos. 164, 167, and 191.

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

The amendments of the House to the amendments of the Senate agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$538,940,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the date named in said amendment, insert "October 1, 1992".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND

For the purpose of establishing an "Emergency Department of the Interior Firefighting Fund" in the Treasury of the United States to be available only for emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $100,869,000, to remain available until expended: *Provided*, That all funds available under this head are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That hereafter, beginning in fiscal year 1993, and in each year thereafter, only amount for emergency rehabilitation and wildfire suppression activities that are in excess of the average of such costs for the previous ten years shall be considered "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$90,274,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided*, That none of the funds in this Act may be expended to reintroduce wolves in Yellowstone National Park and Central Idaho".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$114,895,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert "of which $400,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757g) and of which $13,000,000 for Walnut Creek NWR, IA shall be made available on September 30, 1992."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$100,117,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

"NORTH AMERICAN WETLANDS CONSERVATION FUND

"For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, P.L. 101–233, in fiscal year 1992 and thereafter, amounts above $1,000,000 received under section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) as penalties or fines or from forfeitures of property or collateral, but not to exceed $12,000,000, to remain available until expended.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken, amended to read as follows: ": *Provided further*, That hereafter appropriations for maintenance and improvement of roads within the boundary of the Cuyahoga Valley National Recreation Area shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: *Provided further*, That notwithstanding any other provision of law, hereafter the National Park Service may make road improvements for the purpose of public safety on Route 25 in New River Gorge National River between the towns of Glen Jean and Thurmond".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows: ": *Provided further*, That of the funds provided herein, $65,000 is available for a cooperative agreement with the Susan LaFlesche Picotte Center".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the number "fifteen" in said amendment insert "ten".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$23,090,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$275,801,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$8,440,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken, amended to read as follows: ": *Provided further*, That of the funds provided under this heading, $1,400,000 shall be available for site acquisition and site preparation for the Lincoln Center in Springfield, Illinois: *Provided further*, That up to $376,000 of the funds provided under this head, to be derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), shall be available until expended for emergency stabilization of the Kennicott, Alaska copper mine, such funds to be transferred to the Alaska State Historic Preservation Office".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That Federal funds available to the National Park Service may be used for improvements to the National Park Service rail excursion line between milepost 132.7 and 120.55 located in Northeastern Pennsylvania".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$590,054,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$176,690,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$101,682,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$111,100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with amendments as follows: In lieu of the matter stricken by said amendment, insert: ": *Provided*, That of the funds herein provided up to $22,000,000 may be used for the emergency program authorized by Section 410 of Public Law 95–87, as amended, of which no more than 20 percent shall be used for emergency reclamation projects in any one State and funds for federally administered emergency reclamation projects under this proviso shall not exceed $15,000,000: *Provided further*, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office".

On page 26 beginning on line 9 of the House engrossed bill, H.R. 2686, strike: "of which, notwithstanding any other provision of law, the following amounts shall be available to carry out the various provisions of section 402(g) of Public Law 95–87, as amended (30 U.S.C. 1232(g))".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows: After the word "*Provided*" in said amendment, insert "*further*".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$75,912,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment: "*Provided further*, That until such time as legislation is enacted to the contrary, none of the funds appropriated in this or any other Act for the benefit of Indi-

ans residing within the jurisdictional service area of the Cherokee Nation of Oklahoma shall be expended by other than the Cherokee Nation, nor shall any funds be used to take land into trust within the boundaries of the original Cherokee territory in Oklahoma without the consent of the Cherokee Nation".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That the Task Force on Bureau of Indian Affairs Reorganization shall continue activities under its charter as adopted and amended on April 17, 1991: *Provided further*, That any reorganization proposal shall not be implemented until the Task Force has reviewed it and recommended its implementation to the Secretary and such proposal has been submitted to and approved by the Committees on Appropriations, except that the Bureau may submit a reorganization proposal related only to management improvements, along with Task Force comments or recommendations to the Committees on Appropriations for review and disposition by the Committees".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That within available funds $100,000 is available to lease space in a facility to be constructed by the Nez Perce Tribe in Lapwai, Idaho: *Provided further*, That the Bureau of Indian Affairs will incorporate General Services Administration Market Survey findings into the final lease agreement: *Provided further*, That notwithstanding any other provision of law, $150,000 shall be provided to the Blackfeet Tribe for a model trust department pilot program".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That $2,000,000 shall be available on an ex gratia basis for the relocation and resettlement of the people of Rongelap on Rongelap Atoll: *Provided further*, That such funds shall remain available for deposit into a Rongelap Resettlement Trust Fund to be used by the people of Rongelap under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Rongelap Local Government Council subject only to the disapproval of the Secretary of the Interior: *Provided further*, That the Government of the Republic of the Marshall Islands and the Rongelap Local Government Council shall provide for the creation of the Rongelap resettlement Trust Fund to assist in the resettlement of Rongelap Atoll by the people of Rongelap, and the employment of the manager of the Rongelap fund established pursuant to the Section 177 Agreement (pursuant to Section 177 of Public Law 99-239) as trustee and manager of the Rongelap Resettlement Trust Fund, or, should the manager of the Rongelap fund not be acceptable to the people of Rongelap, another United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of $250,000,000, subject only to the disapproval of the Secretary of the Interior: *Provided further*, That such funds shall be available only for costs directly associated with the resettlement of Rongelap by the people of Rongelap and for projects on Mejatto: *Provided further*, That the Secretary may approve expenditures of up to $500,000 in fiscal year 1992 for projects on Mejatto benefiting the people of Rongelap presently residing on the island of Mejatto: *Provided further*, That after fiscal year 1992, such projects on Majatto benefitting the people of Rongelap may be funded only from the interest and earnings generated by the trust fund corpus: *Provided further*, That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State or local taxation: *Provided further*, That the Governments of the United States and the Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$24,044,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with a amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$2,190,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 117. Section 105 of Public Law 100-675 is hereby amended by adding the following new subsection:

"(c) AUTHORITY TO DISBURSE INTEREST INCOME FROM THE SAN LUIS REY TRIBAL DEVELOPMENT FUND.—Until the final settlement agreement is completed, the Secretary is authorized and directed, pursuant to such terms and conditions deemed appropriate by the Secretary, to disburse to the San Luis Rey Indian Water Authority, hereinafter referred to as the 'Authority', funds from the interest income which has accrued to the San Luis Rey Tribal Development Fund, hereinafter referred to as the 'Fund'. The funds shall be used only to assist the Authority in its professional development to administer the San Luis Rey Indian Water Settlement, and in the Authority's participation and facilitation of the final water rights settlement agreement of the five mission bands, subject to the terms of the Memorandum of Understanding Between the Band and the Department dated August 17, 1991."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 126 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first section number named in said amendment, insert "118".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with amendments as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 119. None of the funds appropriated in the Energy and Water Development Appropriations Act, 1992 (Public Law 102-104 shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR Part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.

SEC. 120. (a) The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (H.R. 2608), is amended as follows:

(1) The third paragraph in title I (under the headings "Justice Assistance" and "Office of Justice Programs" within amounts for the Department of Justice) is amended by striking out the period at the end and inserting in lieu thereof ": *Provided*, That of the $76,000,000 appropriated herein, $4,000,000 shall be derived from deobligated funds previously awarded under part B and subparts I and II of part C of title II of said Act.".

(2) The paragraph in title I under the heading "Salaries and Expenses" under the heading "Federal Communications Commission" is amended by striking out "For total obligations" and inserting in lieu thereof "For necessary expenses".

(3) The paragraph in title IV under the heading "Payment to the Legal Services Corporation" under the heading "Legal Services Corporation" is amended by inserting ", coordinated through the national Legal Services Corporation office," in the proviso after "such Institutes".

(b) The amendments made by subsection (a) shall take effect as if included in the Departments of Commerce, Justice, and State, and the Judiciary, and Related Agencies Appropriations Act, 1992, on the date of the enactment of such Act.

On page 91, line 7 of the House engrossed bill, H.R. 2686, strike "22" and insert "15".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 129 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$184,107,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert: ": *Provided further*, That a grant of $550,000 shall be available to Berkeley County, South Carolina.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That $5,000,000 shall be available for necessary expenses of the Forest Legacy Program, as authorized by section 1217 of Public Law 101-624, the Food, Agriculture, Conservation and Trade Act of 1990: *Provided further*, That the Forest Service shall not, under authority provided by this section, enter into any commitment to fund the purchase of interests in lands, the purchase of which would exceed the level of appropriations provided by this section."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert: ": *Provided further*, That timber volume authorized or scheduled for sale during fiscal year 1991, but which remains unsold at the end of fiscal year 1991 shall be offered for sale during fiscal year 1992 in addition to the fiscal year 1992 timber sale volume to the extent possible: *Provided further*, That within available funds, up to $238,000 shall be available for a cooperative agreement with Alabama A&M University".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

EMERGENCY FOREST SERVICE FIREFIGHTING FUND

For the purpose of establishing an "Emergency Forest Service Firefighting Fund" in the Treasury of the United States to be available only for emergency rehabilitation and wildfire suppression activities of the Forest Service, $112,000,000, to remain available until expended: *Provided*, That all funds available under this head are hereby designated by Congress to "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That hereafter, beginning in fiscal year 1993, and in each year thereafter, only amounts for emergency rehabilitation and wildfire suppression activities that are in excess of the average of such costs for the previous ten years shall be considered "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$82,089,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 157 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

None of the funds made available to the Forest Service in this act shall be expended for the purposes of administering a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Rock Creek, Madera County, California, until a study has been completed and submitted to the Congress by the Forest Service in consultation with the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the California State Water Resources Control Board, the California Department of Fish and Game and other interested public parties regarding the project's potential cumulative impacts on the environment, together with a finding that there will be no substantial adverse impact on the environment. Findings from the study must be presented at no less than three public meetings.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 163 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed in said amendment, insert:

As a pilot effort, for the purpose of achieving ecologically defensible management practices, the Kaibab and Dixie National Forests are authorized to apply the value or a reasonable portion of the value of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected projects. Timber removed shall count toward meeting the Congressional expectations for the annual timber harvest.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 165 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

"The first paragraph under this head in Public Law 101-512, is amended by striking the phrase "$150,000,000 on October 1, 1991, $225,000,000 on October 1, 1992" and inserting "$100,000,000 on October 1, 1991, $275,000,000 on October 1, 1992".

"Notwithstanding the issuance date for the fifth general request for proposals under this head in Public Law 101-512, such request for proposals shall be issued not later than July 6, 1992, and notwithstanding the proviso under this head in Public Law 101-512 regarding the time interval for selection of proposals resulting from such solicitation, project proposals resulting from the fifth general request for proposals shall be selected not later than ten months after the issuance date of the fifth general request for proposals: *Provided*, That hereafter the fifth general request for proposals".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 175 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert: ": *Provided further*, That the funds provided under this head in fiscal year 1991 for the purchase of supercomputer time needed for Fossil Energy programmatic purposes shall be provided as a grant to the University of Nevada-Las Vegas: *Provided further*, That disbursement pursuant to such a grant shall be made only upon the actual use of such supercomputer time upon request by Fossil Energy and receipt by Fossil Energy of the products therefrom".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 179 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert: "Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1991, shall be deposited in this account and immediately transferred to the General Fund of the Treasury, Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury: *Provided*, That the Department of Energy shall not agree to modifications to the Great Plains Project Trust Agreement, dated October 31, 1988, that are not consistent with the following criteria: (1) for the purposes of financing a sulfur control technology project using Government contributions from the Trust, the cost of such project shall not include costs of plant downtime or outages; (2) upon modification of the Trust Agreement the Department shall immediately transfer $20,000,000 from the Reserve Account to the Environmental Account, both established pursuant to section 2(b) of the Trust Agreement, and shall provide a loan from the Reserve Account for 40 percent of the remaining project costs after the disbursement of funds from the Environmental Account in an amount not to exceed $30,000,000 and at the rate of interest specified in sections 1 and 7(b) of the Trust Agreement; (3) no disbursements for construction shall be made from either the Reserve Account or from funds which have been transferred to the Environmental Account from the Reserve Account prior to receipt by Dakota Gasification Company of an amended Permit to Construct from the North Dakota State Department of Health; (4) the Government contribution from the Reserve Account shall be disbursed on a concurrent and proportional basis with the contribution from the Dakota Gasification Company; (5) repayment of any loan shall be from revenues not already due the Government as part of the Asset Purchase Agreement, dated October 7, 1988, and at least in proportion to the Government contribution to the costs of the project net of the disbursement from the Environmental Account, for any increased revenues or profits realized as a result of the sulfur control project; and (6) such contributions from the Reserve Account, including funds to be transferred to the Environmental Account, shall be made available contingent upon a finding by the Secretary, in the form of a report to Congress submitted not later than March 1, 1992, that such planned project modifications are cost effective and are expected to meet such environmental emissions requirements as may exist.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 180 to the aforesaid bill, and concur therein with amendments as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$225,300,000 to remain available until expended: *Provided*, That notwithstanding any other provision of law, revenues received from use and operation of Naval Petroleum Reserves Numbered 1, 2, and 3 and the Naval Oil Shale Reserves and estimated to total $523,000,000 for fiscal year 1992 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in carrying out naval petroleum and oil shale reserve activities: *Provided further*, That the sum herein appropriated shall be reduced as such revenues are received so as to result in a final fiscal year 1992 appropriation estimated at not more than $0".

On page 64, lines 22 and 23 of the House engrossed bill, H.R. 2686, strike: ", to remain available until expended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 185 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$3,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 190 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$15,100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 193 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$137,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 195 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,449,871,000, of which $5,000,000 shall be available on September 30, 1992 and shall remain available until expended for the Morris K. Udall Scholarship Foundation subject to the passage of authorizing legislation".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 196 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$301,311,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 201 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$26,172,000".

Resolved, That the House recede from its disagreement to the amendment of the Sen-

ate numbered 214 to the aforesaid bill, and concur therein with an amendment as follows; In lieu of the matter stricken and inserted by said amendment, insert "$1,000,000 for the dissertation fellowship program and $5,700,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 218 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$5,126,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 219 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$11,005,000".

Resolved, That the House recede from its disagreeement to the amendment of the Senate numbered 222 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 318. With the exception of budget authority for "Miscellaneous payments to Indians", Bureau of Indian Affairs, Department of the Interior; "Salaries and expenses", National Indian Gaming Commission, Department of the Interior; "Payment to the Institute", Institute of American Indian and Alaska Native Culture and Arts Development; "Salaries and expenses", Woodrow Wilson International Center for Scholars; "Salaries and expenses" and "National capital arts and cultural affairs", Commission on Fine Arts; "Salaries and expenses", Advisory Council on Historic Preservation; "Salaries and expenses", National Capital Planning Commission; "Salaries and expenses", Franklin Delano Roosevelt Memorial Commission; and "Salaries and expenses" and "Public development", Pennsylvania Avenue Development Corporation, each amount of budget authority for the fiscal year ending September 30, 1992, provided in this Act, for payments not required by law is hereby reduced by 1.26 per centum: Provided, That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 224 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 319. LAND TRANSFER AND CONVEYANCE, PEASE AIR FORCE BASE, NEW HAMPSHIRE.

(a) TRANSFER BY THE AIR FORCE.—Notwithstanding any other provision of law, the Secretary of the Air Force shall transfer to the Department of the Interior a parcel of real property located west of McIntyre Road at the site of former Pease Air Force Base, New Hampshire: *Provided*, That the Secretary of the Air Force shall retain responsibility for any hazardous substances which may be found on the property so transferred.

(b) ESTABLISHMENT OF NATIONAL WILDLIFE REFUGE.—Except as provided in subsection (c), the Secretary of the Interior shall designate the parcel of land transferred under subsection (a) as an area in the National Wildlife Refuge System under the authority of section 4 of the Act of October 15, 1966 (16 U.S.C. 688dd).

(c) CONVEYANCE TO STATE OF NEW HAMPSHIRE.—

(1) CONVEYANCE.—Subject to paragraphs (2) through (5), the Secretary of the Interior shall convey to the State of New Hampshire, without consideration, all right, title, and interest of the United States in and to a parcel of real property consisting of not more than 100 acres that is a part of the real property transferred to the Secretary under subsection (a) and that the Secretary determines to be suitable for use as a cemetery.

(2) CONDITION OF CONVEYANCE.—The conveyance under paragraph (1) shall be subject to the condition that the State of New Hampshire use the property conveyed under that paragraph only for the purpose of establishing and operating a state cemetery for veterans.

(3) REVERSION—If the Secretary determines at any time that the State of New Hampshire is not complying with the condition specified in paragraph (2), all right, title, and interest in and to the property conveyed pursuant to paragraph (1), including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry thereon.

(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of real property to be conveyed under paragraph (1) shall be determined by a survey that is satisfactory to the Secretary.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms or conditions in connection with the conveyance under this subsection that the Secretary determines appropriate to protect the interests of the United States.

(d) The purposes for which this national wildlife refuge is established are—

(1) to encourage the natural diversity of plant, fish and wildlife species within the refuge, and to provide for their conservation and management;

(2) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(3) to preserve and enhance the water quality of aquatic habitat within the refuge; and

(4) to fulfill the international treaty obligations of the United States relating to fish and wildlife.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 226 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 320. Amend section 12(d)(2) of Public Law 94-204 (the Act of January 2, 1976) as follows:

(a) In the second sentence of the first proviso, following the words "public purposes" insert a period. Following the period add the following: "An area encompassing approximately sixty-two acres and depicted on the map entitled 'Native Heritage Park Proposal' and on file with the Secretary shall be managed".

(b) At the end of this section, add a new proviso: ": Provided further, That to the extent necessary, any and all conveyance documents executed concerning the conveyance of the lands referred to in this proviso shall be deemed amended accordingly to conform to this proviso".

Resolved, That the House insist on its disagreement to the amendments of the Senate numbered 130 and 167 to the aforesaid bill.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendments en bloc were just agreed to.

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

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1823. An act to amend the Veterans' Benefit and Services Act of 1988 to authorize the Department of Veterans Affairs to use for the operation and maintenance of the National Memorial Cemetery of Arizona funds appropriated during fiscal year 1992 for the National Cemetery System.

The enrolled bill was subsequently signed by President pro tempore [Mr. BYRD].

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Delbert Leon Spurlock, Jr., of California, to be Deputy Secretary of Labor.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment and an amended preamble:

S.J. Res. 133. Joint resolution in recognition of the 20th anniversary of the National Cancer Act of 1971 and the over 7 million survivors of cancer alive today because of cancer research.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MACK:

S. 1892. A bill to amend title 11 of the United States Code to establish a priority for the payment of claims for retiree health benefits in liquidation cases under chapters 7 and 11; to the Committee on the Judiciary.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 1893. A bill to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 1894. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. FORD):

S. 1895. A bill to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safely guide pilots operating under visual flight rules through, and in close proximity to, terminal control areas and airport radar service areas; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 1896. A bill to provide funding for the resolution of failed thrifts and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI:

S. 1897. A bill to improve supervision and regulation of Government sponsored enterprises; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. BURDICK, and Mr. MURKOWSKI):

S.J. Res. 222. Joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians"; to the Committee on the Judiciary.

By Mr. COATS:

S.J. Res. 223. Joint resolution to designate "National Stay in School Awareness Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MACK:

S. 1892. A bill to amend title 11 of the United States Code to establish a priority for the payment of claims for retiree health benefits in liquidation cases under chapters 7 and 11; to the Committee on the Judiciary.

PRIORITY OF CLAIMS FOR RETIREE HEALTH BENEFITS

• Mr. MACK. Mr. President, I rise today to introduce legislation which will establish a much-needed priority for health care benefits of retirees, and families of retirees, whose former employers face liquidation under the Federal Bankruptcy Code.

In my home State of Florida, many retirees of Eastern Airlines will face extreme hardships due to the loss of medical benefits resulting from Eastern bankruptcy. Many of these retirees are under the age of 65 and therefore do not qualify for Medicare coverage, and they will essentially have no health insurance in December, when the current funds are estimated to expire.

Additionally, some retirees will be denied health insurance at that time due to pre-existing conditions. Eastern Airlines retirees are not alone in this plight. The retirees of a number of other corporations will face similar circumstances in the future unless Congress acts now to address this critical situation.

As my colleagues will recall, Congress enacted the Retiree Benefits Bankruptcy Act of 1988 following the collapse of LTV and thereby protected retirees whose employers were involved in chapter 11 reorganization proceedings. However, Public Law 100-334 did not go far enough by providing for retirees whose former employers eventually found themselves in liquidation.

My bill will amend chapters 7 and 11 of the Bankruptcy Code to establish a new priority for the health care benefits which retirees have always counted on. There would be a limitation of an aggregate amount totaling up to $10,000 multiplied by the relevant number of former employees. This will enable a bankruptcy judge to utilize wide latitude in approving health insurance plans for retirees, their spouses and children. A judge would also be able to take into consideration the unique needs of retirees who are ineligible to qualify for Medicare.

It is essential that this same new judicial latitude for the prioritization of the health care needs of retirees be provided to employees of corporations facing chapter 11 cases involving plans which provide for liquidation, and my bill does just that.

The protections provided under this bill will not disrupt the balance within the Bankruptcy Code under section 1114 between retiree needs and the immediate needs of successful reorganization. This legislation will establish a new priority for retiree health benefit claims where reorganization does not succeed without limiting any priority treatment of such claims in either in successful or unsuccessful reorganizations under other provisions of the law, including section 1114. For example, any retiree benefits in the Eastern Airlines bankruptcy case which may be entitled to administrative expense treatment will continue to be entitled to this if this bill becomes law.

Some might argue that there is not a contractual agreement between a corporation and its retirees regarding continued health care benefits should the corporation end up in bankruptcy proceedings. However, I believe it is essential that judges, at the very least, be given the latitude of granting a priority for the payment of claims for retiree health care benefits in cases involving chapter 7 and chapter 11 bankruptcy. The consequences of the loss of these benefits will, in many cases, lead to financial devastation for thousands of retirees, spouses, and dependents. Some estimates show that as many as 30 million Americans have no health insurance coverage whatsoever. Clearly, it makes no sense for Congress to statutorily prevent retiree medical benefits from being paid as a result of bankruptcy proceedings. I strongly urge my colleagues to join me in this effort.•

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 1893. A bill to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes; to the Committee on Energy and Natural Resources.

IDAHO LAND EXCHANGE ACT OF 1991

• Mr. CRAIG. Mr. President, I am very pleased to introduce this legislation today along with my colleague from Idaho, Senator STEVE SYMMS.

The Idaho Land Exchange Act of 1991 will facilitate the exchange of lands between the Forest Service—USDA and the University of Idaho in Bonner County, and the Forest Service—USDA and the State of Idaho in Fremont County.

In Bonner County, the University of Idaho will gain ownership of the 35.27-acre Clark Fork Field Campus from the Kaniksu National Forest in exchange for 40 acres of university-owned property.

The Clark Fork Field Campus is the site of an old ranger station abandoned by the Forest Service in 1974. The buildings deteriorated into a state of disrepair. In 1980 the Forest Service was at a point of razing the buildings and reverting the site to forest. The university came forward with a proposal to rehabilitate the buildings and grounds, and to use them as a research and continuing education facility. The Forest Service granted this use under a Granger-Thye permit which is still in effect. Since 1980, the university has invested more than $200,000 in maintenance and capital investment to bring the site back to a condition superior to its condition when abandoned in 1974. The university's programs at this campus have proven popular and have been quite successful. There has been strong support from the local community.

This legislation enables the exchange by requiring that only land value be considered when equalizing the value of the exchanged tracts. The value of the buildings and improvements, which accrue to the Forest Service under the conditions of the permit, will not be considered in the appraisal. In other words, this bill recognizes that the current value of the buildings and improvements is the direct result of expenditures by the university, which should not be required to pay for them a second time. An exchange is desirable because the university wishes to make further improvements and expand its programs at Clark Fork, but is unwilling to do so if title remains with the Forest Service. That is understandable. Years of discussion between the Forest Service and the university have failed to find a method to effect the exchange which does not unduly penalize the university. Consequently, I have decided to offer this bill.

All other procedures normally required by law or regulation to implement a land exchange will be carried out as usual. This legislation will expand the national forest proclamation boundary to include the 40 acre tract to be exchanged by the university.

The bill also facilitates future exchanges between the Targhee National Forest and the State of Idaho in Fremont County by expanding the proclamation boundary of the national forest. No private lands are included in the expansion—only lands of the Idaho Department of Parks and Recreation.•

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 1894. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

NAFTA WORKER ADJUSTMENT ASSISTANCE ACT

• Mr. ROTH. Mr. President, during the debate on the extension of fast-track authority earlier this year the United States free trade negotiations with Mexico served as a focal point for those opposed to the extension. In response to the strong concerns that were raised over these free trade talks the President submitted an action plan on May 1. I rise today, along with my distinguished colleague, Senator MOYNIHAN, to introduce the NAFTA Worker Adjustment Assistance Act, which is designed to address one of the key commitments made in the President's action plan—the commitment to provide "a worker adjustment program that is adequately funded and that ensures that workers who may lose their jobs as a result of an FTA with Mexico will receive prompt, comprehensive, and effective services."

Mr. President, it is important, in my view, that we not wait for the North American Free Trade Agreement to be submitted to Congress before devising such a worker adjustment program. Now is the time to begin the process of stimulating discussion on the key issues involved, and to build the consensus that will be needed to meet the commitment made in the May 1 action plan. The legislation we are introducing today will move this process forward.

The NAFTA Worker Adjustment Assistance Act is built on the premise that the current Trade Adjustment Assistance [TAA] Program should form the basis of any special program for workers affected by an FTA with Mexico for two important reasons. First, it has been an effective and positive program which has strong support at the State and worker level. This was recently underscored by several witnesses during hearings before the Committees on Finance and Ways and Means.

Second, but not any less important, is the fact that Congress has made itself very clear since creating TAA in 1962 that providing special adjustment assistance programs for trade-impacted workers should go hand-in-hand with major trade liberalization action on the part of our Government. This remains just as true, if not more true, today.

There is no question that the launching of the North American free trade negotiations is a major trade liberalizing initiative. In fact, it is unprecedented in many ways. Above all, it will be the first time the United States has ever negotiated a comprehensive free trade agreement with a major developing country which is also a top trader with the United States. Mexico is, in fact, our third largest trading partner. While I believe these negotiations hold great economic promise for the United States, it is clear at the same time that difficult, structural change will also occur.

By building on the current TAA program, I believe we can provide the type of help that workers affected by such structural change will need. The NAFTA Adjustment Assistance Act accomplishes this by creating a special rule under TAA to ensure that workers who may be dislocated by free trade with Mexico will be eligible for the full range of TAA benefits. The special rule accomplishes this by expanding TAA eligibility to workers dislocated because a United States plant has moved to Mexico to take advantage of the free trade agreement. Moreover, the bill provides for an expedited procedure for automatically certifying the workers affected by such a plant relocation if the company relocating was subject to the advanced notification requirements under the Worker Adjustment and Retraining Notification Act.

In addition to expanding TAA's eligibility coverage to include workers impacted by production shifts to Mexico, the legislation raises the current $80 million cap on training to $100 million. This aim to account for the increase in training that may be needed as a result of dislocation caused by NAFTA.

Other changes are made to improve the general operation of the current TAA program. These changes, including greater emphasis on early and effective reemployment services such as job search assistance, are based on recent studies and testimony before Congress. Another change is to create greater followup of workers participating in the TAA program to gauge more accurately the effectiveness of the services being provided.

One important reason for moving ahead now to devise an effective worker adjustment program in relation to NAFTA is the need to provide new funding. I believe that the main beneficiaries of a free trade agreement with Mexico should be willing to help the workers who will be hurt by it by supporting a temporary, de minimus uniform import fee at the border. A negotiated small border fee would allow both sides to afford special worker adjustment programs, and would be, in my view, much more preferable to other funding alternatives such as imposing some new form of permanent payroll or other tax.

Under the NAFTA Worker Adjustment Assistance Act, the President is directed to seek agreement with Mexico on the imposition of this type of small border fee. As I stated to Ambassador Hills in a letter this past August, the ability to impose a small adjustment fee should be an important negotiating objective with our Mexican counterparts. Other Members of Congress are now starting to raise this idea, and I hope that such support will grow.

For some time now, I have supported pursuing this approach for funding U.S. trade-related worker adjustment needs. In the 1988 Omnibus Trade Act, for example, I authored a provision requiring the President to seek multilateral agreement in the GATT along these very lines. This provision, I might add, was strongly endorsed by my colleagues on both sides of the aisle. We should now take advantage of the opportunity presented by the NAFTA talks to negotiate such a fee with Mexico. This should be much less difficult than accomplishing the same goal with well over 100 countries. It could, in fact, help pave the way for future agreement in this area on a plurilateral and multilateral basis.

Mr. President, as I stated earlier, my intention in introducing this legislation is to stimulate serious discussion early on how to provide effective adjustment assistance to workers who may be dislocated by free trade with Mexico, and how to pay for it. It is a focused bill which aims to address the specific worker adjustment needs under a North American Free Trade Agreement, while making some general improvements to the broader operation of the TAA program.

I view this legislation as an important starting point. I believe that the results of the recently-launched GAO investigation on TAA and other worker adjustment assistance programs, such as title III of the Job Training and Partnership Act, will shed additional light on possible improvements to these programs. I do not believe, however, that we should wait for the investigation to be completed before moving forward.

Along with my statement is a section-by-section summary of the bill, that I ask unanimous consent to have printed in the RECORD. I look forward to working with my colleagues in addressing what I believe to be an essential part of the NAFTA negotiations.

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

SECTION-BY-SECTION SUMMARY OF THE NORTH AMERICAN FREE TRADE AGREEMENT WORKER ADJUSTMENT ASSISTANCE ACT

Section 1. Short Title.—The NAFTA Worker Adjustment Assistance Act.

Section 2. Eligibility of Workers Affected by NAFTA.—Creates a special transitional rule under the current Trade Adjustment Assistance (TAA) program to ensure adequate coverage for workers dislocated because of the implementation and operation of a North American Free Trade Agreement. This is accomplished by allowing workers to be eligible for TAA if the Secretary of Labor determines that a free trade agreement with Mexico has "contributed importantly" to a shift in U.S. production in Mexico. Based on the provisions of the Worker Adjustment and Retraining Notification Act (WARN), workers are provided automatic certification under TAA 10 days after the Department of Labor receives notice under WARN if the Secretary has determined that there has been a shift in production to Mexico and that NAFTA contributed importantly to such shift. The special rule is effective 30 days after the United States enters into a North American Free Trade Agreement until the agreement is fully phased in.

Section 3. General Changes to Title II of the Trade Act of 1974.—Miscellaneous changes are made to the existing TAA program to improve its general operation. Greater emphasis is placed on early and effective provision of reemployment services such as job search assistance. The current training cap of $80 million is raised to $100 million to account for any possible increase in workers dislocated due to NAFTA. Additional provisions call upon the Department of Labor to work with each State in establishing a standardized reporting system to help determine the effectiveness of the TAA program.

Section 4. Funding for NAFTA Adjustment Assistance.—Directs the President to seek agreement with Mexico on a small uniform import fee sufficient to cover the additional costs of the NAFTA Worker Adjustment Assistance Act. In the event the President fails to garner such agreement, a certain portion of the tariff revenue on imports from Mexico will be allocated for the same purpose as the import fee. Further funding is provided by any future tariff revenue that may be collected as a result of implementation of special safeguard provisions under the North American Free Trade Agreement.

Section 5. Trade Adjustment Assistance Fund.—Creates a Trade Adjustment Assistance Fund to which the funds from Section 4 would be allocated. The Fund is designed to cover the additional expenses under the Act.

Section 6. Reauthorization of TAA.—Reauthorizes the TAA program for five more years.•

• Mr. MOYNIHAN. Mr. President, I am most pleased to join with my colleague on the Finance Committee, Senator ROTH, in introducing a trade adjustment bill that would respond to the impact on United States workers of the proposed free trade agreement with Mexico. Senator ROTH and I have worked closely through the years to keep the trade adjustment program going despite opposition from successive administrations. We will do so again in this instance. We are asked to believe that the Bush administration finally has the message on trade adjustment when it comes to the Mexico FTA. I'm still skeptical. But the bill we introduce today is a good start—and I emphasize start—at making it clear that American workers cannot be left out of this process. Whether it has been multilateral GATT negotiations or bilateral free trade agreements we have failed in our commitments to individual workers who pay the price for general trade liberalization. The Mexico FTA now gives us another opportunity to institute a free trade adjustment program.

My involvement here goes back 30 years, when I first came to Washington with the Kennedy administration as an Assistant Secretary of Labor. One of my first tasks was to negotiate, with Hickman Price of the Commerce Department and Mike Blumenthal of the State Department, the Long Term Cotton Textile Agreement in 1962. This was one of the things we had to have in place to get on with the Kennedy round of GATT trade negotiations. The other was trade adjustment assistance. TAA as we call it. American labor made a modest and fair request. If some American workers were to lose their jobs for the overall benefit of the economy, then a program should be provided to help them get a new one.

Trade adjustment assistance was conceived by David MacDonald, then president of the United Steel Workers, as part of his work on the 1954 Presidential Commission on Foreign Economic Policy. During a decade in which the U.S. economy was so dominant and so robust, the idea of compensating workers in exchange for their support of the trade negotiations didn't seem radical. It certainly was affordable. Still it took 8 years and a Democratic administration to enact it in the Trade Expansion Act of 1962.

Since economic growth continued to climb in the 1960's, and the impact of global trade on the U.S. economy was modest, demands for trade adjustment assistance were light.

As the Nixon and then the Ford administrations launched the Tokyo round of GATT negotiations, a renewed commitment to trade adjustment assistance was made.

The Trade Act of 1974 not only was the law which first provided fast-track negotiating authority to a President, it also reauthorized the trade adjustment assistance program. This was part of an explicit agreement with American labor for their support of the Tokyo round. The TAA program initiated by President Kennedy was reaffirmed by President Ford. The Tokyo round proceeded.

I began my Senate service in 1977, and was appointed to the Committee on Finance which handles trade and tax matters. The first trade bill I voted upon—and I voted for it—was the Trade Agreements Act of 1979. The law to implement the results of the Tokyo round. If anyone had told me then that we would abandon our commitment to trade adjustment assistance, I'm not sure I would have voted the same way.

But, of a sudden, we did just that. The Reagan administration took office in 1981 with a doctrinal opposition to the trade adjustment assistance program. They claimed it was too expensive and did not achieve its intended purpose. I suspect some of the criticisms were true. But, instead of seeking its reform, the administration sought its abolition. The Omnibus Budget Reconciliation Act of 1981 was passed and trade adjustment assistance was killed. Spending on the program plummeted to $103 million, down from $1.5 billion the year before.

Nothing much has changed in the last decade. We have been able to keep the trade adjustment assistance program staggering along, and made some good reforms to it in the Trade Act of 1988, but by and large the administration has killed it. If the administrators of a program are instructed to fight its existence, one can't really expect success.

The commitments we kept to American labor through the Kennedy, Johnson, Nixon, Ford and Carter administrations were abrogated by the Reagan administration. This hostile policy has been continued by the Bush administration. Can it be any wonder then that the American labor movement has turned against the trade negotiation process?

Mr. President, I continue to have the strongest reservations about the free trade agreement with Mexico—the first free trade agreement we are being asked to consider with a country that isn't free. But if such an agreement is negotiated and is passed by the Congress, it ought only happen if the administration shows a new approach to the elemental issue of worker adjustment. Our bill will begin the debate on how this will be achieved.•

By Mr. BREAUX (for himself and Mr. FORD):

S. 1895. A bill to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safely guide pilots operating under visual flight rules through, and in close proximity to, terminal control areas and airport radar service areas; to the Committee on Commerce, Science, and Transportation.

VISUAL FLIGHT RULE DEPARTURE AND ARRIVAL ROUTES

• Mr. BREAUX. Mr. President, it is time we put in place a system that should actually work in preventing mid-air collisions. Too often we see news reports of collisions and near-collisions between commercial aircraft and private aircraft around congested airports. In August 1986, an AeroMexico DC-9 collided with a Piper Archer aircraft at 6,400 feet above the Los Angeles area in Cerritos, CA. Earlier in 1978, a Pacific South-West Airlines Boeing 727 and a Cessna 172 collided over San Diego.

The Federal Aviation Administration establishes terminal control areas

[TCAs] and airport radar service areas [ARSAs] to reduce the midair collision potential in congested airspace that surrounds an airport with a high density or significant level of air traffic. In general, TCA's and ARSA's are airspace in which all aircraft, i.e., air carriers, general aviation, and military, must communicate with air traffic control for separation and traffic information services. Also, all aircraft must be equipped with automatic altitude reporting transponders which activate ground radar conflict alert and airborne TCA's systems.

Of course, pilots must recognize when they are approaching airspace which requires avoidance or directives from air traffic control. The FAA publishes charts that depict the lateral and vertical dimensions of TCA's and ARSA's to assist pilots in circumnavigating those areas or contacting air traffic control prior to entering.

Mr. President, a major problem with TCA's is that in some areas the boundaries of forbidden zones are too difficult to figure out. For example, in mountainous terrains, TCA's, according to the AOPA Pilot magazine, may be shaped like "jig-saw puzzles of slivers, slices, and chunks of airspace that make compliance difficult for even experienced pilots.

I understand, Mr. President, that a TCA system was in place at the Los Angeles area airport when the 1986 collision occurred over Cerritos. Experts argue that had a San Diego TCA been in effect in 1978, that accident still would have occurred. We accept the FAA's assertion that TCA's have reduced the annual conflicts between aircraft, but there is still a problem with TCA's. Airline pilots still list mid-air collisions as their main safety concern. While good statistics may mean that fewer lives are lost, one collision over any time period is still one collision too many.

We are introducing a bill today, Mr. President, that will provide pilots invaluable additional assistance in their efforts to avoid mid-air collisions. This bill requires the FAA to make it possible for pilots to rely less on TCA charts that tell a pilot "where he/she may not fly" by publishing optional use, visual flight rules charts that indicate "where he/she can fly" safely when coming into or leaving a high-traffic terminal area. No longer would "a pilot be forced to concentrate on interpreting a TCA chart when he should be scanning the skies for traffic." The FAA would provide charts with preplanned routings: The pilot would just follow lines and altitudes on the chart to safely navigate the maze around a congested airport. The proposed visual flight rules arrival chart concept is similar to the idea of the already-in-use standard instrument departure chart.

Mr. President, the original version of this bill, H.R. 3243, was introduced by Congressman JIM INHOFE in August of this year. The House bill has 139 cosponsors. We are hopeful that our Senate colleagues will immediately recognize the value of this legislation, and will support us in securing its enactment.•

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 1896. A bill to provide funding for the resolution of failed thrifts and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

RESOLUTION TRUST CORPORATION

• Mr. RIEGLE. Mr. President, the administration requested today that I join Senator GARN in introducing their bill for the refinancing and restructuring of the Resolution Trust Corporation. We are introducing this bill at the request of the administration. Issues relating to the RTC must be addressed in the near future and the Banking Committee held 2 days of hearings last week to consider these matters. In the past, the Congress rejected the administration's request for a blank check for the RTC to deal with thrift resolutions because it wanted to keep closer oversight of how that agency was operating. Even the administration has now admitted that the RTC structure they originally requested needs reform. I plan to work with members of the committee to develop legislation to both refinance and reform the RTC this session.•

• Mr. GARN. Mr. President, today I join with the chairman of the Senate Banking Committee, Senator RIEGLE, to introduce, by request, the administration's bill for the refinancing and restructuring of the Resolution Trust Corporation. This bill was sent to the Senate on September 27, 1991, and would provide the funding necessary to continue, and hopefully complete, the process of closing down the failed savings and loans and keeping the funds of insured depositors safe and sound.

I hope that the Congress will take prompt action to provide the RTC with the resources it needs to get on with its job. While depositors are not at risk from delay, taxpayers are.

It should be no surprise to anyone here that additional funds are needed. When we provided the RTC with funding this spring, after a delay of several months, Congress explicitly rejected the administration's request for full funding to end the job and instead provided only enough funds to last into the fall. We all knew that by the end of September the RTC would be running out of funds. This was not what the administration wanted, since they asked for full funding, but this is what the Congress determined to do.

Since it was Congress that decided that the RTC would run out of funds, it is the duty of the Congress to act now, promptly, to provide the funds that we all knew back in the spring would be needed to finish the job.

Mr. President, I am a veteran of this process. That is why I may be more worried than others. I recall 5 years back, in 1986, a condition not unlike the present one. The attention of the Banking Committee was focused on major banking reform legislation. At the same time, however, the agency tasked with closing down insolvent savings and loans was out of money.

The Senate did the responsible thing and adopted legislation to recapitalize the Federal Savings and Loan Insurance Corporation, FSLIC, but that legislation, down until the last minute, became entangled in irrelevant issues and did not become law. FSLIC's funding crisis was allowed to grow worse. The savings and loan problem turned into the traumatic catastrophe from which the country has not yet emerged.

As then, so today I am concerned that the pursuit of irrelevant issues may keep the Congress from timely enactment of funding legislation.

Mr. President, lack of reform at the RTC will not serve as an excuse for inaction today. During hearings on the RTC this year before the Senate Banking Committee there have been calls from all quarters for someone to take charge of the RTC, to make decisions, to move the process forward. We have all urged that someone of stature, and with strong managerial experience in the private sector, be put in charge.

Despite all of the gloom-spreaders who thought that no such person could be found willing to take the job, the Board of Directors of the RTC earlier this month named Albert Casey, former head of American Airlines, as the new Chief Executive Officer of the RTC. It seems to me that the appointment of Albert Casey silences the critics who thought that no one of stature and experience could be found. Moreover, Mr. Casey, as CEO of the RTC, has been given enhanced powers to conduct the business of the RTC.

Mr. President, I believe that there is still time this fall to provide the funding required to let the RTC finish the job it has started. Whether we like the operation or not, we had better let the RTC finish it and close the suture rather than let the open wound fester.

There is no time left, however, for legislation that causes a major bureaucratic restructuring at the RTC, that moves boxes around as a substitute for action. The clock has run out for us to dabble in legislation that creates new hoops for the RTC to jump through, or that weighs the RTC down with new programs to administer. And there is no time left to pursue the agendas of those who would impose new special interest claims on the taxpayers' assets managed by the RTC.

The RTC has been slow to get on with its job. Everyone knows that. But now, just as the RTC is getting up a head of steam, is no time for a demonstration of just how slow the Congress can be to do what everyone knows must be done. No one wants to provide more funding for the RTC. We all wish that we could just stop where we are. But we have an obligation to millions of depositors. We cannot stop where we are, for the business of the RTC is to make good the Federal Government's obligations to protect the insured depositors of this country. No one wants to fail in that duty.

I applaud the steps taken by the administration and the RTC already to improve operations. While more needs to be done, more has been done since earlier this year when I shared with my colleagues a reluctance to give the RTC all the funds it sought without reforming its operations. I believe that this bill will make additional reforms that will speed up the process of closing down dead savings and loans and disposing of assets.

It is worth noting that this bill was worked out by both the Treasury Department and the FDIC and enjoys the strong support of former FDIC Chairman William Seidman.

Perhaps there are further changes that can be made at the edges, but I believe this to be a very positive bill, a strong effort. The administration has done its part. The administration has asked for resources, made important reforms and asked for authority to make others. The RTC stands ready to use those resources to get the job done.

It is now our turn to provide those resources. It will only be the Congress to blame if we leave off work this year with an unfunded RTC, left with no alternative but to give forbearance to dead savings and loans that should have been liquidated years ago, and which would have been liquidated but for lack of resources for the regulators to do so. We must not let that happen.

Mr. President, I ask unanimous consent that the text of the bill, along with a section-by-section analysis and other explanatory materials, together with statements by Deputy Treasury Secretary John Robson and former FDIC Chairman William Seidman, be included in the RECORD at this point.

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

S. 1896

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

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SECTION 101. SHORT TITLE.

This title may be cited as the "Resolution Trust Corporation Refinancing Act of 1991".

SEC. 102. FUNDING FOR RESOLUTION OF FAILED THRIFTS.

Section 21A(i)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(2)) is amended by striking "$30,000,000,000" and inserting instead "$110,000,000,000".

SEC. 103. RTC WORKING CAPITAL BORROWING LIMIT.

Section 21A(j)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)(1)) is amended to read as follows:

"(1) IN GENERAL.—The total amount of outstanding obligations of the Corporation may not exceed the lesser of—

"(A) $160,000,000,000; or

"(B) the amount that is equal to the Corporation's estimate of the fair market value of assets held by the Corporation.".

SEC. 104. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended—

(a) in clause (i)—

(1) by striking "3-year"; and

(2) by inserting "and ending September 30, 1993" after "1989"; and

(b) in clause (ii), by striking "3-year".

SEC. 105. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

Section 21A(b)(3)(A)(ii)(II) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)(ii)(II)) is amended—

(a) by striking "within the 3-year" and inserting instead "during the"; and

(b) by inserting "and ending September 30, 1993" after "Act".

TITLE II—RESTRUCTURING OF THE OVERSIGHT BOARD AND THE RESOLUTION TRUST CORPORATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Resolution Trust Corporation Restructuring Act of 1991".

SEC. 202. ACCOUNTABILITY OF OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(a) by striking "and be accountable for"; and

(b) by inserting "and shall be accountable for the duties assigned to the Oversight Board by this Act" after "(hereinafter referred to in this section as the 'Corporation')".

SEC. 203. RESTRUCTURING OF OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441(a)(3)) is amended—

(a) in subparagraph (A), by striking "5 members" and inserting "5 voting members and 2 non-voting members. The non-voting members shall be the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the chief executive officer of the Corporation. The voting members shall be"; and

(b) in subparagraph (E) by striking "3 members" and inserting instead "3 voting members".

SEC. 204. OVERSIGHT BOARD DUTIES AND AUTHORITIES.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(a) by amending subparagraph (A) to read as follows:

"(A) To review overall strategies, policies, and goals established by the Corporation for its activities. After consultation with the Corporation, the Oversight Board may require the modification of any such overall strategies, policies, and goals. Overall strategies, policies, and goals shall include such items as—

"(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

"(ii) overall financial goals, plans, and budgets; and

"(iii) restructuring agreements described in subsection (b)(11)(B).";

(b) in subparagraph (B), by inserting "financial plans, budgets, and" after "implementation";

(c) by amending subparagraph (C) to read as follows:

"(C) To review all rules, regulations, standards, policies, principles, procedures, guidelines, and statements that may be adopted or announced by the Corporation. After consultation with the Corporation, the Oversight Board may require the modification of any such rules, regulations, standards, policies, principles, procedures, guidelines, or statements that it deems materially inconsistent with overall strategies, policies, or goals established by or for the Corporation, or with the policies or purposes of applicable law, or with the efficient and economical discharge of the Corporation's duties, or with sound police policy. In all cases, the rules, regulations, standards, policies, principles, procedures, guidelines, and statements relating to the Corporation's powers and activities as a conservator or receiver shall be consistent with the Federal Deposit Insurance Act. The provisions of this subparagraph shall not apply to internal administrative policies and procedures (including but not limited to such matters as personnel practices, divisions and organization of staffing, delegations of authority, and practices respecting day-to-day administration of the Corporation's affairs) and determinations or actions described in paragraph (8) of this subsection."; and

(d) by adding at the end thereof the following new subparagraph:

"(K) To appoint (and at any time to remove) a person as chief executive officer of the Corporation, to appoint a person as a member of the Board of Directors of the Corporation pursuant to subsection (b)(8)(A)(iii) of this section, and to appoint the successors to each.".

SEC. 205. LIMITATION OF OVERSIGHT BOARD AUTHORITY.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(a) by striking "(i) involving" and inserting instead "involving (i)"; and

(b) by striking "provide general policies and procedures" and inserting instead "review overall strategies, policies, and goals established by the Corporation".

SEC. 206. DUTIES OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)) is amended—

(a) by redesignating subparagraph (D) as subparagraph (E); and

(b) by inserting after subparagraph (C) the following new subparagraph:

"(D) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Oversight Board pursuant to subsection (a)(6)(A) of this section.".

SEC. 207. MANAGEMENT OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

"(C) MANAGEMENT BY BOARD OF DIRECTORS.—The Corporation shall be managed by or under the direction of its Board of Directors.".

SEC. 208. RESTRUCTURING OF THE RESOLUTION TRUST CORPORATION BOARD OF DIRECTORS.

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)) is amended—

(a) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Except as provided in subsection (m), the Board of Directors of the Corporation shall consist of—

"(i) the members of the Board of Directors of the Federal Deposit Insurance Corporation;

"(ii) the chief executive officer of the Corporation; and

"(iii) one other person appointed by the Oversight Board after consultation with the Corporation, whose term of office shall be determined by the Oversight Board."; and

(b) by amending subparagraph (B) to read as follows:

(B) CHAIRPERSON.—The Corporation's chief executive officer shall serve as the Chairperson of the Board of Directors of the Corporation.".

SEC. 209. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(a) in subparagraph (A), by striking "Unless the Oversight Board exercises its authority under subsection (m), the" and inserting instead "The";

(b) in subparagraph (B), by amending clause (i) to read as follows:

"(i) FDIC.—The Corporation shall use employees (selected by the Corporation) of the Federal Deposit Insurance Corporation and the Federal Deposit Insurance Corporation shall provide such personnel to the Corporation for its use. Notwithstanding the foregoing, the Federal Deposit Insurance Corporation need not provide to the Corporation any employee of the Federal Deposit Insurance Corporation who was employed by the Federal Deposit Insurance Corporation on the date of enactment of the Resolution Trust Corporation Restructuring Act of 1991 and who had not theretofore been provided to the Corporation by the Federal Deposit Insurance Corporation. In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall provide to the Corporation, such persons as the Corporation may request from time to time. Federal Deposit Insurance Corporation employees provided to the Corporation shall be subject to the direction and control of the Corporation and any of them may be returned to the Federal Deposit Insurance Corporation at any time by the Corporation in the discretion of the Corporation. The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred in providing such employees. Any permanent employee of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation immediately prior to the enactment of the Resolution Trust Corporation Restructuring Act of 1991 shall continue to be provided to the Corporation after enactment unless the chief executive officer determines the services of any such employee to be unnecessary, in which case such employee shall be returned to a similar position performing services on behalf of the Federal Deposit Insurance Corporation. In any ensuing reduction-in-force or reorganization within the Federal Deposit Insurance Corporation, any such employee shall compete with the same rights as any other Federal Deposit Insurance Corporation employee. The Corporation may use administrative services of the Federal Deposit Insurance Corporation and, if it does so, shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing such services."; and

(c) by adding at the end thereof the following new subparagraph:

"(C) CHIEF EXECUTIVE OFFICER.—The Corporation shall have a chief executive officer appointed by, and removable at any time by, the Oversight Board. The chief executive officer shall be an employee of the Federal Deposit Insurance Corporation provided to the Corporation for that purpose and shall receive such compensation and benefits as the Corporation's Board of Directors may determine from time to time in accordance with the laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation. The Corporation shall define such chief executive officer's duties and authorities in such manner, and the Corporation's Board of Directors shall provide the chief executive officer with such powers, as shall be adequate for the chief executive officer's efficient management and administration of the Corporation's day-to-day affairs. Among such duties, authorities, and powers shall be the duty, authority, and power, subject to the ultimate direction of the Corporation's Board of Directors (and subject to the exercise by the Oversight Board of its powers, duties, and authorities with respect to the Corporation):

"(i) To specify the duties, authorities, and powers of other officers of the Corporation and the duties, authorities, and powers of other persons, including employees of the Federal Deposit Insurance Corporation, acting on behalf of the Corporation.

"(ii) To make and modify staffing plans and organizational and management structures of the Corporation to most of the goals of this Act and other applicable laws.

"(iii) To direct all aspects of the Corporation's operations in a manner consistent with general practices of the private sector and with this Act and other applicable law.

"(iv) To modify and implement existing standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including but not limited to its performance in the disposition of assets.

"(v) To develop, adopt, and implement new standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including but not limited to its performance in the disposition of assets.

"(vi) To set and adjust the compensation and benefits of persons (other than the chief executive officer) acting on behalf of the Corporation in accordance with laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation.

"(vii) To choose employees of the Federal Deposit Insurance Corporation to be provided to the Corporation by the Federal Deposit Insurance Corporation, to request that the Federal Deposit Insurance Corporation employ specified persons for that purpose, and to return at any time to the Federal Deposit Insurance Corporation any such employee so provided.".

SEC. 210. RIGHTS OF EMPLOYEES UPON SUNSET.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(a) in section 404(9)—

(1) by striking "section 21A(m)" and inserting instead "section 21A(o)";

(2) by striking "of such Corporation shall be transferred to" and inserting instead "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within"; and

(3) by striking "of this subsection" and inserting instead "of this section"; and

(b) in section 404(2)—

(1) by inserting "grade," after "status, tenure,"; and

(2) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause".

SEC. 211. CONFORMING AND TECHNICAL AMENDMENTS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(a) in subsection (a)—

(1) in paragraph (9), by inserting "voting" after "preclude a";

(2) in paragraph (10)—

(A) by striking "establish and review the general policy of" and inserting instead "review overall strategies, policies, and goals established by"; and

(B) by striking "standards, policies, and procedures necessary to carry out" and inserting instead "matters as pertain to";

(b) in subsection (b)—

(1) in paragraph (3), by striking "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m))";

(2) in paragraph (10)—

(A) by amending subparagraph (B) to read as follows:

"(B) To provide for a chief executive officer to be appointed by the Oversight Board."; and

(B) in subparagraph (N), by deleting "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager"; and

(3) in paragraph (12)—

(A) in subparagraph (A), by amending the last sentence to read "The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, policies, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties."; and

(B) by amending subparagraph (B) to read as follows:

"(B) REVIEW ETC.—Such overall strategies, policies, and goals, and such rules, regulations, standards, policies, principles, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Oversight Board as provided in subsection (a)(6)(A) (with respect to overall strategies, policies, and goals) or subsection (a)(6)(C) (with respect to rules, regulations, standards, policies, principles, procedures, guidelines, and statements); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.";

(c) in subsection (m)—

(1) in paragraph (1)—

(A) by striking "Notwithstanding any other provision of law, the Oversight Board has the ultimate authority to supervise the Corporation and is ultimately accountable for the administration of the Corporation."; and

(B) by striking "Federal Deposit Insurance Corporation (or any replacement) from its position as exclusive manager of the Corporation and from all of its responsibilities

and authorities to act for the Corporation," and inserting instead "entire Board of Directors of the Corporation"; and

(2) in paragraph (3), by striking "Federal Deposit Insurance" and inserting "entire Board of Directors of the"; and

(d) by amending subsection (n) to read as follows:

"(n) OPERATION OF CORPORATION AFTER EXERCISE OF POWERS UNDER SUBSECTION (m).—If the Oversight Board exercises authority under subsection (m), the Oversight Board shall—

"(1) select a new Board of Directors and a new chief executive officer for the Corporation; and

"(2) provide to Congress, not later than 60 days before the removal of the Board of Directors of the Corporation, the identity of the new Board of Directors and the new chief executive officer selected pursuant to paragraph (1).".

SECTION BY SECTION ANALYSIS

To provide funding for the resolution of failed thrifts and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes.

TITLE I

Section 101 provides that this title may be cited as the "Resolution Trust Corporation Refinancing Act of 1991."

Section 102 would amend section 21A(i)(2) of the Federal Home Loan Bank Act to provide the Resolution Trust Corporation (RTC) with the $80 billion in additional loss funds to complete the resolution of failed thrifts.

Section 103 would amend section 21A(j)(1) of the Federal Home Loan Bank Act to enable the RTC to borrow necessary working capital funds from the Federal Financing Bank for the purpose of acquiring and carrying the assets of failed institutions. Both loss funds and working capital are necessary to resolve failed thrifts and protect depositors.

Section 104 would amend section 11(c)(6)(B) of the Federal Deposit Insurance Act to extend until September 30, 1993, the period during which the Office of Thrift Supervision (OTS) must appoint RTC as conservator or receiver of failed thrifts.

Section 105 is a conforming amendment to section 21A(b)(3)(A) of the Federal Home Loan Bank to extend until September 30, 1993, the period during which the RTC has the duty to act conservator or receiver of failed thrifts.

TITLE II

Section 201 provides that this title may be cited as the "Resolution Trust Corporation Restructuring Act of 1991."

Section 202 would limit the accountability of the Oversight Board (Board) to the performance of its duties as specified in section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a).

Section 203 would revise the composition of the Board by adding, as nonvoting members, the Chairman of the Federal Deposit Insurance Corporation (FDIC) and the Chief Executive Officer (CEO) of the Resolution Trust Corporation (RTC).

Section 204 would amend section 21A of the Federal Home Loan Bank Act to authorize the RTC to develop and establish overall goals and policies and to authorize the Board to review and require modification of the goals and policies established by the RTC. Under this section, the Board would review RTC financial plans and budgets, policies, procedures, guidelines, rules and regulations and require their modification if the Board determines them to be materially inconsistent with the RTC's overall goals and policies, applicable law, the efficient discharge of the RTC's duties, or sound public policy. The Board would not have authority to require modification of RTC internal administrative policies or procedures, personnel, delegations of authority, or case-specific matters.

This section also would require RTC conservator and receivership policies to be consistent with those of the FDIC.

This section also authorizes the Board to appoint a CEO of the RTC and another private member to the RTC Board of Directors.

Section 205 makes conforming changes consistent with section 204.

Section 206 would transfer to the RTC, subject to Board review, authority to develop overall strategies, policies and goals.

Section 207 would transfer exclusive RTC management from the FDIC to the RTC Board of Directors.

Section 208 would restructure the RTC Board of Directors to include the Board of Directors of the FDIC, the CEO of the RTC, and one member selected by the Oversight Board in consultation with the RTC Board of Directors whose term is determined by the Oversight Board.

Section 209 would restructure RTC personnel provisions to provide (1) that RTC operations would be conducted by FDIC employees subject to the direction and supervision of the RTC, (2) that FDIC employees assigned to the RTC on the date of enactment may be reassigned to a similar position in the FDIC at any time, (3) that the RTC would fully reimburse FDIC for all costs associated with such employees, and (4) in the event of a reduction-in-force, FDIC employees assigned to the RTC and reassigned to the FDIC would have the same rights as other FDIC employees.

This section also would authorize the Board to appoint the CEO and to remove the CEO at any time. The CEO would be an employee of the FDIC, with compensation determined by the RTC Board in accordance with FDIC personnel practices. This section also provides the CEO with board executive authority.

Section 210 would clarify that FDIC employees assigned to the RTC at the time of RTC's termination are guaranteed positions within the FDIC in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

Section 211 would authorize the Board to remove the RTC Board of Directors for cause (as specified in FIRREA) and to appoint a new RTC Board of Directors. This section also makes several technical and conforming amendments.

THE SECRETARY OF THE TREASURY,
Washington, DC, September 27, 1991.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed herewith are the Administration's legislative proposal to refinance the Resolution Trust Corporation and to restructure the Oversight Board and the Resolution Trust Corporation, and an analysis of the proposal.

The Administration strongly urges that the draft bill promptly be enacted by the Congress.

Title I of the draft bill, the "Resolution Trust Corporation Refinancing Act of 1991," would provide an additional appropriation of $80 billion in loss funds necessary for the Resolution Trust Corporation (RTC) to complete the resolution of failed thrifts, adjust the FIRREA note cap to allow RTC to borrow up to $160 billion, and extend for one year the period of time that the Office of Thrift Supervision (OTS) may transfer insolvent thrifts to the RTC for resolution.

To date, the Congress has provided $80 billion in loss funds for depositor protection: $50 billion in FIRREA and $30 billion in the RTC Funding Act of 1991. The RTC estimates that it will complete the resolution of approximately 569 thrifts by the end of the current fiscal year, and that by the end of October or shortly thereafter it will have used all the funds provided by the Congress. The Administration's request for an additional $80 billion is based on the conservative assumption that all thrifts currently designated by OTS as Group IV, IIIC, and IIIB would require resolution by the RTC. The Administration therefore asks that Congress provide the RTC with sufficient funds to complete these resolutions, which is estimated to require up to $80 billion.

By the end of this fiscal year, RTC expects to have $70 billion in working capital borrowings outstanding, an amount well within the borrowing limitation set by FIRREA. However, during 1992, RTC could exceed the $125 billion note cap limit, and we estimate that working capital needs could peak at $160 billion by mid-1993. After that time, we expect that the outstanding balances will begin to decline. Because both loss funds and working capital funds are required to complete resolutions, it is imperative that loss fund authorizations be matched with adequate working capital borrowings. Therefore, the Administration requests that Congress authorize RTC borrowing of $160 billion. Without such authority, the RTC may be forced to dump assets at fire-sale prices simply to stay under the current borrowing limit.

When enacted, FIRREA provided what was then estimated to be an adequate period of time—three years—during which OTS might appoint the RTC as conservator or receiver of thrift institutions then considered likely to fail. After August 8, 1992, when this appointment authority expires, conservator and receiver appointments would be made to the Federal Deposit Insurance Corporation, which manages the Savings Association Insurance Fund (SAIF). The Administration's proposal would extend that period to September 30, 1993, to accommodate the greater-that-anticipated number of savings institutions expected to fail.

RTC was designed to resolve the insolvent sector of the thrift industry. The intent of FIRREA was that SAIF would begin with a healthy industry. The Administration requests that Congress extend the period of time within which OTS may transfer thrifts to the RTC. This will allow orderly resolution of the remaining insolvent thrifts, enable SAIF to begin functioning with a clean slate as intended by the Congress, and remove any incentives to prematurely place institutions in conservatorship that might otherwise merge in the private sector.

In summary, title I will permit the RTC to complete its mission of resolving failed savings institutions that, by the end of this fiscal year, will have protected nearly 20 million deposit accounts. Prompt enactment of title I by the Congress will permit the uninterrupted fulfillment of the Government's commitment to depositors at the least cost to taxpayers.

Title II of the draft bill, the "Resolution Trust Corporation Restructuring Act of 1991," would transfer exclusive RTC manage-

ment from the FDIC to the RTC Board, and authorize the Oversight Board to appoint and remove a chief executive officer (CEO) of the RTC who would have broad authority over the day to day operations. In addition, it would revise the composition of the Oversight Board by adding, as nonvoting members, the Chairman of the FDIC and the CEO of the RTC. This title will enhance the abilities of the Board and the RTC to effectively and efficiently fulfill their intended missions.

An identical proposal has been transmitted to the Speaker of the House of Representatives.

Sincerely,

NICHOLAS F. BRADY.

STATEMENT OF HON. JOHN E. ROBSON, DEPUTY SECRETARY OF THE TREASURY

Chairman Dixon and members of the Subcommittee, I am pleased to respond to your request to discuss the Administration's proposal to restructure the RTC. Accompanying me is Peter Monroe, President of the Oversight Board.

The Administration's restructuring proposal is contained in the RTC Refinancing and Restructuring Act of 1991, which Secretary Brady submitted on behalf of the Administration to the Speaker of the House and President of the Senate on September 27, with a request for its prompt consideration. It has been introduced in the Senate.

The RTC Refinancing and Restructuring Act of 1991 would provide $80 billion in loss funds, which we estimate will be sufficient to complete the unprecedented jobs of the savings and loan cleanup and the protection of insured depositors. It would provide additional working capital by raising the obligation limitation to $160 billion, and it would extend to September 30, 1993, the Office of Thrift Supervision's authority to transfer insolvent thrists to the RTC for closure.

Tc create the framework for our discussion of restructuring, I think it important to review the RTC's progress to date—where it stands in an effort that must, by law, end in 1996.

At September 30 this year the RTC had saved the accounts of over 18 million depositors in thrifts in 44 states. The average balance of those 18 million accounts in just over $9,000. Because it has kept depositors' accounts whole and done so without delay RTC has helped avert a crisis of confidence in our banking system.

At September 30 the RTC had seized 660 thrifts and had resolved 563 of them—one every 33 hours. It plans during fiscal year 1992 to resolve a total of 233 institutions, if it promptly receives the funds it needs to continue its work.

My point is that the RTC is within sight of completing the task of closing insolvent institutions and removing them from the thrift industry.

The great task now confronting the RTC is the disposition of a huge amount of hard-to-sell assets—the investments of hundreds of defunct S&Ls. Even here there is progress to report. As of August 31, 1991, the RTC had seized $341 billion of assets. The net book value of sales and principal collections totaled $182 billion, leaving $159 billion of assets in inventory.

Recognizing that the RTC has ended the phase during which its mission has mainly been resolution of institutions, and entered the phase of its short life during which it must concentrate on the position of assets, the Oversight Board in June began with former FDIC Chairman Seidman a search for a new full-time Chief Executive Officer to run the RTC.

We were able to recruit a highly qualified individual, and last Thursday the FDIC, in its capacity under FIRREA as exclusive manager of the RTC, appointed as RTC CEO a seasoned business executive with a record of outstanding achievement in managing complex organizations. I am delighted that Albert V. Casey will appear here today in this new capacity.

With the appointment of Mr. Casey as CEO and the delegation to him of sufficient powers to run the RTC effectively, the Administration believes it has taken the most important single action necessary to solve the operational problems that have plagued the RTC's asset disposition efforts.

Some argue, however, that the RTC's problems stem not from operations or management but from its structure, notably the dual board structure created by FIRREA. We do not agree, neither does the Chairman of the RTC National Advisory Board, Philip Searle, who stated before this Subcommittee on June 19 that the structure is not the cause of RTC's operational problems.

Simply put, the current structure makes the RTC Board responsible for operations, and the Oversight Board responsible for funding, policy, and evaluation. The Administration believes that the logic of this division of responsibility remains valid for several reasons:

First is the RTC's control over a tremendous expenditure of public funds. An operational agency that can spend up to $160 billion in taxpayer dollars, and borrow as much as $160 billion more, should have independent oversight by the Administration which is responsible for the national budget. This need was recognized in the cases of the Chrysler and Lockheed loan guarantees. In both instances Congress created an oversight board to monitor the use of public monies.

Second is the need to permit the RTC—its CEO and Board—to focus wholly on their giant operational task, while permitting the separate Oversight Board to monitor overall policy, performance and financial matters.

Third is the need for political accountability. To entrust the cleanup to an indpendent board dominated by private sector members would be bad public policy. Retaining a separate Oversight Board maintains the linkage of the cleanup to the Administration.

The necessity of an independent oversight entity has been consistently stated by the General Accounting Office. Before the House Banking Committee on February 20, the Comptroller General said:

"I think you need an oversight board to monitor how the operation is going . . . I don't think just having GAO and auditors coming in [is enough], I think you need an oversight board with . . . staff monitoring that."

Most recently, in letters to Senator Garn and Congressman Wylie on October 8, the GAO reiterated its views on the structure of the cleanup. I have attached a copy of this letter and ask that it be included in the record. It should be useful to the Subcommittee because it makes three important points that are directly relevant to today's discussion: first, it calls for a strong CEO; second, it calls for "strong oversight by an entity independent of the day-to-day operations of the RTC;" third, it asks that any restructuring be done in such a manner as to minimize disruption.

The retructuring contained in the Administration's proposed RTC Refinancing Act of 1991, in combination with the appointment of a new Chief Executive Office for the RTC, fulfills each of these objectives. It creates a strong CEO with statutory powers to manage the RTC; it provides for independent oversight by retaining the Oversight Board and more sharply defining its powers to cover essential oversight actions and to keep it out of operations; and by building on the existing structure and providing protection for RTC employees, it will not result in disruption in an effort that is now in mid-course and making substantial progress.

The proposal is the result of a collaboration between the Oversight Board and Chairman Seidman. Both believe that it makes useful changes in the current structure without impeding the growing momentum of the cleanup effort. Mr. Casey is of course familiar with the current structure and with our proposal and feels confident he can work within either.

Against this background let me now review the main elements of the proposal.

First, it places political accountability for the cleanup squarely in the Oversight Board. Mr. Chairman, at the full Committee's June 11 hearing you expressed frustration with an apparent lack of accountability when you asked the Comptroller General "can you not get someone in here we can blame later?" I would observe that Congress has so far had no trouble blaming the Administration and the Oversight Board. But this proposal makes it clear that political responsibility for the cleanup rests with the Board. That is partly because under the proposal the CEO is hired and fired by the Board.

As Bill Seidman has pointed out, the Oversight Board in this proposal becomes much more like a corporate board with the power to remove the CEO, and the power to review and modify, but not to establish, policies for the RTC. This last point is important. The Oversight Board now has the power to initiate policies for the RTC. Under our proposal, the Board may only review and modify RTC policies. And such Board review is after-the-fact. It does not slow RTC or require advance approval of its policies.

Second, it creates, as I said earlier, a strong CEO giving him full powers in law to operate the RTC. This, Mr. Chairman should respond to your bill, S. 1425, requiring appointment of a strong CEO, and your letter to the Washington Post on August 1 in which you call for RTC leadership by an experienced CEO. As you asked, our proposal gives him the authority to make decisions and make the RTC work.

In addition to the grant of managerial powers, our proposal gives the CEO more authority than currently by making him Chairman of the RTC Board. You may well ask why it is necessary to retain the RTC Board. As Bill Seidman has pointed out, the structure we propose retains the RTC Board as the body responsible for management of operations, much like the operating committees that exist in many corporations. When you consider the magnitude of the decisions the RTC CEO must regularly make, you can understand the desirability for a group of experienced individuals to help with them. This operational role is similar to that which the RTC Board now plays.

Our proposal does not call for Senate confirmation of the CEO. We do not believe this is necessary because he reports to the Oversight Board which consists of five officers confirmed by the Senate. We do not believe it is desirable because it would create delay. We now have a full qualified CEO in place. Under our proposal he can continue to serve in the new structure without interruption

but with enhanced powers. To require confirmation would almost certainly have the effect of inhibiting his decision-making.

Third, the proposal improves coordination and communication between the operating and oversight function by making the CEO a member of the Oversight Board. In addition the FDIC Chairman is made a member of the Board in recognition of the fact that the FDIC will continue to supply personnel and support for the RTC, a temporary agency.

Fourth, our proposal will free the FDIC from the FIRREA-mandated responsibility of exclusive manager of the RTC and permit it to concentrate on the banking industry.

However, the proposal retains a relationship between FDIC and RTC in which all RTC personnel are maintained as FDIC employees. This arrangement avoids the creation of a permanent RTC bureaucracy and looks forward to the termination of the RTC in 1996 by providing for the return of nontemporary RTC employees to the FDIC. Thus the proposal avoids creating a situation in which FDIC employees currently detailed to the RTC will want to leave the RTC now.

Fifth, the proposal avoids disruption. It builds on the current structure. It makes a real improvement in RTC's operations but avoids creating havoc in an enterprise that is well under way.

Finally, the proposal retains the oversight function that the Administration strongly believes must continue to be an essential component of the cleanup structure.

Mr. Chairman, we believe we have fashioned, in cooperation with Bill Seidman, a proposal which responds, in the ways I have outlined above, to the concerns you and other members of Congress have expressed. It is a proposal that at the same time meets the criteria we and the General Accounting Office have established.

As Senator Garn and others have acknowledged, it would be counterproductive to enact a structure neither the Administration nor RTC want or believe is suitable to the task.

There will be other witnesses today who have had considerable experience in government organization. So have I, and with major private sector organizations as well. These witnesses, based on past statements, may make the point that the current structure seems clumsy and that our proposal does not go far enough. I have watched this organization closely since its inception. Certainly there have been problems: not to have expected problems in an undertaking of this magnitude and complexity would have been unrealistic. But organizational structures which perhaps meet academic criteria may not fill the real needs of an organization in the political context in which it operates, an organization that is moreover well down the path toward fulfilling its mission within a relatively short time frame. As the GAO points out in the attached letter, "careful attention must be given to avoiding changes or delays that would be counterproductive to the progress RTC is making in improving both its operations and asset disposition strategies."

In conclusion, Mr. Chairman and subcommittee members, I ask for your support for a restructuring proposal which we believe improves RTC operations and responds to Congressional concerns. On behalf of the Administration I express the earnest hope that the Committee will move quickly to report our refunding request and with it, our reorganization proposal. I look forward to responding to your questions.

GENERAL ACCOUNTING OFFICE,
Washington, DC, October 8, 1991.

Hon. JAKE GARN,
Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate.

DEAR SENATOR GARN: Thank you for your letter requesting our views on streamlining and restructuring RTC. Last February, in testimony before the House Committee on Banking, Finance and Urban Affairs we raised the need to consider separating the leadership of FDIC and RTC because of the formidable tasks facing both agencies. We said it was time to consider a Chief Executive Officer (CEO) for RTC. In testimony on September 12, 1991, the Administration agreed that a separate CEO is needed for RTC.

As you know, a variety of proposals have been advanced by different parties aimed at restructuring RTC. We believe there are at least two organizational concepts we would like to see included in any restructuring proposal enacted by Congress.

The first is identifying a CEO responsible for the day-to-day operations of RTC. As I mentioned, this concept has been supported by the Administration in testimony and is already embodied in the proposals put forward to date. This individual should be skilled in the business of asset management and disposition and have sufficient latitude to direct RTC in meeting the challenges it faces. It is also important that sthe CEO build a strong top management team because one person cannot effectively run an organization as large and diverse as RTC.

The second concept is the need for strong oversight by an entity independent of the day-to-day operations of the RTC. Special attention is needed because of the magnitude of both the overall operations of RTC and the funding required. An oversight board meets this criteria and could help assure that the effort does not get off track.

In closing, let me emphasize that in pursuing restructuring, careful attention needs to be given to avoiding changes or delays that would be counterproductive to the progress RTC is making in improving both its operations and asset disposition strategies.

Sincerely yours,

GASTON L. GIANNI, Jr.,
Associate Director,
Federal Management Issues.

TESTIMONY OF L. WILLIAM SEIDMAN ON RTC STRUCTURE ISSUES

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you in my new role as a private citizen and to give you my views on the Administration's proposal for restructure of the RTC.

I can summarize by saying that the RTC restructure proposal, which was jointly drafted by the Administration and the FDIC–RTC, is an important and desirable step forward in the administration of the S&L cleanup process.

Briefly, it makes the following changes:

(1) It creates a RTC CEO who chairs the RTC Board and is a member of the RTC Oversight Board;

(2) It removes the Independent FDIC Board from its responsibility as "exclusive manager" of the operations of the RTC;

(3) It provides the RTC Oversight Board with the power to appoint and remove both the new RTC CEO and the reconstituted RTC Board;

(4) It reduces the activities of the RTC Oversight Board to those normally associated with "oversight" and places powers normally associated with a CEO in that position.

Two questions may be asked about this restructure:

(1) Does it change enough to achieve the desired efficiency?

(2) Does it change too much and thus set back the progress currently being made by the RTC?

The answer to the first question is "yes". The restructure will bring about the desired improvement in operations to the RTC because it:

(1) Creates a real chief executive officer—a position that does not exist today:

(2) Eliminates the dual independent boards. The RTC Board will no longer be independent. It will be the equivalent of an operating board of the RTC Oversight Board subject to removal at their request;

(3) Provides oversight by the RTC Oversight Board but removes the problem currently existing with respect to separating day to day operations from overall management;

(4) Coordinates the RTC and its Oversight Board by putting the CEO and FDIC Chairman on both boards, thus substantially eliminating the potential for conflict.

In summary it does what is necessary to improve the structure. With clear lines of authority, it provides a more efficient basis for operation.

The answer to the second question is "no". The new structure will not cause delays or slow the RTC clean-up because it:

(1) Makes no changes in personnel except to create the new CEO position and perhaps to cut back on the size of the Oversight Board staff commensurate with its reduced duties. This will improve efficiency immediately.

(2) Allows the CEO to begin operation at once with full authority and responsibility and with separate RTC personnel already in place.

(3) Keeps the Oversight Board to deal with funding issues and over-all coordination in the area of administration policies. At the same time it cuts back the Board's operational duties and most importantly, the time required from the very busy Board members.

(4) Requires nothing to be put "on hold" since the new CEO will be acting as an RTC employee and consultant to the Oversight Board until the law is put in place.

In summary, there should be no loss of momentum at the RTC with the new structure, and there will be considerable gain in efficiency.

I believe the RTC is ready to go forward on its own—independent of the FDIC, which certainly has more than enough to do in its own areas of responsibility. The change will allow immediately improved efficiency for both the RTC and the FDIC.

Thank you for your attention.•

By Mr. DOMENICI:

S. 1897. A bill to improve supervision and regulation of Government sponsored enterprises; to the Committee on Banking, Housing and Urban Affairs.

GOVERNMENT SPONSORED ENTERPRISE REGULATOR ACT OF 1991

• Mr. DOMENICI. Mr. President, I am here on the floor today to introduce a bill that will establish an independent division at the Treasury Department to monitor the safety and soundness of six Government sponsored enterprises [GSE].

While none of the GSE's currently needed a bailout, it is not too far fetched to imagine one of these $400 billion entities failing. Currently, we only loosely monitor GSE's for safety and soundness.

We need to better watch GSE's to ensure that the taxpayer is not faced with the tab for another savings and loan crisis. It is the comparison to the saving and loan crisis, and the fear of unexpected costs in the billions, that has initiated the need for this legislation.

BUDGET

I am not introducing this bill out of context. The Budget Enforcement Act of 1990 requires the committees of jurisdiction to report out legislation by September 15, 1991, to strengthen the safety and soundness of GSE's.

In the last year's budget summit it became apparent that GSE's shared similar budget characteristics to deposit insurance. The Government's liability commitment with deposit insurance is an unanticipated costs and not easily projected in the budget—until the costs come due. Under the current system, GSE's would operate in the same manner.

GSE's are a hidden contingent liability. They are offbudget entities which are not included in the deficit or the budget, yet they carry with them the status of implied Government backing.

While it is unclear how implied backing is financially defined, the market has taken the view that if GSE's get into financial trouble, Uncle Sam's deep pockets would bail them out.

While these entities are financially solvent today, they need to be watched more closely so the taxpayers are not blind-sided with unexpected costs.

HOUSE BILL

While I have problems with the House Banking Committee's passed bill, at least the committee meet the September 15 reporting deadline as required in the Budget Act. The Senate Banking Committee hasn't even scheduled a markup.

I find it troubling that the House bill places the GSE regulator for Fannie Mae and Freddie Mac at HUD.

HUD does not have the technical expertise or the understanding of finance to properly implement a safety and soundness program for companies with assets worth more than $700 billion.

HUD recently released regulations that focused almost entirely on housing, when the focus was supposed to be financial soundness. The regulations are 50 pages long, in which 47 pages focus on housing and 3 on safety and soundness.

These regulations are worrisome—especially if they are a preview of what HUD would be like as a safety and soundness regulator. For example, HUD wants Fannie Mae and Feddie Mac to pool inner-city mortgages regardless if the requirement would weaken credit standards and erode soundness.

HUD will be tempted to change the mission of GSE's to promote housing, regardless if it means making bad business decisions.

The House bill will take these successful entities, tie their hands through their public policy mission, and make them unprofitable. I hope the Senate bill does not proceed in this direction.

We don't want to cause financial problems by developing legislation that threatens safety and soundness. The need for this legislation was prompted by the potential future exposure GSE's present to the taxpayer, not the need to change their public policy mission.

REGULATORY STRUCTURE

The most important aspect of this legislation is to establish a regulatory structure that will be able to anticipate and prevent future financial problems. The House bill, which places HUD as the regulator, is a flawed approach.

I am proposing here to place the GSE regulator at Treasury because it has the technical expertise and understanding of finance to implement stress tests and capital requirements.

The GSE department at Treasury will have a narrow mission of evaluating safety and soundness. Program regulation will be maintained with program experts at HUD for Fannie Mae and Freddie Mac, the Federal Housing Finance Board for the Federal Home Loan Bank System, the Farm Credit Administration for the Farm Credit System and Farmer Mac, and the Education Department for Sallie Mae.

Before the program regulator can issue regulations, the GSE department will evaluate the regulations to determine if they are consistent with ensuring safety and soundness. The GSE department will only be able to withhold approval for regulations if the regulations threaten soundness.

The GSE department at Treasury will focus on protecting the taxpayer, not expanding the public policy mission. The Treasury will be more inclined to make difficult decisions that conflict with the GSE mission than program regulators.

The proposal ensures that one voice is speaking, accountable, and reporting to Congress on the financial soundness of all GSE's and the status of the secondary market.

There is not need to create an intrusive regulator. These GSE's need to be monitored and watched closely, but we don't need to change them fundamentally.

CAPITAL

While I have problems with the House bill on their regulatory structure and housing title, the bill is heading in the right direction on increasing capital requirements and the development of stress tests.

While seven different studies indicate Fannie Mae and Freddie Mac do not pose an imminent threat to taxpayers, all the studies emphasize that their capital levels are low relative to risk.

The time to require GSE's to increase capital is when they are healthy. Once an entity shows stress, requiring them to increase capital only makes matters worse. We need to establish capital requirements now while these companies appear to be strong.

While the focus of the Treasury report is on capital levels, there are other indicators a regulator should look at including management risk, operational risk, and internal controls.

THE NEED TO ACT

If the GSE's are so profitable, what's the big deal or the need for legislation? Because it wasn't always so, and may not always be.

While the GSE's have been very profitable the last few years, as recently as 1985, Fannie Mae was losing enormous amounts of money and was in serious trouble. In fact, Fannie Mae was losing nearly a million dollars a day in the early 1980's and on a market-value basis was clearly insolvent. Essentially, Fannie Mae rolled the dice and bet on interest rate changes and won.

More recently, the Farm Credit System had to be bailed out after it followed a policy of mispricing its portfolio. It was not as lucky as Fannie Mae.

The Treasury contracted with Standard and Poor's [S&P] to provide ratings of GSE's absent any Federal backing. Fannie Mae rated at A− and Farm Credit System rated BB, which are low or below investment grade ratings. Profit level doesn't always correlate into strength to absorb downturns or unexpected losses.

While these companies are profitable today and we are not responding to a financial crisis, there is exposure to the taxpayer in the future. Leaving them unregulated and unmonitored would be irresponsible.

In concluding, we need to recognize how unique these Government chartered entities are. Most would think GSE's are oxymorons because they are Government creations fulfilling a public purpose, while earning profits. I think this combination is great, and we need to ensure that they keep on growing and remain financially sound.●

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. BURDICK, and Mr. MURKOWSKI):

S.J. Res. 222. Joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians"; to the Committee on the Judiciary.

YEAR OF RECONCILIATION BETWEEN AMERICAN INDIANS AND NON-INDIANS

Mr. DASCHLE. Mr. President, 500 years ago some of our forefathers first

set foot upon this continent. The quincentennial anniversary of the arrival of Christopher Columbus celebrates that event.

But 500 years ago, Mr. President, the forefathers of others among us had already been on this continent for thousands of years. It was their home.

The 500 years from then until now have chronicled the taking of a continent by one people from another. It is history that cannot be reversed. It is history that has seen the emergence of a wonderful, proud, and powerful nation in the world most of us call new.

But for those who do not call this continent new, for the American Indian, it has been a very different history. Their ranks have been decimated by the diseases of the new worlders; their lands have been taken and their cultures virtually destroyed. The wrongs have been many, yet through such adversity, native American languages, customs, and traditional values of fortitude, bravery, generosity, and wisdom have endured. These tools of survival are now supplying new strength, determination, and hope for a generation preparing to embrace the 21st century.

In South Dakota, where these wrongs and resentments are so sharply etched, we are fortunate indeed to have one Indian journalist and one Governor willing to take a chance. Tim Giago, the publisher of the Lakota Times, has gone from Pine Ridge, SD, to Harvard University and back again on the strength of his mind and the power of his pen. He has built the most respected news organization in Indian country. His thinking about Indian issues and the problems that divide his community from non-Indian America command attention from coast to coast.

In 1990, Mr. Giago conceived a modest idea that has begun an important process in my State. Why, he asked our Governor, should we not begin our second 100 years as a State with a year of reconciliation between Indian and non-Indian peoples? Nobody pretended the designation of a year of reconciliation would change our world in South Dakota. But Governor George Mickelson agreed it might at least begin to develop the trust, the respect, and understanding without which progress between peoples cannot be made.

Mr. Giago and the Governor were right. There have been setbacks and shouting matches. But the year of reconciliation in South Dakota has become a century of reconciliation. We have committed ourselves to finding in our second 100 years the understanding and justice between American Indians and non-Indians that too often eluded us during the century just passed.

This year Tim Giago asked our Governor and our congressional delegation the same question that led to South Dakota's reconciliation program—1992 is the 500th anniversary of the discovery of America by Christopher Columbus. Why not try nationwide to see whether a year of reconciliation might help kick off the second 500 years since Columbus more positively for Indians than the first?

Congressman TIM JOHNSON'S reply was "yes." He has already introduced in the House of Representatives the joint resolution we offer today.

Senator LARRY PRESSLER'S reply was "yes." He has spoken often in this Chamber of the history and problems of the Lakota Sioux and is the coauthor of this joint resolution.

My Chairman and vice-chairman of the Select Committee on Indian Affairs, Senator DANIEL INOUYE and Senator JOHN MCCAIN, agree as well. Their efforts on behalf of American Indian people are well known in this Chamber, and the strength their names lend to our joint resolution is deeply appreciated.

This joint resolution designates 1992 as the "Year of Reconciliation Between American Indians and non-Indians." I hope and expect it will receive the unanimous support of my colleagues and ask unanimous consent that the full text of the resolution be printed in the RECORD.

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

S.J. RES. 222

Whereas 1992 will be recognized as the quincentennial anniversary of the arrival of Christopher Columbus to this continent;

Whereas this 500th anniversary offers an opportunity for the United States to honor the indigenous peoples of this continent;

Whereas strife between American Indian and non-Indian cultures is of grave concern to the people of the United States;

Whereas in the past, improvement in cultural understanding has been achieved by individuals who have striven to understand the differences between cultures and to educate others;

Whereas a national effort to develop trust and respect between American Indians and non-Indians must include participation from the private and public sectors, churches and church associations, the Federal Government, Tribal governments and State governments, individuals, communities, and community organizations;

Whereas mutual trust and respect provides a sound basis for constructive change, given a shared commitment to achieving the goals of equal opportunity, social justice and economic prosperity; and

Whereas the celebration of our cultural differences can lead to a new respect for American Indians and their culture among non-Indians: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1992 is designated as the "Year of Reconciliation Between American Indians and non-Indians". The President is authorized and requested to issue a proclamation calling upon the people of the United States, both Indian and non-Indian, to lay aside fears and mistrust of one another, to build friendships, to join together and take part in shared cultural activities, and to strive towards mutual respect and understanding.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. ROTH, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 20, a bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes.

S. 152

At the request of Mr. COATS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption to $4,000.

S. 359

At the request of Mr. BOREN, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 581

At the request of Mr. BOREN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one dollar coins.

S. 1401

At the request of Mr. PRESSLER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1401, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community.

S. 1505

At the request of Mr. DECONCINI, the names of the Senator from California

[Mr. CRANSTON] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1505, a bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission.

S. 1533

At the request of Mr. BRYAN, the name of the Senator from Hawaii[Mr. AKAKA] was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1606

At the request of Mr. DURENBERGER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1606, a bill to establish a demonstration program that encourages State educational agencies to assist teachers, parents, and communities in establishing new public schools, and for other purposes.

S. 1623

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 1623, a bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

S. 1650

At the request of Mr. KERRY, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1650, a bill to revise the national flood insurance program to provide for mitigation of potential flood damages and management of coastal erosion, ensure the financial soundness of the program, and increase compliance with the mandatory purchase requirement, and for other purposes.

S. 1673

At the request of Mr. HEFLIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

S. 1738

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1738, a bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes.

S. 1741

At the request of Mr. ROBB, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1741, a bill to provide for approval of a license for telephone communications between the United States and Vietnam.

S. 1786

At the request of Mr. BAUCUS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1786, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 1810

At the request of Mr. ROCKEFELLER, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Alabama [Mr. HEFLIN], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. SIMON], the Senator from California [Mr. CRANSTON], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare program, and for other purposes.

SENATE JOINT RESOLUTION 195

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution providing that the United States should support the Armenian people to achieve freedom and independence.

SENATE JOINT RESOLUTION 206

At the request of Mr. RIEGLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution to designate November 16, 1991, as "Dutch-American Heritage Day."

SENATE JOINT RESOLUTION 211

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 211, a joint resolution designating October 1991 as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 217

At the request of Mr. HATFIELD, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Texas [Mr. GRAMM], the Senator from Virginia [Mr. WARNER], the Senator from Texas [Mr. BENTSEN], the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. HATCH], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. CONRAD], the Senator from Arkansas [Mr. BUMPERS], the Senator from Colorado [Mr. BROWN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 217, a joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE RESOLUTION 201

At the request of Mr. FORD, his name was added as a cosponsor of Senate Resolution 201, a resolution to express the sense of the Senate regarding enforcement of the oilseeds GATT panel ruling against the European Community.

At the request of Mr. DANFORTH, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Wisconsin [Mr. KASTEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Florida [Mr. MACK], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Resolution 201, supra.

SENATE RESOLUTION 204

At the request of Mr. D'AMATO, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Resolution 204, a resolution expressing the sense of the Senate that the United States should pursue discussions at the upcoming Middle East Peace Conference regarding the Syrian connection to terrorism.

SENATE RESOLUTION 207

At the request of Mr. ROTH, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Resolution 207, a resolution expressing the sense of the Senate regarding the recommendations of the United Nations study group on international arms sales.

AMENDMENT NO. 1287

At the request of Mr. GRASSLEY the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Amendment No. 1287 proposed to S. 1745, a bill to amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes.

AMENDMENTS SUBMITTED

CIVIL RIGHTS ACT OF 1991

RUDMAN AMENDMENT NO. 1290

Mr. RUDMAN proposed an amendment to amendment No. 1287 proposed

by Mr. GRASSLEY to the bill (S. 1745) to amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes, as follows:

At the end of the pending amendment, add the following:

SEC. . PAYMENTS BY THE PRESIDENT OR A MEMBER OF THE SENATE.

The President or a Member of the Senate shall reimburse the appropriate Federal account for any payment made by their behalf out of such account for an unfair employment practice judgment committed under the provisions of this title by the President or Member of the Senate not later than 60 days after the payment is made.

NICKLES AMENDMENT NO. 1291

Mr. NICKLES proposed an amendment to amendment No. 1287 proposed by Mr. GRASSLEY to the bill S. 1745, supra, as follows:

(a) on page 14, line 9, after "compensatory" add "or punitive";

(b) on page 14, beginning on line 19, strike "The hearing board shall have no authority to award punitive damages.";

(c) on page 14, line 21, redesignate subsection "(i)" as subsection "(j)" and insert after subsection "(h)" the following new subsection:

(i) Notwithstanding any other provision of this act, a Senate employee may be awarded punitive damages on the same terms and conditions as such damages may be awarded to an aggrieved individual in the private sector.";

(d) on page 17, beginning on line 5, strike all of paragraph (3); and

(e) on page 17, beginning on line 13, strike all through page 19, line 3, and insert the following in lieu thereof;

"SEC. 209. CIVIL ACTION BY EMPLOYEE OR APPLICANT FOR EMPLOYMENT FOR REDRESS OF GRIEVANCES; TIME FOR BRINGING OF ACTION.

"(a) Within thirty days of receipt of the decision of a hearing board, or of the Select Committee on Ethics (or such other entity as the Senate may designate) upon an appeal from a decision or order of a hearing board, on a complaint of discrimination based on race, color, religion, sex, national origin, age, handicap or disability, brought pursuant to this title, or after one hundred and eighty days from the filing of a formal complaint with the Office or the notice of appeal with the Select Committee on Ethics (or such other entity as the Senate may designate) upon an appeal from a decision or order of a hearing board until such time as final action may be taken by the hearing board, an employee or applicant for employment, if aggrieved by the final disposition of his or her complaint, or by the failure to take final action on his or her complaint, may file a civil action as provided in 42 U.S.C. 2000e-5, in which civil action the Senate or an employing authority of the Senate that employs the employee shall be the defendant.

"(b) The provisions of 42 U.S.C. 2000e-5(f)(3)-(5), 2000e-5(g), 2000e-5(h), and 2000e-5(j), as applicable, shall govern civil actions brought hereunder. The remedies and jury trial rights made available to private complainants and executive branch employees under section 5 of this Act shall be equally available to any Senate employee bringing an action under this section.

"(c) Notwithstanding any other provision of this act, in a civil action a Senate employee or an executive branch employee may be awarded punitive damages on the same terms and conditions as such damages may be awarded to an aggrieved individual in the private sector.".

WARNER (AND OTHERS) AMENDMENT NO. 1292

Mr. WARNER (for himself, Ms. MIKULSKI, Mr. STEVENS, Mr. ROBB, Mr. WIRTH, Mr. KENNEDY, Mr. SARBANES, and Mr. ADAMS) proposed an amendment to the bill S. 1745, supra, as follows:

On page 4, line 5, insert "or 717" after "706".

On page 4, line 10, strike "or 704" and insert "704, or 717".

On page 4, line 23, insert ", and section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1))," respectively, before "against a".

On page 4, line 25, insert "section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and the regulations implementing section 501, or who violated the requirements of section 501 of the Act or the regulations implementing section 501 concerning the provision of a reasonable accommodation, or" before "section 102".

On page 4, line 25, strike "Act" and insert "Americans with Disabilities Act of 1990".

On page 5, line 10, insert "or regulations implementing section 501 of the Rehabilitation Act of 1973" before ", damages".

On page 4, line 20, insert "or 717" after "706".

McCAIN AMENDMENT NO. 1293

Mr. McCAIN proposed an amendment to amendment No. 1274 proposed by Mr. DANFORTH to the bill S. 1745, supra, as follows:

At the end of the amdt., add:

SEC. . REPORTS OF SENATE COMMITTEES.

(a) Each report accompanying a bill or joint resolution of a public character reported by any committee of the Senate (except the Committee on Appropriations and the Committee on the Budget) shall contain a listing of the provisions of the bill or joint resolution that apply to Congress and an evaluation of the impact of such provisions on Congress.

(b) The provisions of this amendment are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

JEFFORDS (AND OTHERS) AMENDMENT NO. 1294

Mr. HATCH (for Mr. JEFFORDS, for himself, Mr. MITCHELL, and Mr. DOLE) proposed an amendment to amendment No. 1274 proposed by Mr. DANFORTH to the bill S. 1745, supra, as follows:

At the appropriate place insert the following:

SEC. . Section 1205 of Public Law 101-628 is amended in subsection (a) by—

(1) striking "Three" in paragraph (4)— and inserting "Four" in lieu thereof; and

(2) striking "Three" in paragraph (5) and inserting "Four" in lieu thereof.

HATCH (AND KENNEDY) AMENDMENT NO. 1295

Mr. HATCH (for himself and Mr. KENNEDY) proposed an amendment to amendment No. 1274 proposed by Mr. DANFORTH to the bill S. 1745, supra, as follows:

On page 6, line 14, insert ", for each complaining party" after "exceed".

HATCH (AND DOLE) AMENDMENT NO. 1296

Mr. HATCH (for himself and Mr. DOLE) proposed an amendment to amendment No. 1274 proposed by Mr. DANFORTH to the bill S. 1745, supra, as follows:

At end of the title entitled "Government Employee Rights", add the following new section:

SEC. . INTERVENTION AND EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) INTERVENTION.—Because of the constitutional issues that may be raised by section 209 and section 220, any member of the Senate may intervene as a matter of right in any proceeding under section 209 for the sole purpose of determining the constitutionality of such section.

(b) THRESHOLD MATTER.—In any proceeding under section 209 or section 220, the Unied States Court of Appeals for the Federal Circuit shall determine any issue presented concerning the constitutionality of such section as a threshold matter.

(c) APPEAL.—

(1) IN GENERAL.—An appeal may by taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by the United States Court of Appeals for the Federal Circuit ruling upon the constitutionality of section 209 or 220.

(2) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in paragraph (1), advance the appeal on the docket and expedite the appeal to the greatest extent possible.

MITCHELL AMENDMENT NO. 1297

Mr. HATCH (for Mr. MITCHELL) proposed an amendment to amendment No. 1274 proposed by Mr. DANFORTH to the bill S. 1745, supra, as follows:

Insert in section 209(a) after the phrase "section 208(d)", the following: ", or any Member of the Senate who would be required to reimburse the appropriate Federal account pursuant to the section entitled "Payments by the President or a Member of the Senate" and a final decision entered pursuant to section 208(d)(2)(B),".

NOTICES OF HEARINGS

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. KERRY. Mr. President, the Select Committee on POW/MIA Affairs, pursuant to discussions in previous organizational meetings, has scheduled initial hearings on November 5, 6, and 7 to examine the process of investigation of POW/MIA's currently in place, and to determine whether or not live Americans are being held against their will in Southeast Asia. The hearings

will begin at 9:30 a.m., and will take place in room 216 of the Hart Senate Office Building. For additional information, please call 224-2306.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that the Subcommittee on Public Lands, National Parks and Forests has added an additional bill to the hearing agenda for the subcommittee hearing scheduled for Thursday, November 7, 1991. The additional measure to be considered is S. 1770, a bill to convey certain surplus real property located in the Black Hills National forest to the Black Hills Workshop and Training Center, and for other purposes.

The hearing will take place on Thursday, November 7, 1991, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For additional information concerning the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 30, at 2 p.m. to hold a hearing entitled, "Consolidating Free-Market Democracy in the Former Soviet Union."

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, October 30, at 10 a.m. to hold a hearing on U.S. security policy in East Asia.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Wednesday, October 30, 1991, at 10 a.m., in SR-332, to hold a hearing regarding agricultural and food assistance for the U.S.S.R.

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

COMMITTEE ON SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, October 30, 1991, at 9 a.m. Senator LIEBERMAN will chair a full committee hearing that will examine the small business credit crunch problem.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 30, at 3:30 p.m. to receive a closed briefing on the administration plan for military assistance to Jordan.

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

ADDITIONAL STATEMENTS

SMALL BUSINESS ACCESS TO CREDIT

• Mr. BUMPERS. Mr. President, today more than any other time since I have been in the Senate, the most difficult issue facing most small business owners is access to credit. Year in and year out, availability of credit at a reasonable cost is identified by business owners as their chief obstacle. Today, however, for a variety of reasons, credit has become a bottleneck in the economy. With our economy in the doldrums at best, businesses with good credit histories and promising futures find that their usual sources of capital have virtually dried up.

The chief mission of the Small Business Administration since 1953 has been and remains to attempt to bridge the credit gap—to help smooth or make amends for defects in the market economy which make capital inordinately difficult for smaller firms. Over the years, Congress has crafted many programs to fit specific types of economic growth problems. These include both direct and guaranteed loans, as well true equity venture capital. By all accounts, one of SBA's most successful business expansion programs has been the Certified Development Company Program, also known as the section 504 loan program.

Under section 504 of the Small Business Investment Act of 1958, SBA guarantee repayment of a small business debenture—a long-term loan for 10 or 15 years—which finances not more than 40 percent of the cost of a business expansion or acquisition. The loan is secured by real estate, machinery, or capital equipment, so the taxpayer's position is fairly secure. The small business gets a favorable interest rate, just slightly over the Treasury's cost of money, for 40 percent of the projected and a long payout period. Fifty percent of the project is financed by a conventional lender such as a bank, and the Government agrees to take a second position on the mortgage. The remaining 10 percent must be provided by equity from the business.

According to SBA, the 504 program enjoys a loan currency rate in excess of 95 percent, and its actual losses have been minuscule. The program has been in existence for slightly over 10 years and has provided over $2 billion in financing to small business.

Mr. President, an article concerning this program recently appeared in the ABA Banking Journal, and I ask that it be reprinted in the CONGRESSIONAL RECORD at the conclusion of my remarks. Given the difficulty which businesses everywhere face in finding capital, they should well consider this and other SBA programs.

The article follows:

[From the ABA Banking Journal, Oct. 1991]

AN ANSWER TO THE CREDIT CRUNCH?

(By Scott Davis and Kent Moon)

In the search for profitable assets, many banks investigate the small business market—where they often find skepticism.

Small businesses frequently complain that banks only want their deposits and transaction fees, ignoring the "little guy's" credit needs. They feel that small firms get hit first when funds tighten and are the last to be relieved when the business picks up.

The Small Business Administration's 504 guaranteed loan program addresses this dilemma by providing a source of long-term credit at reasonable terms. Participating banks gain profitable, quality assets that also help demonstrate compliance with the Community Reinvestment Act.

504 BASICS

Congress created the 504 program in 1980 to provide long-term financing of fixed-assets for healthy, expanding small businesses. Only ownerusers qualify. The program is administered through certified development companies (CDCs) licensed by SBA. These nonprofit organizations can be sponsored either by private interests or by state and local governments. There are more than 400 CDCs across the country.

Originally, Congress targeted 504 to assist expanding businesses—proven to be the source of the vast majority of new jobs. More recently, the program has been amended to expand assistance to exporters, manufacturers, rural firms, minority-owned firms, and others.

Most projects must either create or save one job for every $35,000 of 504 financing although alternative policy objectives can be met instead. For example the job standard can be waived if the project is part of the lender's CRA effort.

CREDIT STRUCTURE

The 504 program offers borrowers access to 90 percent financing for the purchase of fixed assets. Qualifying transactions could include buying land and constructing a building on the land; buying an existing building; and buying major equipment.

A typical 504 project looks like this:

(1) A private-sector lender provides at least 50 percent of the project's cost.

(2) SBA guarantees debentures that can provide up to 40 percent of the project cost. The agency's lien is subordinate to the lender's.

(3) The borrower contributes 10 percent in new equity.

Program financing is available in 10 or 20 year maturities. Real estate is usually fi-

nanced with the 20-year term. The maximum amount of the portion funded through the 504 debentures can be as high as $1 million. The practical minimum loan is $75,000.

Certified development companies generally maintain a staff of experienced 504 lending officers.

Bankers familiar with this program often initiate 504 loan requests by calling their local CDC loan officer. Once the development company's staff finishes an initial screening to determine project eligibility and borrower creditworthiness, the lender and the CDC loan officer agree on a project financing structure. Next, staff present the loan to the CDC's board, while the bank handles its own credit review. The bank's commitment is generally conditioned on approval of the 504 application.

Unlike the SBA 7(a) program, in which the lender completes all SBA documentation, the 504 package is completed by CDC staff. SBA guarantees repayment of 504 debentures issued by the development company and thus must approve each transaction. SBA's turnaround time runs from two to three weeks, and is often quicker.

When a project involves new construction, the lender making the 50% first mortgage usually provides the other 40% up front once SBA issues its approval. When construction is completed, the proceeds of the sale of the debenture serve as permanent takeout financing for the 40% share.

Once the debenture is sold, the development company services the 504 portion of the transaction and the bank services its part. The borrower makes two monthly payments: one to the bank and the other to Colson Services Corp., the 504 program's servicing agent.

FINANCIAL DETAILS

Upfront fees from all parties in the transaction total 2⅞% and are financed as part of the debenture issuance. Most "soft" costs, such as appraisals, environmental audits, soil tests, interim financing fees, interim interest, and closing costs can also be included in the 504 project financing.

The 504 debentures have a prepayment penalty for the first half of the loan term. During the first year, the penalty is approximately 100% of the interest rate multiplied by the principle balance. The penalty declines in even increments, falling to zero by the loan's midpoint.

There are no fee or rate restrictions on the bank's portion of the financing. The bank rate can be viable or fixed. If a 20-year 504 loan is involved, the bank must provide a 10-year term on its portion. If a 10-year 504 loan is used to finance equipment, the bank must provide a 7-year term.

The SBA-guaranteed debentures that fund the government portion of the program are pooled and certificates in each pool are frequently purchased by institutional investors. Citicorp and Merrill Lynch currently act as underwriters for the program and sell a pool of 20-year 504 debentures each month. Ten-year debentures are pooled and sold quarterly.

Since 1980 this program has provided over $3 billion in long-term fixed-asset financing to approximately 13,000 borrowers. With a loss rate of approximately 2.5%, the program is generally considered a strong performer among federally backed business credit programs.

SECONDARY MARKET FOR BANKS

Because of the quality of these loans, the advantage of a first lien, and the SBA guarantee behind 40% of the total borrowing, banks have generally held 504 loans in portfolio. However, the program's growth has been limited due to the lack of a secondary market into which banks can sell their 504 program loans when that option would be attractive.

Salt Lake City's Zions First National Bank has responded by developing a new program to buy, pool, and sell qualifying 504 first mortgages. Zions, $3 billion in assets, is one of the largest SBA 7(a) loan poolers and is an active SBA lender.

Zions is currently working with the National Association of Development Companies and a network of participating certified development companies to locate and buy new or existing 504 first mortgages. These loans are purchased at the outstanding principle and interest amount, with Zions paying a negotiated premium to the selling bank.

The major criteria for Zion's purchases:

(1) The small business must be at least two years old.

(2) The loan must meet all 504 program regulatory requirements.

(3) Existing first mortgages must be current and have a favorable history.

(4) Loans must have a variable interest rate that adjusts at least quarterly.

(5) Loans should be secured by multi-purpose real estate located in counties with a population of 20,000 or greater.

Zions performs an independent underwriting review of all loans presented for purchase. The first pool is expected to be sold later this year.

GETTING STARTED

The 504 program offers numerous advantages for both lender and borrower. Lenders find they can finance more projects than through conventional financing techniques. This enables them to spread their capital among more borrowers.

For the borrower, access to 90% financing is often the key to making a project move forward. Many small business owners cannot afford the 25% to 30% down payments required by conventional real estate underwriting criteria. Further, the debentures, as government-guaranteed instruments, carry lower rates than private corporate bonds. This advantage is passed along to borrowers. In recent months, rates, including up-front fees, have been between 9.6% and 9.9%.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Senator and Mrs. Moynihan to participate in a program in England sponsored by Oxford University on November 29, 1991.

The committee has determined that participation by Senator and Mrs. Moynihan in this program, at the expense of Oxford University is in the interest of the Senate and the United States.●

HEROES LUNCHEON

● Mr. DECONCINI. Mr. President, I rise to recognize the fine efforts of Arizona's four living recipients of the Congressional Medal of Honor, who each year pay tribute to children who have courageously confronted serious illness. Now in its fourth year, the Phoenix Children's Hospital Heroes Luncheon will honor six courageous young people at a touching ceremony on November 15. I wish to join with Arizona's Medal of Honor recipients in recognizing the extraordinary valor in battling illness displayed by these youngsters.

Richard W. "Richie" Baker, of Mesa, AZ, is a 12-year-old who is battling acute lymphoblastic leukemia while maintaining his enthusiasm for life as a junior high school student.

Lee Brietenstine, of Tempe, AZ, is an exceptional 12-year-old who has endured numerous illnesses, including asthma, bronchiectasis, and eosinophilic gastroenteritis. Through all of this, he has stayed in school and has participated in sports.

David Dalton, 13 years old, is happy and talkative even after undergoing two neurosurgeries. This teenager from Mesa, AZ, shows us how to face life's difficulties with courage.

Lindsey "Lin" Doolittle, is a joyous 6-year-old from Chandler, AZ, who always has a hug and smile for family and friends. She has struggled with heart problems and undergone numerous surgeries, but remains full of fun and love.

Ashleigh Johnson, 6 years old, has had numerous neurologic, orthopedic, and feeding difficulties throughout her life. This special first-grader from Phoenix, AZ, continues to demonstrate her positive attitude and willingness to tackle all obstacles.

Penny Sutton, 14 years old, from Casa Grande, AZ, has been dealing with kidney failure since age 9. Despite her body's rejection of three kidney transplants and having to undergo dialysis, she is determined to keep smiling.

I want to commend these young people for the example they have set for us all. Life has many challenges, many difficulties, that must be faced. Courage, determination, and a positive attitude make it possible to meet and overcome those difficulties. Although young in years, these children are ahead of many adults, in realizing those truths. My best wishes accompany each child as they go forward.●

SOVIET JEWISH REFUSENIK CASE: EVGENY PISAREVSKY

● Mr. WALLOP. Mr. President, the democratic reforms that have swept

through Eastern Europe in the last 2 years and the continuing evolution of events in the Soviet Union have given hope to Soviet Jews who have tried for years to emigrate. And anticipation of long-sought family reunification went up a notch in May of this year when the Supreme Soviet adopted legislation liberalizing Soviet emigration regulations. The number of Soviet refugees to the United States actually increased in the weeks following the August coup. But promises and numbers do not shroud the fact that in 1991, the vast majority of Soviet refugee applicants to the United States have been members of historically persecuted groups: Soviet Jews, Evangelical Christians, Ukrainian Catholics, and Ukrainian Orthodox. In St. Petersburg, a city of 120,000 Jews, Jews from all professions and classes—even Jewish visitors from abroad—report a rise in anti-Semitic confrontation in stores, in buses, and on the subway.

Evgeny Pisarevsky, a Soviet Jewish refusenik, serves as a reminder to us all that promises for less burdensome exit procedures in the republics of the former U.S.S.R. must be backed with substantive action. Evgeny, a computer engineer, ended his sensitive work with the Soviet company, Impulse Scientific Production Association, in 1978. He and his family waited 10 years from that date before applying for permission to emigrate. Yet in 1988 Evgeny was still considered a security risk. Thus began the long, frustrating process of applying and reapplying for permission to leave the Soviet Union. Evgeny's son, Vladimir, received an exit visa in August 1989, but 2 months later found that he, along with his parents, would be unable to emigrate permanently until 1995. He used his exit visa immediately and left for the United States. Irina Pisarevsky, the wife of Evgeny, visited Vladimir in New York in November 1990 on a tourist visa. Meanwhile, the Ministry of Defense once again refused to lift Evgeny's secrecy classification. Today, this family must cope not only with forced separation, but must live with the reality of rising anti-Semitism in the Russian Republic. Vladimir and Irina cannot help but feel that Evgeny, an active member of the Leningrad Jewish community, is in danger.

Let us remember Evgeny Pisarevsky and over 350 Jewish refuseniks like him, who remain captives of an arcane, discriminating system. Soviet Jews will be unable to celebrate the momentous changes sweeping across the European continent as long as families like Evgeny Pisarevsky's are separated against their will. And until the fundamental human right to emigrate is respected, democracy will not have arrived, fully, to the republics of the former U.S.S.R.

RAM'S HORN AWARD HONOREES DONNA AND RONALD TAYLOR

• Mr. D'AMATO. Mr. President, I rise today to recognize two outstanding people, Donna and Ronald Taylor. The Taylors are this year's Ram's Horn Award honorees at the Fall Horticulture Ball on Saturday, November 2, at the Radisson Plaza Hotal in Melville, NY.

Although they live in Goodrich, MI, they are renowned throughout the nursery industry. The Taylors began their alliance and their horticulture careers at SUNY, Farmingdale. Donna and Ron met at Farmingdale. They both had been encouraged to attend Farmingdale by former graduates of the school because of their interest and great love for horticulture. For both Donna and Ron had expressed a very early interest in horticulture.

At the age of 14 Ron became interested in gardening through the influence of a French gentleman who taught him the basics of planting, digging trees, tieing, pruning, and more. Donna became interested in gardening through her father and also through the 4-H club. During high school in New Jersey, Donna worked at Duke Gardens Foundation as a tour guide of the gardens. At the same time, Ron was working at Mill Creek Nursery.

Both Donna and Ron have expressed an interest in horticulture at a very young age and followed through to the present. They were married in 1968, after graduating from SUNY at Farmingdale. They moved to Maryland and both built careers in the nursery business. In 1979, they had a son, Brad. Presently, Donna and Ron both work for Frank's Nursery and Crafts, Inc.•

THE MADRID PEACE CONFERENCE

• Mr. KASTEN. Mr. President, I rise today to applaud the efforts of President Bush and Secretary of State James Baker in trying to mediate a true and lasting peace in the Middle East. Today's historic meeting of Egyptians, Israelis, Jordanians, Lebanese, Palestinians, Syrians, Soviets, and Americans is a real breakthrough in the quest for peace.

The world has undergone a major transformation in the past 2½ years. Attitudes and rules of the past are no longer applicable today. What seemed impossible a year ago is now in sight. The success of the U.S.-led allied forces in the Persian Gulf war has created a window of opportunity for all parties in this tragic conflict to settle their differences peacefully, at the negotiating table—not on the battlefield.

Since Israeli independence, Arabs and Israelis have fought wars for nearly 40 years. Wars in 1948, 1956, 1967, 1973, and 1982 have prevented any possibility for settling the Middle East conflict. But today marks a watershed in Israeli-Arab relations. Both parties will be meeting to discuss arrangements for peace—not the logistics of a ceasefire. This is very significant.

President Bush and Secretary of State James Baker both deserve our congratulations for accomplishing a task that—only a few months ago—seemed out of reach.•

COMMENCEMENT OF THE MIDDLE EAST PEACE CONFERENCE

• Mr. D'AMATO. Mr. President, in Madrid today, Israel, Syria, Egypt, Jordan, Lebanon, and the Palestinians begin talks aimed at achieving a long-sought peace in the Middle East. I commend the President for his wisdom and perseverance in inaugurating these historic talks.

In a region where generations of youth have been swallowed by war and deprivation, the only choice is peace. But peace must not be illusory; peace must be lasting. And, in the end, peace must be fair and secure.

We must realize that in these negotiations, Israel is pitted against all the Arab nations combined. This has not changed for the five decades of her existence. If Israel is required to make concessions, then fairness dictates that the Arabs must also. Israel's borders must be secure. Her existence must be recognized by all Arab States. The Arab economic boycott waged against her must immediately end. And the continual acts of Arab terrorism aimed at innocent Israeli men, women, and children, must cease.

Let us not forget that those nations sitting across the table from Israel have started five wars seeking her extermination. To Israel's north lies Syria, which has repeatedly invaded Israel and waged a proxy war of terrorism, killing Israel's children as well as Americans for years. Syria has been an unrelenting enemy. Will the Demon of Damascus now end the carnage and agree to a true and lasting peace?

Israel's northern neighbor Lebanon is now a mere province of Syria and serves as an extended base for its terror campaign against Israel. Recent attacks on Israeli soldiers in Lebanon show a clear reluctance to make peace with Israel. Can we believe that the murderous Lebanese factions—united only in their hatred of Israel—be reigned in?

To the east lies Jordan, who steadfastly backed Iraq in the Persian Gulf war. Her refusal to abide by the United Nations weapons embargo against Iraq was a flagrant disregard for United States troops in time of war. Can we expect Jordan to treat Israel any better?

The Palestinians, for their part, have murdered over 800 of their own in the intifada, simply because they wanted to make peace with Israel. How will they treat Israel?

In the end, we must recognize that peace is not one-sided. It is

multidimensional. Each party must realize that their contribution to the process must not be a mere token, but a series of fair and secure concessions dedicated toward peace. Anything less is simply a recipe for Israel's destruction.•

THE CONGRESSIONAL CALL TO CONSCIENCE

• Mr. D'AMATO. Mr. President, I rise today to urge my colleagues to participate in the Congressional Call to Conscience for Soviet Jews. Through the Call to Conscience, the Senate recognizes the continuing plight of Soviet refuseniks.

One such tragic story that has been brought to my attention involves Gennady (Haskel) Weinstein. Gennady, a former physician, has been refused permission to emigrate to Israel.

In July 1988, Gennady was falsely accused of murder and held for 5 months before he was allowed to see a lawyer. Gennady, who had been working in a state dispensary as a physician and narcotic specialist, allegedly murdered a drug addict. Gennady, under severe physical and mental torture, confessed to this crime to protect his family from police harassment.

After 6 months of detention, Gennady's trial finally began in January 1989. During the trial the police charade began to fall apart, as many of the witnesses testified that Gennady did not commit the murder. The court ordered the case to be reinvestigated, and Gennady was released in July 1989.

Gennady was again arrested in December 1989, and kept in prison for 18 months as the police conducted the second investigation. In prison he was repeatedly subjected to physical and mental abuse. Gennady was released a second time on May 28, 1991, when the court decided that the case should be investigated for a third time.

Finally, in September 1991, the police dropped all the charges against Gennady, but he was forced to sign a restraining order not to leave the district.

Since that time he has unsuccessfully sought emigration to Israel, but the Soviet Government has denied all of Gennady's pleas based on the illegal restraining order. I urge my fellow Senators to lend their support to this worthy cause, and to let the Soviet Union know that we will not stand for the continuing abuses against Soviet Jews.•

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination reported today by the Committee on Labor and Human Resources, Delbert L. Spurlock, Jr., to be Deputy Secretary of Labor.

I ask unanimous consent that the nominee be confirmed, that any statement appear in the RECORD as if read, that the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF LABOR

Delbert L. Spurlock, Jr., to be Deputy Secretary of Labor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

FRANK M. JOHNSON, JR. UNITED STATES COURTHOUSE

AND THE

EWING T. KERR UNITED STATES COURTHOUSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of the following bills: The Frank M. Johnson, Jr. courthouse bill and the Ewing T. Kerr courthouse bill; that the Senate proceed to their immediate consideration en bloc, that they be deemed read a third time and passed, that the motions to reconsider be laid upon the table, and any statements in relation to these bills be inserted in the RECORD as though read.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1467) to designate the U.S. Courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse."

TO NAME THE U.S. COURTHOUSE IN MONTGOMERY, AL, IN HONOR OF JUDGE FRANK M. JOHNSON, JR.

Mr. HEFLIN. Mr. President, U.S. Court of Appeals Judge Frank M. Johnson, Jr., is one of our Nation's most respected and distinguished jurists. It is particularly appropriate today to recognize him on the occasion of his 73d birthday by the adoption of S. 1467, a bill which will name the U.S. Courthouse in Montgomery, AL, in his honor.

Judge Johnson was born in Winston County, AL, and attended public schools all of his life, graduating from the University of Alabama Law School in 1943. He married the lovely Ruth Jenkins in 1938, and 53 years later they remain devoted to each other. During World War II, Judge Johnson saw combat action in Normandy, France, and across into Germany, where he was wounded twice on the field of battle and later was decorated for gallantry. He was discharged as a captain and returned to the general practice of law with the firm of Curtis, Maddox, and Johnson in Jasper, AL, and in 1953 he was named the U.S. attorney for the Northern District of Alabama. In 1955, President Dwight D. Eisenhower appointed Frank Johnson to the U.S. District Court for the Middle District of Alabama where he served until 1979, at which time President Jimmy Carter nominated him to be a U.S. circuit judge for the fifth circuit. The fifth circuit subsequently became the eleventh circuit in 1981; Judge Johnson continues to serve in this courthouse as a U.S. Court of Appeals judge for the eleventh circuit.

Judge Johnson's career is one of entire devotion to the rule of law and justice. He has been very active, serving in a number of professional capacities within the judicial branch of the Federal Government. Judge Johnson's honors are almost too numerous to mention, but they include Honorary Doctorates of Law from Notre Dame University, Princeton University, the University of Alabama, Boston University, Yale University, Tuskegee University, and Mercer University. Two biographies have been written about Judge Johnson: One entitled "Judge Frank M. Johnson, Jr.," by Robert F. Kennedy, Jr.; and "Judge Frank Johnson and Human Rights in Alabama," by Dr. Tinsley E. Yarbrough.

It is entirely fitting, in my judgment, to name the U.S. Courthouse in Montgomery in honor of Frank M. Johnson, Jr., for numerous reasons. The genesis of the whole civil rights movement began in Montgomery, AL, and it was during that early period of Judge Johnson's tenure on the district bench in Montgomery that cases came before him in his second floor courtroom in the U.S. Courthouse. During his 24-year tenure on the district bench, Judge Johnson rendered decisions in such cases as Gomillion versus Lightfoot, U.S. versus U.S. Klans, Reynolds versus Sims, Lee versus Macon County Board of Education, Wyatt versus Aderholt, and Craig versus Alabama State University. These cases are landmarks in areas of the law in desegregation, voting rights, reapportionment, prisoner, and mental health rights.

Judge Johnson's courtroom has been a living symbol of decency and fairness to all who come before his bench. It is from this courthouse that the term "rule of law" came to have true meaning; it is from this courthouse that the term "equal protection of the law" became a reality; and it is from this

courthouse that the phrase "equal justice under law" was dispensed despite threats to his personal life. On June 11, 1974, Princeton University, in awarding Judge Johnson an honorary doctor of laws degree, said:

In the heat of the long battle for civil rights, equal employment, and freedom of speech, his courtroom has been a sanctuary of integrity, fairness, and decency, where constitutional principle has guided difficult decisions. Neither fear nor prejudice, ignorance nor ignoble opposition can undermine his stern devotion to equal protection for all citizens under the law of the land.

S. 1467 will name the U.S. Courthouse in Montgomery, AL, in honor of this distinguished U.S. court of appeals judge for the eleventh circuit, Frank M. Johnson, Jr. The Frank M. Johnson, Jr. U.S. Courthouse will continue to serve as a landmark symbol of freedom and hope for all who are struggling for fairness and justice. I urge my colleagues to join me in passing this important legislation honoring this distinguished jurist.

So the bill (S. 1467) was deemed read a third time and passed, as follows:

S. 1467

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

SECTION 1. DESIGNATION.

The United States Courthouse located at 15 Lee Street in Montgomery, Alabama, shall be known and designated as the "Frank M. Johnson, Jr. United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Frank M. Johnson, Jr. United States Courthouse".

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

The legislative clerk read as follows:

A bill (S. 1899) to designate the U.S. Courthouse located at 111 South Wolcott in Casper, WY, as the "Ewing T. Kerr United States Courthouse."

So the bill, was deemed read a third time and passed, as follows:

S. 1899

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) Ewing T. Kerr has dedicated 64 years of his life to the practice of law in the State of Wyoming;

(2) over a period of 36 years, as a Federal district judge, Ewing T. Kerr has embodied the spirit of public service and has been dedicated to upholding the law of the land; and

(3) Ewing T. Kerr deserves recognition, honor, and gratitude.

SEC. 2. DESIGNATION.

The United States Courthouse located at 111 South Wolcott in Casper, Wyoming, is designated as the "Ewing T. Kerr United States Courthouse".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the United States Courthouse referred to in section 1 is deemed to be a reference to the Ewing T. Kerr United States Courthouse.

WAIVER OF CERTAIN RECOVERY REQUIREMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 285, S. 1891, regarding the construction or remodeling of facilities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1891) to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

The PRESIDING OFFICER. Is their objection to the immediate consideration of the bill?

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

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1891

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

SECTION 1. WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-12(d)) is amended by striking out "(a)(2)" and inserting in lieu thereof "(a)".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

INDIAN EMPLOYMENT, TRAINING, AND RELATED SERVICES DEMONSTRATION ACT

Mr. MITCHELL. Mr. President I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 273, S. 1530, regarding employment and related services provided by Indian tribes.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1530) to authorize the integration of employment, training, and related services provided by Indian tribes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act of 1991".

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) INDIAN TRIBE.—The terms "Indian tribe" or "tribe" shall have the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(2) INDIAN.—The term "Indian" shall have the same meaning as in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government, authorize the tribal government to consolidate, in accordance with such plan, its federally funded employment, training and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any such plan referred to in section 4 shall include, but are not limited to, programs authorized under the Job Training Partnership Act, the job opportunities and basic skills program under the Family Support Act of 1988, vocational education programs under the Carl D. Perkins Vocational Educational Act, and programs administered by the Secretary generally referred to as the "tribal work experience program" and the "employment assistance program".

SEC. 6. PLAN REQUIREMENTS.

For a plan to be acceptable pursuant to section 4, it shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the tribal gov-

ernment believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the affected tribe.

SEC. 7. PLAN REVIEW.

Upon receipt of the plan from a tribal government, the Secretary of the Interior shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by such tribal government or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act. Notwithstanding any other provision of law, the affected Secretary shall also have the authority to waive any statutory provisions so identified. Further, in carrying out their responsibilities under this section, the Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, and Secretary of Education shall interpret Federal laws in a manner that will facilitate the accomplishment of the purposes of this Act.

SEC. 8. PLAN APPROVAL.

Within 90 days of the receipt of a tribal government's plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval.

SEC. 9. JOB CREATION ACTIVITIES AUTHORIZED.

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall tribal economic development strategy which has a reasonable likelihood of success.

SEC. 10. PRIVATE SECTOR TRAINING PLACEMENTS.

Notwithstanding any other provision of law, a tribal government participating in a demonstration program under this Act is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and to guarantee permanent employment to the participants upon satisfactory completion of the training period.

SEC. 11. FEDERAL RESPONSIBILITIES.

Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the Office of Tribal Services in the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

SEC. 12. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this Act.

SEC. 13. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to a tribal government in order to further the purposes of this Act.

SEC. 14. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

SEC. 15. FUNDS AUTHORIZED FOR TRAINING RELATED TO INDIAN ROAD CONSTRUCTION.

In expending moneys allocated for Indian road construction programs, the Secretary of the Interior shall expend an amount equal to one quarter of one percent of the amount so allocated to train Indians for employment on road construction projects. Such training may include literacy programs and other educational programs determined by a tribal government to be necessary.

SEC. 16. REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.

Within one year of the date of enactment of this Act, the Secretary shall submit a report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on the implementation of the demonstration program authorized in this Act. Such report shall identify statutory barriers to the ability of tribal governments to more effectively integrate their employment, training, and related services in a manner consistent with the purposes of this Act.

SEC. 17. LABOR MARKET INFORMATION ON THE INDIAN WORK FORCE.

(a) REPORT.—The Secretary, in consultation with the Secretary of Labor, shall, in a consistent and reliable manner, develop, maintain and publish, not less than biennially, a report on the population, by gender, eligible for the services which the Secretary provides to Indian people. The report shall include, but is not limited to, information at the national level by State, Bureau of Indian Affairs Service area, and tribal level for the—

(1) total service population;

(2) the service population under age 16 and over 64;

(3) the population available for work, including those not considered to be actively seeking work;

(4) the employed population, including those employed with annual earnings below the poverty line; and

(5) the numbers employed in private sector positions and in public sector positions.

(b) INDIAN DEMOGRAPHIC INFORMATION.—The Secretary, in consultation with the Bureau of the Census of the Department of Commerce, and the National Center for Native American Studies and Policy Development authorized by Public Law 101-301, shall prepare a report on the need for comprehensive, accurate and periodically updated information on the size and characteristics of the American Indian and Alaska Native population throughout the entire United States. This report shall include the need for information, together with the cost of acquiring such information, on the characteristics and need for education, health, housing, job training, and other basic needs of such population, and shall take into consideration the need for this information by Indian tribes and organizations serving Indians in nonreservation areas. The report shall be submitted to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than 12 months after the date of enactment of this Act.

SEC. 18. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ECONOMIC DEVELOPMENT PROGRAMS.

Any State with an economic development program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of the Intergovernmental Personnel Act of 1970, may deem appropriate to help ensure the success of such program.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 1530), was passed.

The title was amended so as to read: "An Act to authorize the integration of employment, training, and related services provided by Indian tribal governments."

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

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

The motion to lay on the table was agreed to.

ZUNI RIVER WATERSHED ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 257, S. 1350, the Zuni River Watershed Act of 1991.

The PRESIDING OFFICER. The bill will be stated by title. The assistant legislative clerk read as follows:

A bill (S. 1350) to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni River Watershed Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural and grazing lands;

(B) reduced productivity of renewable resources;

(C) loss of nonrenewable resources; and

(D) loss of water;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Indian Tribal Trust and fee land;

(E) Ramah Band of the Navajo Tribe of Indians Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101-486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe of Indians;

(F) Navajo Nation;

(G) State of New Mexico; and

(H) private landowners; and

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed", which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service;

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(iii) tribal offices; and

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current natural and cultural resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;

(iii) the Zuni Indian Tribe;

(iv) the Ramah Band of the Navajo Tribe of Indians;

(v) the Navajo Nation;

(vi) the State of New Mexico;

(vii) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and

(viii) other public or private agencies;

(F) a project plan that—

(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);

(ii) recommends completion dates; and

(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—

(i) outlines tasks for monitoring and maintaining the watershed; and

(ii) estimates the annual cost of performing the tasks.

(b) REPORT.—Not later than 4 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture, the Secretary of the Interior, and the Tribes shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—

(1) the full text of the study and the plan; and

(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1350), as amended, was passed.

The title was amended so as to read: "An Act to formulate a plan for the management of natural and cultural resources on the Zuni Indian reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.".

Mr. BINGAMAN. Mr. President, I am pleased the Senate has passed S. 1350, which will bring together as partners the people who live and work within the Zuni River Watershed to formulate a plan for the management of natural and cultural resources on lands within the watershed.

For decades, the people of Zuni Pueblo, and others living and working within the watershed of the Zuni River, have watched both their land and their history erode away. Every year, topsoil, washed down from the mountains and mesas, is swept off by the spring runoff and floods. During these floods expanding arroyos also threaten the archaeology of the area. Nearly 2,000 archaeological sites within the Zuni Reservation alone have been damaged as a result of this erosion.

The destructive erosion of the Zuni River watershed goes back to the era of historic logging and overgrazing fostered by previous Government policies and decisions. Since that time, land management practices have changed, but the people living within the watershed are left with a legacy of barren landscapes and the continuing threat of erosion and flood.

This bill takes positive action. Its enactment will produce a plan for the management of the watershed which not only will prevent further degradation, but also will identify what can be done to rehabilitate these lands. It will foster voluntary cooperation among the Zuni Indian Pueblo, the Ramah Band of the Navajo tribe of Indians, the Navajo Nation, the State of New Mexico, the Soil Conservation Service, the Forest Service, the Bureau of Indian Affairs, and private landowners. All people within the Zuni River watershed should benefit from this cooperative planning effort to restore these affected lands.

The Zuni watershed bill reflects a comprehensive approach to resource management and fosters resource partnerships to accomplish this. It encourages land managers to look beyond administrative boundaries to tackle the problem of an entire watershed in trouble. It provides an opportunity for strong, dynamic partnerships between everyone affected by the watershed's degradation—Indian governments, land management agencies, and private landowners. The result will be the conservation of the natural and cultural resources in the watershed, and new

and lasting partnerships for resource management.

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

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

The motion to lay on the table was agreed to.

MEASURE INDEFINITELY POSTPONED—S. 962

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar No. 246, S. 962, be indefinitely postponed.

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

SALUTE TO DENNIS SHEA

Mr. DOLE. Mr. President, during the past few weeks, there have been more than a few shots taken at Senate staffers. But, as we all know, the vast majority of the men and women who work in our office are outstanding and hard-working public servants.

Tonight, I want to briefly salute one of the best.

Dennis Shea has been legal counsel in my office since November 1988. In that time, he has handled a vast array of issues, with integrity and intelligence—tough issues, such as banking, S&L's, campaign finance reform, constitutional law, and crime.

His special passion, however, has been civil rights. With the exception of Senator DANFORTH, I would venture to say that no one has worked harder—not only during the past months—but throughout the past years—to reach the historic compromise which we passed earlier this evening.

Dennis knew this legislation backward and forward. He knew where the sticking points were, and he was always seeking ways to find a middle ground. Throughout the negotiations of the past few days, he was either on the phone with a Senator or White House staff, or personally working with Senators and other staffers to get the job done.

The passage of this legislation marks Dennis' final assignment in my office. He is returning to his home in New York, where he is considering a run for Congress.

And if I know anything about Dennis—about his energy, his intelligence, and his desire to serve the people—then I would not be at all surprised if he returns to Washington in January 1993 as a U.S. Congressman.

THE CIVIL RIGHTS BILL

Mr. MITCHELL. Mr. President, I want to add to the statement I made earlier commending a number of people for their contribution to the civil rights bill. I mentioned a large number of Senators including Senator DOLE, Senator HATCH, Senator KENNEDY, Senator DANFORTH, and I should have mentioned Senator JEFFORDS who was one of the key figures in this entire effort and without whose patience, perseverance, and persistence this result would not have been achieved. I commend Senator JEFFORDS for his constructive role in that process as well as several other Senators that I mentioned at the time.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, in accordance with Senate Resolution 82, 102d Congress, appoints the Senator from Wisconsin [Mr. KOHL] to the Select Committee on POW-MIA, vice the Senator from Arizona [Mr. DECONCINI].

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-498, appoints Dr. William C. Hiss, of Maine, to the Advisory Committee on Student Financial Assistance.

NATIONAL ENERGY POLICY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 106, S. 1220, the National Energy Policy Act.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I now move to proceed to the consideration of Calendar No. 106, S. 1220, and I send to the desk a cloture motion on the motion to proceed to the bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1220, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation and for other purposes:

Bennett Johnston, David Boren, Lloyd Bentsen, Daniel Inouye, Kent Conrad, John Breaux, Jeff Bingaman, Malcolm Wallop, Pete V. Domenici, Larry Craig, Steve Symms, Don Nickles, Richard Shelby, Alan Simpson, Trent Lott, Orrin Hatch.

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. MITCHELL. Mr. President, accordingly, under the rules, a vote will occur on the cloture motion on the motion to proceed to the bill 1 hour after the Senate convenes on Friday unless agreement is reached as to a different time. I will discuss the matter tomorrow with the distinguished Republican leader and with several interested Senators, Senator WALLOP, Senator JOHNSTON, Senator BAUCUS, and several others, to see if they have any interest in reaching an agreement on a specific time on Friday. But as of now, if there is no agreement, the vote will occur 1 hour following the convening of the Senate on Friday.

Mr. President, unless the distinguished Republican leader has anything further.

Mr. DOLE. I would just say I hope maybe by sometime tomorrow or early Friday we might agree to have the vote Tuesday evening. I understand right now there is objection to that on the cloture vote.

We can keep trying, I guess.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if there is no further business, and the distinguished Republican leader has nothing further, I now ask unanimous consent that Senator CRANSTON be recognized to address the Senate for up to 7 minutes and that following the completion of his remarks, Senator GORTON be recognized to address the Senate for such period of time as he may choose, and that Senator GORTON's remarks, which relate to the Interior appropriations conference report, be placed in the RECORD following the remarks of Senators BYRD and NICKLES on that subject, and that upon the completion of Senator GORTON's remarks the Senate stand in recess under the order.

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

CHINA'S DANGEROUS NUCLEAR TRADE CONTINUES UNCHECKED

Mr. CRANSTON. Mr. President, on October 16, the following headline appeared in the Washington Times over a news story "Chinese Build Reactor for Iranian Program." The first paragraph states:

> The Chinese Government is building a nuclear research reactor in Iran that is part of an Iranian secret weapons program, according to Bush administration officials.

This morning, the following headline appeared over an article in the Washington Post: "Officials Say Iran is Seeking Nuclear Weapons Capability. China Sale of Equipment Worth Millions Cited." The first paragraph reads, in part:

> * * * Iran is aggressively seeking to develop a nuclear weapon and China has provided Iran with equipment capable of making some fissile material for such a weapon, according to Bush administration officials.

These officials remain anonymous. A man who has not remained anonymous is Deputy President Ataollah Mohajerani, of Iran, who, in an interview distributed by the official Iranian news agency, said:

Because the enemy—

Clearly meaning Israel—

because the enemy has nuclear facilities, the Muslim states too should be equipped with the same capacity.

Mohajerani, who normally is responsible for legal and parliamentary affairs but occasionally speaks for Iranian President Ali Akbar Hashemi Rafsanjani on foreign policy matters, said, "Muslims should strive to go ahead."

And he said:

"I am not talking about one Muslim country, but rather the entirety of Muslim states. * * * We witnessed the destruction of Iraq's nuclear devices" by parties that he said have no business interfering in such matters.

Meaning, obviously, Israel.

Mr. President, I today, as chairman of the Subcommittee on East Asian and Pacific Affairs, conducted a hearing that primarily delved into these matters. We had a witness from the State Department and the Department of Defense, and I heard from others. After being briefed today by State and Defense Department officials, my concerns about press reports that Iran is developing a nuclear weapons capability with Chinese assistance have been greatly intensified.

I am deeply troubled that the administration has not done enough on its own and with other nations to discourage Chinese proliferation activities.

We did not get straight answers from the administration in the past about Chinese involvement in the export of weapons of mass destruction.

The administration owes the Congress and the American people an explanation about why only last June the State Department told the Senate that the Chinese were not aiding Iran in the nuclear area.

Secretary Baker should either not go to Beijing on his impending trip to Asia or should go for the primary purpose of making plain that China's proliferation policy is unacceptable and will lead to United States actions that the Chinese will regret.

I am unsatisfied with the administration's meager assurances provided at this morning's hearing, which I chaired in the East Asian and Pacific Affairs Subcommittee, that, although it is concerned about reports of weapons and nuclear technology transfers by China, it finds that China has been "somewhat cooperative" in controlling weapons proliferation.

Frankly, I find it difficult to understand what "somewhat cooperative" means in this very vital, dangerous matter.

Assistant Secretary of State Richard Solomon cited China's pledge to sign the Nuclear Non-Proliferation Treaty and its decision to refrain from sales it had been contemplating as evidence of cooperation. The administration reasserted its position that it possesses a "broad range of tools" to discourage China from transferring weapons technology. Secretary Solomon reiterated that the United States policy of engagement with China is the "only realistic way to deal with these issues."

Mr. President, I am not convinced that the United States is doing what it can—and there are many things it could do—to prevent China from peddling lethal materials and weapons. The consequences of further inaction will be very, very grievous.

According to today's news reports, China has plans to sell Iran millions of dollars worth of calutron equipment used in the manufacture of highly enriched uranium—a primary component of nuclear weapons. Proliferation experts have questioned this sale, stating that calutron devices are not normally part of a civilian nuclear energy program. Even administration officials have questioned the sale, stating that it appears at odds with China's supposed cooperative stance on nuclear proliferation matters.

Chinese willingness to help the Iranians acquire nuclear weapons capability would exacerbate the underlying tensions in the region and works at cross purposes with our efforts to bring a real and comprehensive peace to the Middle East. The Madrid conference, an important step forward in the peace process—symbolized by the olive branches waved by Palestinian delegates—is overshadowed by this symbol of enmity, the specter of an Islamic bomb. Revelations about Iran's quest for nuclear weapons capability serve as a sharp reminder that there are many sources of instability in the Middle East. China's role in supplying equipment to the Iranians threatens to open up an era of nuclear brinkmanship.

Today's discussion also indicates that the administration's most-favored-nation policy for China has not worked to improve Chinese proliferation policy. The administration has told Congress over and over again that it is opposed to placing conditions on the renewal of China's most-favored-nation trade status because conditions would "hold our single most powerful instrument for promoting reform hostage to the reactions of the hard liners in Beijing." Well, Mr. President, just how far has the "single most powerful instrument" gotten us in weapons proliferation control? All the way to Iran, perhaps.

Today's reports and hearing reaffirm my view that new international methods for controlling proliferation are necessary. This morning I proposed that it is time to consider the creation of a Conference on Security and Cooperation in Asia to examine intraregional developments that are causing extraregional problems such as nuclear weapons proliferation.

I believe we need a much stronger international regime that will be capable of doing more than the preset, obviously failing, regime is doing to prevent nuclear proliferation. Whatever the vehicle, the United States must take an active leadership role within the international community in controlling renegade states.

Let me finally say, Mr. President, the story is not yet told. The bottom line is not yet written on whether or not China will get most-favored-nation status. And perhaps these revelations will cause some second thinking on that subject.

I ask unanimous consent that the Washington Times and Washington Post articles be printed in the RECORD.

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

[From the Washington Times, Oct. 16, 1991]

CHINESE BUILD REACTOR FOR IRANIAN PROGRAM

(By Bill Gertz)

The reactor site was photographed by a U.S. intelligence satellite last month in the early stages of construction at an unspecified location in western Iran, said officials who spoke on condition of anonymity.

"It's a research reactor that almost certainly will be used to build nuclear weapons," said one official familiar with intelligence reports.

Another official said China's involvement in the Iranian reactor program is a further indication that Beijing is not heeding U.S. calls to limit the proliferation of nuclear technology to the unstable region.

Technicians affiliated with the China Nuclear Energy Industry Corp., a quasi-government company, are reportedly involved in the Iranian reactor program, this official said. The firm markets nuclear technology and low-enriched uranium.

The Chinese also are building a reactor in Algeria that is believed by U.S. intelligence officials to be part of a covert nuclear weapons program.

In September, the chief of Iran's Atomic Energy Organization, Reza Amrollahi, said Iran would have several nuclear power plants within 10 years. He has denied Iran "is capable of making atomic bombs."

Few details are known about Iran's drive to build a nuclear bomb. But the National Intelligence Council, an analytical arm of the office of the CIA director, issued a major interagency report in June that stated Iran is one of three developing nations building a nuclear bomb.

Algeria and Iraq also are engaged in nuclear arms programs.

A spokeswoman for the State Department's Near East and South Asia bureau declined to comment on the construction of the Iranian reactor because it would involve "sensitive intelligence sources and methods."

"We have made clear our concerns about Iran's commitment to its Nuclear Non-proliferation [Treaty] obligations," the spokeswoman said. Iran is a signatory of the treaty.

The State Department, as a matter of broad policy, is trying to halt the spread of nuclear weapons to the Middle East, including Iran, she said.

At a meeting of the International Atomic Energy Agency in Vienna last month, Mr. Amrollahi said Iran would complete construction of a nuclear facility at Bushehr, in southwestern Iran on the Persian Gulf coast, which was left unfinished by German companies.

In addition to nuclear cooperation, Iran also has sought to purchase Chinese M-11 ballistic missiles.

[From the Washington Post]

OFFICIALS SAY IRAN IS SEEKING NUCLEAR WEAPONS CAPABILITY

(By R. Jeffrey Smith)

The Chinese Government is building a nuclear research reactor in Iran that is part of an Iranian secret weapons program, according to Bush administration officials.

The U.S. intelligence community has recently concluded that Iran is aggressively seeking to develop a nuclear weapon and that China has provided Iran with equipment capable of making some fissile material for such a weapon, according to Bush administration officials.

Discovery of the Chinese sale to Iran comes amid disclosures of an unexpectedly advanced nuclear weapons program in neighboring Iraq. Some U.S. analysts now suspect that Iran may be seeking to do what Iraq has been blocked from doing and build a nuclear weapon that can be brandished in the Middle East.

As recently as June, U.S. officials said there was no evidence that China was assisting any effort by Iran to make nuclear weapons. Administration officials said their new concern about Iran's intentions was heightened last week when a senior Iranian official expressed interest in building a nuclear arsenal to match that believed held by Israel.

In an interview distributed by the official Iranian news agency, deputy president Ataollah Mohajerani said that "because the enemy has nuclear facilities, the Muslim states too should be equipped with the same capacity."

Mohajerani, who normally is responsible for legal and parliamentary affairs but occasionally speaks for Iranian President Ali Akbar Hashemi Rafsanjani on foreign policy matters, said "Muslims should strive to go ahead" because nuclear weapons can enable countries to achieve a military superiority over potential enemies.

"I am not talking about one Muslim country, but rather the entirety of Muslim states," he said, noting that "we witnessed the destruction of Iraq's nuclear devices" by parties that he said have no business interfering in such matters.

U.S. officials said the remarks may represent a significant statement of Iranian intentions. "Iran is trying to do things on the cutting edge of nuclear technology that they would not find interesting if they did not have weapons in mind," said one official, adding that the Iranian program is still believed to be at an earlier stage of development than was Iraq's program before the start of the Persian Gulf War last January.

While declining to provide details, the official said the U.S. intelligence community had concluded after a review that Iran is seeking "much more [technology] than would be needed" to develop a civilian nuclear power network, which Iranian officials routinely have claimed is their sole objective.

"They have tremendous social needs, and they are a major exporter of oil, yet they are spending all this money on nuclear-related equipment," the official said. "It doesn't make any sense."

In addition to evidence of nuclear cooperation between Iran and China, administration officials site recent efforts by Iran, so far unsuccessful, to obtain nuclear-related technology from Brazil. A U.S. government analyst, speaking on condition he not be named, said 90 percent of what Iran is seeking from foreign suppliers can be used equally for nuclear weapons and civilian power, providing a ready "cover" for the weapons-related work. Officials said the Iranian shopping list includes nuclear fuel, equipment for handling and processing fissile materials, and nuclear reactors to replace those destroyed in the 1980-88 war with Iraq.

China signed an agreement in June 1990 to provide what it described as a "micro-nuclear reactor" for installation at Esfahan in central Iran. It also has provided training for Iranian nuclear engineers and sent delegations of scientists to Iran, a U.S. government source said.

But the Iranian purchase from China that recently caught U.S. attention involved calutron equipment worth millions of dollars, according to government officials. The equipment is considered capable of producing highly enriched uranium—a vital component of nuclear weapons—through a process of electromagnetic isotope separation.

Officials described the equipment as similar to the calutron devices discovered in Iraq last summer during international inspections there. Iraq had been preparing secretly to operate hundreds of the relatively crude devices, leading U.N. experts to estimate that the Baghdad regime could have produced a single nuclear weapon in 12 to 18 months.

The quality of Chinese-made equipment sold to Iran was not sufficient to produce even a single bomb's-worth of enriched uranium, U.S. officials said. But they said the sale amounts to a significant transfer of technology that Iran could readily duplicate.

"You would not use calutrons for a civilian nuclear power program," said Leonard S. Spector, a nuclear proliferation expert at the Carnegie Endowment for International Peace here. "What's disturbing is that the recipient can take such a device and advance rapidly without extensive foreign assistance" in producing a sufficient quantity of enriched uranium for a single bomb.

Several officials said that China's sale of the calutron equipment appeared at odds with routine assurances by Beijing that it neither encourages nor participates in nuclear proliferation, nor provides assistance to other countries in developing nuclear weapons. They said the sale appeared to grow out of the close Iranian-Chinese ties developed during the mid-1980s, when government-affiliated corporations run by family members of senior Chinese leaders made huge profits by selling to both sides during the Iran-Iraq war.

The PRESIDING OFFICER. Under the previous order the Chair recognizes the Senator from Washington [Mr. GORTON].

RELIEF FOR THE NORTHWEST

Mr. GORTON. Mr. President, 2 weeks ago this Senator offered an amendment to the Interior appropriations bill while it was being considered by the conferees from the House and Senate. That amendment represented the end game in a several-week-long effort to produce short-term relief for the distressed timber-based communities of the Pacific Northwest. At the beginning of that period, my good friend and thoughtful House colleague representing the Sixth District of Washington, NORM DICKS, with my help, and that of Senator HATFIELD, attempted to draft a well-balanced amendment for interim relief that would have protected the northern spotted owl, left old-growth forests virtually untouched and raised the 2-year supply of timber in the pipeline by approximately 3 billion board feet. That attempt failed, primarily because of the influence of the environmental lobby with key Members of the House of Representatives. My last ditch attempt consisted of one paragraph from the Dicks amendment, which also was struck down for no reason other than that the environmental organizations oppose every amendment that attempts to address the spotted owl/old growth crisis in any kind of balanced fashion.

Mr. President, national environmental organizations unleashed their full artillery on two amendments even though they would have fully protected the spotted owl and practically every old growth tree. They even went so far as to take out a full-page advertisement in Roll Call, a Capitol Hill newspaper, claiming that this Senator was threatening to cut down the last stick of old growth in the Pacific Northwest. That, Mr. President, is categorically false. But it does illustrate the fact that these groups have a new agenda and lack any respect for the truth.

This new agenda does not involve just spotted owls and old growth forests. Apparently, the new objective of these critics is the destruction of the entire timber-based, rural economy of the Pacific Northwest and, with it, the lives of hard-working families. Mr. President, they have gone too far.

The original amendment that Congressman DICKS and I began work on would have implemented last year's Jack Ward Thomas Report on all Federal forestlands in the States of Oregon and Washington. That report is not popular in timber country. But, as much as I have criticized the recommendations of the Thomas Report as affording more protection for the spotted owl than is necessary for their survival, its application for 1 year would have brought next year's timber sale program on Forest Service land to approximately 2.6 billion board feet. This would have meant greater stability for timber communities and the survival of thousands of jobs there. While I do not accept the Thomas Report as an appropriate, long-term solution, and never will, I would have accepted it during the interim in order both to protect the owl and to keep rural, Northwest communities reasonably viable.

The amendment also was designed to lift guidelines issued illegally by the

Fish and Wildlife Service that imposed onerous restrictions on State and private landowners. In place of those guidelines, the amendment would have protected a 70-acre circle around each owl nest site and activity center of a pair of northern spotted owls on State and private lands, a level of protection the Fish and Wildlife Service accepted as sufficient on those nonfederal lands. This provision of the amendment was critical to my constituents in the state of Washington. Because of the location of spotted owls and the method employed in the Thomas Report for protecting those owls, the implementation of the Thomas Report would result in far greater benefit to the people of Oregon than of Washington. This second paragraph was designed to help those who rely on State and private timber and thus would have benefited the people of Washington more than Oregon because of our different land mix.

The amendment also would have expedited Forest Service administrative appeals, without in any way diminishing the right to appeal. Another provision would have directed the recovery team for the northern spotted owl to seek to limit as far as possible the loss of employment resulting from the implementation of a recovery plan for the owl.

Mr. President, the Dicks amendment embodied five very simple and reasonable objectives:

First, it would have protected the northern spotted owl with the most restrictive scientific plan to date;

Second, it would have protected practically every old-growth tree in the Pacific Northwest;

Third, it would have freed last year's Federal sales program from injunctions and protected thousands of jobs;

Fourth, it would have hastened a much-needed review of the Forest Service's administrative appeals process and revoked the existing process until a more efficient one is in place; and

Fifth, it would have freed thousands of acres of State and private, non-old-growth forestland from illegally imposed restrictions.

Mr. President, I cannot offer enough praise to Congressman NORM DICKS. He worked long and hard to bring this effort to fruition and his leadership kept us headed in the right direction. Without NORM, we would not have come as close as we did. The people of Washington should thank Congressman DICKS. He is a leader and a statesman who has the interests of both the Pacific Northwest region and the Nation in mind, not just those of his own district.

This amendment did not fail because of the involvement of Congressman DICKS. It failed despite his hard work. The Congressman received personal assurances of support from the Speaker of the House. The Speaker wanted a short-term amendment to the appropriations bill, or so we had heard. But when Congressman DICKS reported to the influential chairman of the House Interior Committee, the House Agriculture Committee and the Subcommittee of the Merchant Marine and Fisheries Committee on Wildlife Conservation, those chairmen strongly opposed any amendment to the Interior appropriations bill and the support of the Speaker evaporated. Mr. DICKS was left in the unenviable position of being both supported and opposed by his own party, when the Speaker failed to help and the Congressman was left hanging high and dry.

We were told that the House chairmen were prepared to move forward on authorizing legislation on this subject. Although this assertion only helped to frustrate our attempts to obtain some short-term relief on the appropriations bill, it is reassuring to hear that these chairmen have rededicated themselves to a comprehensive, long-term solution to this very difficult problem—this year, because it is during this year—now—that relief is necessary.

While his own party in the House was busy frustrating his efforts, back home Congressman DICKS was the target of an unfavorable editorial in the Portland Oregonian. The Oregonian criticized Mr. DICKS on the grounds that it was a "run around the committees that ought to be working on [a] long-term bill." We will soon see how effective the Oregonian is in causing that result.

Congressman DICKS was criticized by yet another quarter in Oregon: The Oregon timber industry. That industry was opposed to any amendment that would impede any perceived progress being made in convening the Endangered Species Committee, the so-called God Squad. The concern centered on the fact that the Bureau of Land Management, which manages no forest land in Washington but thousands of acres in Oregon, has successfully convened a God Squad in accordance with the Endangered Species Act. If Congress had implemented the Thomas Report on Federal lands and provided management pursuant to that report was sufficient for compliance with the Endangered Species Act, none of the BLM's timber sales during that period could be submitted to the God Squad. We got the message loud and clear that the Oregon timber industry was more interested in the risky possibility that the God Squad would rule in its favor than it was in an amendment that would boost significantly the overall supply of timber in Oregon and Washington. This opposition was regrettable, since the implementation of the Thomas Report—at the core of the amendment—would have benefited both States, but primarily Oregon.

In the end, however, this opposition hardly mattered since a preemptive veto was imposed by the chairmen of influential House committees and the national environmental organizations. In light of all of this opposition, Congressman DICKS had no choice but to withdraw the amendment and abandon a sinking ship.

Despite growing hostility to the amendment, I felt the need to offer separately the provision that lifted the illegal regulations plaguing non-Federal landowners. Congressman DICKS enthusiastically supported this effort. The provision for State and private lands, standing alone, had little to do with Oregon, very little to do with spotted owls and nothing at all to do with old growth forests. This amendment should have avoided every source of opposition we heard to the larger amendment. That assumption proved false, however, when I offered it in conference. Much to our surprise, the chairman of the House Interior Appropriations Subcommittee strongly opposed the amendment. The chairman of the Senate Agriculture Committee forwarded a letter of opposition to the chairman of the Senate Appropriations Committee. And, despite the overwhelming assistance this amendment would provide to working families in the State of Washington, the amendment was actively opposed by the senior Senator from my State.

Even this small, innocuous amendment failed. During the debate in the conference committee, however, the distinguished chairman of the Senate Appropriations Committee gave a much-welcome statement of support for our cause. Chairman BYRD told us, in no uncertain terms, that he understood the plight of working people and said that he would vote for the relief proposed in both amendments as a part of general authorizing legislation, even though he felt constrained to bow to the objections of committee chairmen to an appropriations rider. The chairman referred to his own constituents in the coal industry who suffered, and continue to suffer, and he expressed his sympathy. I thank the distinguished chairman and hope that his support will help bring this issue to a successful conclusion some day in the future.

I would also like to thank the senior Senator from Oregon [Mr. HATFIELD]. Senator HATFIELD was involved throughout the negotiations on the Dicks amendment and he supported the idea of an appropriations amendment in order to provide short-term relief to his constituents in Oregon timber communities.

As I have said, Mr. President, the issue is not spotted owls or old growth. Even a minor amendment that would have left both old growth and the owl protected was the subject of intense opposition from national environmental organizations and their backers in Congress. No, this issue is about a slow, methodical, and well-financed effort to lock up every acre of Federal land and now, it would seem, State and private land as well.

Richard Larson, in the Seattle Times of Sunday, October 6, published a graph labeled "Land Withdrawn from Timber Harvest." The graph illustrates precisely the trend to which I refer. In the State of Washington, the Federal land base consists of 10.3 million acres. Prior to 1980, nearly 3 million acres, or 28 percent, were set aside in national parks and wilderness areas. After 1980, more than 1 million acres, or 10 percent, were placed off-limits in national parks, monuments, and wilderness areas.

The National Forest Management Act of 1976 resulted in the withdrawal of 3.1 million acres from traditional multiple use, including timber harvest. This was the largest single removal ever at 30 percent. Forest Service planning pursuant to the National Forest Management Act also resulted in the removal of another 967,000 acres from timber production in Washington.

In 1990, along came the northern spotted owl and the Thomas Report. That report recommended that the Federal Government protect an additional 997,000 acres in Washington for the northern spotted owl and the Forest Service obliged. Finally, the latest designation of critical habitat by the Fish and Wildlife Service would withdraw an additional 164,000 acres. Although Larson's chart does not illustrate the effects of Judge Dwyer's injunction, his decision set aside 66,000 acres more.

The chart shows the total Federal land base in Washington to be 10.3 million acres. Admittedly, this is somewhat misleading because some of the acres removed for national parks and wilderness areas are not commercial forests. But no more than 50 or 60 percent of this land—or 2.4 million acres—consists of rocks, meadows, and ice. After removing 2.4 million acres from both the total Federal land base in Washington and those acres designated as national parks and wilderness, the total Federal commercial forest land base in Washington is 7.9 million acres and of that total, 6.9 million acres is currently off limits.

When all is said and done, only 1 million acres, a mere 12.5 percent of Federal commercial forests in the State of Washington, are available for timber harvest in that State. If this trend continues, the remaining 12.5 percent will soon be locked up as well.

Mr. President, I am frustrated by the inability of this Congress to solve the spotted owl/old growth problem. I am frustrated by the inability to provide even short-term relief. The most innocuous and reasonable amendment cannot gain the support of the environmental organizations. Mr. President, I suspect that even an amendment that set aside all 7.9 million acres of Federal land in Washington State and one that preserved the status quo of injunctions, land set-asides, economic dislocation, and human suffering would not be enough. The groups apparently will not be satisfied until all public forests in the States of Washington and Oregon, State as well as Federal, are shut down and with them the communities that depend on public forests for their sustenance. As long as the centralized, urban, service-based, economy that supports their membership is thriving, they will continue to advocate policies that devastate rural communities that are out-of-sight, out-of-mind.

Perhaps my suspicion that the objective of this intense opposition is not the protection only of the owl or old growth, and is instead aimed at a complete and methodical removal of the entire public forest land base is in error. But it can easily be tested. I have one question, one challenge for the environmental organizations and their representatives in Congress: I challenge these groups to point specifically to the areas of public forest land that they will permit, with certainty, to be cut and managed for timber production now and for the indefinite future. If they cannot make such a commitment, they bear the total responsibility for the drastic consequences—the destruction of tens of thousands of jobs and lives, and of dozens of vibrant communities.

Worldwide demand for wood products will not abate. In fact, researchers predict a steady rise in worldwide demand. If consumers do not buy their wood products from this country, then simple international economics tells us they will go elsewhere, where the environmental laws are less stringent than they are in the Northwest. If you think the South American rainforests are being overcut now, wait until world demand shifts from our trees to theirs.

The result of the policies that have led to this dead end will be devastated lives, lost opportunities, a worse national trade deficit, and a degraded world environment. This is an unacceptable result, and one that all Northwest Members of Congress must fight against.

Thank you, Mr. President. I ask unanimous consent that the Seattle Times article be printed in the RECORD.

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

[From the Seattle Times, Oct. 6, 1991]

FROM TIMBER TOWNS, A CRY FOR COMPASSION

(By Richard W. Larsen)

It was a loud cry of human pain, but you probably didn't hear it or pay much attention to it.

Carol Owens explained how the anguish of prolonged unemployment and uncertainty about the future can damage even the most resilient psyche in people of all ages—especially the children.

"Children are the barometers of the problem," explained Owens, director of human services for Clallam County. She told of behavioral changes, dropoffs in schoolwork, and other symptoms.

In families that may once have had only minor problems, "there's more violence, more substance abuse. . ." Owens added.

When the fathers are thrown out of work, there's not only loss of the paycheck, but Mom, Dad and kids usually are stripped of medical insurance. Other speakers described other pain, especially the plunge of local economies and the financial crises hitting schools and county government.

If that epidemic of distress were hitting thousands of men, women and children and the major businesses in one of our metropolitan areas, it would be the hearttugging top story on television and in the rest of the news media.

But all this went without much news play: It was just another description of what's happening to people living away from the media centers—in small towns such as Forks, Raymond, Darrington, Hoquiam.

It all came in testimony during a recent hearing in Olympia conducted by the U.S. Fish and Wildlife Service. Topic: Effects of reducing timber harvests to meet the habitat needs of the spotted owl.

For all kinds of social/psychological reasons, the cries from people in Washington's timber communities haven't caught the attention of many people in urban areas. (On the day of that testimony in Olympia, the top story in Seattle and Tacoma was the financial trouble of Frederick & Nelson.)

In part, it's a symptom of the political and social segregation that has developed between rural and urban Washington. And, because it's complicated and seems to drone on and on, the issue of the spotted owl and timber becomes only a monotonous, background hum in the daily life of most of the state.

The spotted owl rides high on a wide tide of environmental concerns. As one of the witnesses told the federal panel at Olympia, there's a bias among those who, without facts, assume that thousands of acres of Washington forestlands—especially federal forests—are being laid waste by mindless, excessive tree cutting.

During the past century, in fact, the bulk of all federal landholdings across the state have been withdrawn from timber harvest. Data collected by the Northwest Forestry Association portray the chronology of forest preservation in the state:

[Graph not reproducible in the Record.]

During the 1930s Congress created the national parks—Mount Rainier and Olympic—and national recreation areas such as the North Cascades. In all, nearly 3 million Washington acres went into preservation status, including much of the state's commercial-forest base.

During and after the 1970s came the wilderness-area setasides on other federal lands—the scenic Alpine Lakes, Glacier Peak, Mount Baker, the vast Pasayten, and many others. Another 1-million-plus acres.

New planning that came out of the National Forest Management Act of 1976 produced the biggest-ever removal of federal forestlands from traditional multiple use that included timber harvest—about 3.1 million acres.

As part of that new planning, another 967,000 acres was to be managed for primary uses other than timber production. (The subtotal so far is 78 percent of the original federal forestland in the state.)

The Northern Spotted Owl conservation areas recommended by the Interagency Scientific Committee (ISC) increased the setasides by 997,000 acres.

And the newest critical-habitat designation for the spotted owl would withdraw an additional 164,000 acres.

That adds up to 9.3 million acres withdrawn from the original 10.3-million-acre federal forestland base. So, noted one women, timber-dependent communities find themselves struggling to exist on a residual fraction of the total federal forestland . . . and are told they must give up more.

A logger's wife drilled this Seattle writer with a question: "Why is there no compassion for us?" She protested the media's villainization of the timber worker: "We're people who care about the environment. We live here."

At the very least, she lectured me, someone should write it into the record that millions of acres of Washington forests and mountains stand preserved—a vast, rich habitat for hundreds of species of wild animals and birds, offering recreation and scenic opportunity for everyone in the state . . . forever.

OK. There it is.

Mr. GORTON. I yield the floor.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 on Thursday, October 31; that immediately following the prayer the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, that Senator BOREN be recognized for up to 15 minutes, and Senator DURENBERGER for up to 10 minutes; that at 10 a.m. the Senate resume consideration of the motion to proceed to S. 1220, the energy bill, with the time from 10 a.m. to 1 p.m. to be equally divided and controlled between Senators JOHNSTON and BAUCUS; that at 1 p.m. the Senate resume consideration of the amendments in disagreement to H.R. 2686, and that Senator HELMS be recognized at that time to offer an amendment relative to the NEA and obscene material on which there be 90 minutes of debate equally divided in the usual form with amendments in order thereto, and that at the conclusion or yielding back of the time the Senate vote on or in relation to Senator HELMS' amendment.

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

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 9:30 a.m.

Thereupon, the Senate, at 7:22 p.m., recessed until Thursday, October 31, 1991, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October, 30, 1991:

DEPARTMENT OF LABOR

DELBERT LEON SPURLOCK, JR., OF CALIFORNIA, TO BE DEPUTY SECRETARY OF LABOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, October 30, 1991*

The House met at 11:00 a.m.

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

We are conscious, O loving God, of these momentous times when the realities that we have lived with for so long are no longer evident and there is change all about. At such a time we are deeply aware that we are responsible to see the vision of the new realities and to be accountable for our leadership. We know that to whom much has been given will much be required. We pray O God, that we will be steadfast in our beliefs, faithful in the works of peace, and diligent in bringing understanding among the nations. This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. WALSH] come forward and lead the House in the Pledge of Allegiance?

Mr. WALSH 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 bills of the following titles, in which the concurrence of the House is requested:

S. 1532. An act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes; and

S. 1579. An act to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call, and for other purposes.

VETERANS' COMPENSATION RATE AMENDMENTS OF 1991

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1046) to amend title 38, United States Code, to increase, effective as of December 1, 1991, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rate Amendments of 1991".

(b) REFERENCES.—Except as otherwise expressly provided, 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 title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) 3.7-PERCENT INCREASE.—Section 1114 is amended—

(1) by striking out "$80" in subsection (a) and inserting in lieu thereof "$83";

(2) by striking out "$151" in subsection (b) and inserting in lieu thereof "$157";

(3) by striking out "$231" in subsection (c) and inserting in lieu thereof "$240";

(4) by striking out "$330" in subsection (d) and inserting in lieu thereof "$342";

(5) by striking out "$470" in subsection (e) and inserting in lieu thereof "$487";

(6) by striking out "$592" in subsection (f) and inserting in lieu thereof "$614";

(7) by striking out "$748" in subsection (g) and inserting in lieu thereof "$776";

(8) by striking out "$865" in subsection (h) and inserting in lieu thereof "$897";

(9) by striking out "$974" in subsection (i) and inserting in lieu thereof "$1,010";

(10) by striking out "$1,620" in subsection (j) and inserting in lieu thereof "$1,680";

(11) in subsection (k)—

(A) by striking out "$66" both places it appears and inserting in lieu thereof "$68"; and

(B) by striking out "$2,014" and "$2,823" and inserting in lieu thereof "$2,089" and "2,927", respectively;

(12) by striking out "$2,014" in subsection (l) and inserting in lieu thereof "$2,089";

(13) by striking out "$2,220" in subsection (m) and inserting in lieu thereof "$2,302";

(14) by striking out "$2,526" in subsection (n) and inserting in lieu thereof "$2,619";

(15) by striking out "$2,823" each place it appears in subsections (o) and (p) inserting in lieu thereof "$2,927";

(16) by striking out "$1,212" and "$1,805" in subsection (r) and inserting in lieu thereof "$1,257" and "$1,872", respectively; and

(17) by striking out "$1,812" in subsection (s) and inserting in lieu thereof "$1,879".

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$96" in clause (A) and inserting in lieu thereof "$100";

(2) by striking out "$163" and "$50" in clause (B) and inserting in lieu thereof "$169" and "$52", respectively;

(3) by striking out "$67" and "$50" in clause (C) and inserting in lieu thereof "$69" and "$52", respectively;

(4) by striking out "$77" in clause (D) and inserting in lieu thereof "$80";

(5) by striking out "$178" in clause (E) and inserting in lieu thereof "$185"; and

(6) by striking out "$149" in clause (F) and inserting in lieu thereof "$155".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$436" and inserting in lieu thereof "$452".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade ..	Monthly rate
E-1	$616	W-4	$884
E-2	635	O-1	780
E-3	652	O-2	805
E-4	693	O-3	862
E-5	711	O-4	912
E-6	727	O-5	1,005
E-7	762	O-6	1,134
E-8	805	O-7	1,225
E-9	[1]841	O-8	1,343
W-1	780	O-9	1,440
W-2	811	O-10	[2]1,580
W-3	835		

"[1] If the veterans served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $907.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,693.";

(2) by striking out "$68" in subsection (b) and inserting in lieu thereof "$71";

(3) by striking out "$178" in subsection (c) and inserting in lieu thereof "$185"; and

(4) by striking out "$87" in subsection (d) and inserting in lieu thereof "$90".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$299" in clause (1) and inserting in lieu thereof "$310";

(2) by striking out "$431" in clause (2) and inserting in lieu thereof "$447";

(3) by striking out "$557" in clause (3) and inserting in lieu thereof "$578"; and

(4) by striking out "$557" and "$110" in clause (4) and inserting in lieu thereof "$578" and "$114", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$178" in subsection (a) and inserting in lieu thereof "$185";

(2) by striking out "$299" in subsection (b) and inserting in lieu thereof "$310"; and

(3) by striking out "$151" in subsection (c) and inserting in lieu thereof "$157".

SEC. 7. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this Act shall take effect on December 1, 1991.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER. Without objection, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 1 hour.

There was no objection.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in H.R. 1046 and the Senate amendment thereto.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

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

Mr. Speaker, I am pleased to be able to take action on H.R. 1046 as amended by the other body.

This bill would provide a 3.7-percent cost-of-living adjustment in rates of disability compensation for service-disabled veterans and dependency and indemnity compensation for their survivors.

The gentleman from Ohio [Mr. APPLEGATE], who chairs the subcommittee, and to whom I will yield in a moment, will further explain the bill. I want to thank the gentleman from Arizona [Mr. STUMP] for assisting us in bringing this bill forward.

Let me say, Mr. Speaker, we had a problem last year. This is the cost-of-living increase for service-connected veterans. We did not finish it last year. It took 3 months before we were able to pass the legislation.

I want to thank the Senate Veterans' Affairs Committee for their timely action. This COLA increase bill will be either in the December or January checks for our veterans and it will be 3.7 percent.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE], chairman of the Subcommittee on Compensation, Pensions and Insurance.

Mr. APPLEGATE. Mr. Speaker, I thank the distinguished gentleman for yielding time to me.

Mr. Speaker, as Chairman MONTGOMERY has indicated, H.R. 1046, as amended, would provide a 3.7-percent COLA in the rates of disability compensation—including the so-called K award—and DIC. The increased rates will become effective on December 1 and, for the first time in several years, veterans should see this increase reflected in their January 1 checks. The measure was first passed by the House on July 29, reflecting a slightly higher COLA which was based on earlier estimates of what the change in the Consumer Price Index would be. We know now that the actual change in the CPI from September 30, 1990, to September 30 of this year indicates a need for a 3.7-percent increase in these benefits. The Senate acted on Monday to further amend and pass the bill with the new rate.

Mr. Speaker, this is what our veterans wanted to see this year; this is what they deserve. I am very pleased to see a clean and timely COLA bill being cleared for the President before the end of October.

I want to applaud Chairman MONTGOMERY'S excellent leadership and tireless efforts in urging early consideration of this clean COLA bill, along with the strong bipartisan efforts of the committee's ranking minority member, Mr. BOB STUMP. I also want to thank Chairman ALAN CRANSTON and Senator ARLEN SPECTER, on the Senate side, for taking this very timely action. Their efforts in breaking the COLA bill free should be applauded.

I urge the President and the Secretary of Veterans Affairs to act quickly and approve and implement this important bill.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Speaker, I rise in support of the Veterans' Compensation Rate Amendments of 1991—H.R. 1046 with the Senate amendment.

I am pleased that the other body has acted in a responsible way by passing a clean COLA bill.

I wish to recognize Senator ALAN CRANSTON and ARLEN SPECTER for their efforts in achieving this goal.

This action assures our Nation's disabled veterans of receiving their cost-of-living adjustment on time. They deserve no less.

I want to take this opportunity to thank the chairman for his king remarks and to congratulate him for his very capable leadership.

Appreciation is also extended to DOUG APPLEGATE, the chairman of the Subcommittee on Compensation, Pension and Insurance, for his efforts on behalf of our Nation's service-connected disabled veterans.

I urge my colleagues to support H.R. 1046, with the Senate Amendment.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 1046, a measure to increase the rates of disability compensation for veterans.

I would like to commend the gentleman from Ohio [Mr. APPLEGATE] for introducing this important measure, and the distinguished chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf of our Nation's veterans.

H.R. 1046 as amended by the Senate authorizes a 3.7-percent cost-of-living adjustment [COLA] which will take effect December 1, 1991, for disabled veterans as well as families of veterans who died from service-connected injuries. This increase will be reflected in the January 1, 1992 payment.

Mr. Speaker, the veterans COLA has been delayed for the past 3 years. Immediate passage of this measure is imperative. According to the Department of Veterans Affairs, it requires nearly 10 weeks of preparation time to make the needed adjustments in its rate tables and computer programs. It's time to send a clear message to our Nation's veterans that Congress acknowledges their diligence and dedication. Let us not permit any delay in approving this year's VA COLA.

Accordingly, I urge my colleagues to fully support this worthwhile measure.

Mr. MONTGOMERY. Mr. Speaker, I have at the desk the blue sheets explaining the legislation, if Members would like to see them.

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

The Senate amendment was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 265) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 265

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives: Committee on House Administration: Dale Kildee, Michigan. Committee on Merchant Marine and Fisheries: Martin Lancaster, North Carolina.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONGRESS SCORES VICTORY IN FIGHT FOR KIDS

(Mrs. SCHROEDER asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, while President Bush was once again overseas, here at home Congress scored its first victory in the new fight for kids. The House yesterday won one for America's children.

We finally began the debate over our country's priorities and declared the welfare of America's kids a national emergency, America's families an endangered species.

The gloves are off, Mr. President. When it comes to protecting the children of America, bare knuckle brawling is legal. Expect to see more budget brawls over kids' issues. Kids' advocates in Congress are going to become more aggressive.

The amendment the House passed yesterday secures funds for a core group of successful programs crucial to the health and well-being of children—Head Start, WIC, and childhood immunization.

And it will serve as a test for President Bush to see if he understands what havoc his economy, his programs, and his administration has brought upon the children of America.

The President wants kids in his campaign brochures, but not in the Federal budget. The President wants kids in his speeches, but not in the Federal budget.

These core programs—WIC, Head Start, and childhood immunization—work. Everybody, from President Bush to Fortune 500 CEO's, knows and says they do. Finally, Congress put its money where its mouth is. Let's see if President Bush will do the same.

□ 1115

THE DEMOCRATS' "HOUSE UPON THE HILL" IS UNAFFECTED BY LOW GROWTH

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

Mr. PETRI. Mr. Speaker, as the President pointed out last week, the Democrat-controlled Congress is very adept at exempting itself from the mandated regulations under which it places the rest of the Nation. Unlike the rest of the Nation, Congress' employees do not have access to the courts under the Civil Rights Act. Congress also exempted itself from the Equal Pay Act, the Occupational Safety and Health Administration [OSHA] and the Fair Labor Standards Act.

My colleagues, it should also be remembered that the Democrat-controlled Congress is also very adept at not acting on problems where it is unaffected. I am specifically talking about the problem of economic growth. Parts of this country are in recession, in others growth is slower than it should be and everywhere growth is slower than it could be if the Democrats that control this institution would act to address the causes of low growth rather than satisfying themselves with addressing only its effects. However, in one part of this Nation things are just fine: That place is the plantation the Democrats have built for themselves here. Here in the Democrats' "House upon the hill" the economy is fine. No one is unemployed and growth continues apace and the only thing which hinders it is the speed with which the Democrats can write the checks to spend the taxpayers' money.

Here in the Democrats' "House upon the hill," it is forgotten that because they do not have to compete to stay in business that America's industries must do so. The Democrats think that the American economy can simultaneously bear the regulatory burdens from which they exempt themselves and the indifference with which they treat the subject of economic growth. The American people are beginning to understand these circumstances are no longer endurable and when they do, they will justifiably inflict a higher unemployment rate upon Congress than Congress through its inaction has inflicted upon them.

PRESIDENT BUSH MUST HEED CRIES OF THE AMERICAN PEOPLE

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

Ms. DELAURO. Mr. Speaker, 2 days ago the Bridgeport Post ran a story titled "Current Downturn Tops Great Depression." The story cites figures showing Connecticut's economy has lost over 90,000 jobs since 1989, and that job loss has accelerated in the past year, with no sign of slowing down. Over 40,000 Connecticut residents lost their jobs between January and August of this year.

In the meantime, President Bush continues to push a capital gains tax cut for the wealthy, that would benefit the top 1 percent, while providing nothing for middle-class families who need relief.

The President is now traveling out of the country for a few weeks. But before he left he said that we cannot afford to provide middle-class families with tax relief. He has also said that we can't afford an extension of unemployment insurance, and then proceeded to veto two proposals to provide jobless benefits to our long-term unemployed.

Mr. Speaker, the American people have been urging the President to deal with the economy. To focus on our problems. Unemployment continues to rise and wages continue to drop. Someone should tell the President to heed the cries of the American people.

PROPOSED LEGISLATION TO BENEFIT ECONOMY

(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, the American people want jobs, not welfare. They want Congress to pass legislation to give them jobs, not an unemployment check. Why does the Democrat leadership only bring legislation to the floor that harms our economy. Where is the legislation that will help stimulate our economy?

Mr. Speaker, we Republicans have proposed and introduced legislation that offers real solutions to the problems our economy is experiencing. President Bush has a domestic agenda that is designed to stimulate our economy. The Democrats refuse to allow our legislation to come to the floor for a vote. It seems that the Democrats should now realize that their approach to the domestic agenda has just continued to harm the economy.

Why are the Democrats scared to give the Republican domestic agenda a chance. We want to increase the economic growth in our country. We want to pass legislation that will create jobs. We want to help the unemployed in our country get a job, not prop them up with a crutch.

It is time for us to get serious. It is time for the Democrat leadership to bring legislation to the floor that offers solid solutions that will increase the economic growth in our country.

SOVIETS SEEK DEMOCRACY, BUT AMERICANS GET PROPAGANDA

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

Mr. TRAFICANT. Mr. Speaker, even Mr. Greenspan is ducking 55-mile-per-hour winds. The Commerce Department said that the economy is getting better. If that is the case, why do 10 percent of the American people get food stamps? Why are cities and States going bankrupt?

Mr. Speaker, why are there 2,000 Americans every single day getting laid off?

Mr. Speaker, I say that either everything is getting better or they are smoking dope over at the Commerce Department, and I am telling the Congress that I think it is time to pass the bottle at the Commerce Department.

What is amazing me is that while the Soviets are seeking democracy, Americans at election time are starting to get propaganda.

Let me say one last thing. With 2,000 layoffs every single day, it is time for Congress to right the unemployment compensation wrong in our country.

AMERICANS WANT CONGRESS TO CUT THE GAMES AND GET TO WORK

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

Mr. WALSH. Mr. Speaker, today I rise to talk about the economy—along with everyone else. My comments, however, will be different from those who come to this well to either blast the President or the leadership of Congress.

I rarely do the 1 minute exercise held almost daily in the House, unless I discuss a piece of legislation I've introduced, or mention a particular event in my home district. I'd just as soon miss this moment of glory. People didn't elect us for this.

My purpose in coming to Congress wasn't to play games but to talk and act on the issues of concern to the people I represent. Rather than wasting time, why can't we have an hour debate, equally divided, to discuss a major piece of legislation to get the economy moving. That's what I hear from the people at home. Cut the games and get down to work; quit the whining and get to the voting.

The first idea we should discuss is getting the transportation bill out, and getting the construction industry going.

This won't make the nightly news because it isn't vicious or mean spirited. That's the trouble around here. We have a dirigible-sized problem on our hands and so far only hot air for solutions. Let's get to work and stop the nonsense.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Our guests in the gallery are reminded that we are delighted to have them here, but they are to refrain from responding either positively or negatively to any statements made on the floor.

NO MASK FOR THE FEDERAL DEFICIT ON HALLOWEEN

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

Mr. HOAGLAND. Mr. Speaker, I say to my colleagues that as Halloween approaches, one of the goblins that will not go away is the Federal deficit. We are awakened almost daily by headlines like "Greenspan Notes Weak Recovery" and "U.S. Budget Deficit Shackles Bush's Economic Policy Makers." and so forth.

Since 1980, Mr. Speaker, the deficit has gone from $72 billion to $277 billion in 1990, almost a fourfold increase. The Congressional Budget Office estimates that once the 5-year deficit reduction agreement expires, the deficit will again reach $300 billion by the year 2001.

In January of this year the President sent us a budget with a deficit of $281 billion. Now this deficit will escalate our national debt to $5.1 trillion and require every taxpayer each year to pay $1,500 for the $200 billion we owe this fiscal year in interest payments.

Mr. Speaker, the deficit is the goblin that gobbles up our resources. I call on the administration, when it sends us its budget next January, to change course and send us a budget without a deficit.

DEMOCRATS' TAX POLICY SCHIZOPHRENIA

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

Mr. CHANDLER. Mr. Speaker, when will the Democratic Party's schizophrenic tax policies come to an end?

Last week, the Democrats in Congress announced their plan to cut taxes.

This from the party that last year demanded a tax increase be included in the 1990 budget agreement.

In fact, they went so far as to tell President Bush that his deficit reduction package was dead if it didn't include a tax increase.

They got their tax increase.

But even that wasn't enough. They wanted more from working Americans.

This summer, it was the "Nickel for America" Program, a whopping increase in the gasoline tax.

I called it the Nickel from America.

That scheme became a major embarrassment for Democrats when Americans rallied behind Republican efforts to kill the tax hike.

But, the schizophrenia continues with Democrats now calling for tax cuts.

This is nothing more than a political charade.

If the Democrats are serious about cutting taxes, why have they opposed a cut in the capital gains tax for the past 3 years, why did they demand a tax increase in last year's budget agreement, and why did they come up with an ill-conceived hike in the gas tax last summer.

Their schizophrenia on the issue of taxes, leads me to ask this question: "What direction will the Democrats take next week?"

A FEW BILLIONS FOR THE UNEMPLOYED, NOT BANKERS

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

Mr. OWENS of New York, Mr. Speaker, unemployment benefits for working people have been condemned by the administration as a threat to the budget and a threat to the economy. Today, however, at the request of the administration, in legislation called banking reform, we are being asked to make another $25 billion contribution to the commercial banks. They call it a loan. It is nothing but a bailout. A Treasury loan is really a bailout, just like a bailout of the savings and loans. There is only one U.S. Treasury.

There is no money for the unemployed because the bankers and their rich friends have stolen billions. The capital for new manufacturing equipment and the capital for new manufacturing materials is gone, so we cannot create jobs in the private sector. The public dollars for new schools and the public dollars for highways is gone. It has gone down the drain. The bankers and their rich cronies have taken it. We cannot create jobs in the private sector or the public sector because the Reagan deregulated bankers and their rich cronies have stolen our Nation's capital funds.

Mr. Speaker, instead of $25 billion for the bankers today, we ought to pass just a few billion dollars for unemployment benefits.

POLITICAL SCHIZOPHRENIA—A SERIOUS PROBLEM

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

Mr. HENRY. Mr. Speaker, we have a crisis in the House, a mental health crisis. Amidst all the problems with the Sergeant at Arms' office, amidst all the reports of unpaid food service bills, and with all the fiasco on the hearing on the Clarence Thomas confirmation, it now becomes apparent that there is a mental health crisis in the Democratic leadership.

Why do I say that? Clearly we have political schizophrenia between their leaders. Just last week the Democratic chairman of the Finance Committee in the Senate suggested a tax cut to prime the pump, while at the same time the Democratic chairman of the House Ways and Means Committee was proposing a new tax on every existing new job in America.

Who speaks for the Democratic Party? Mr. Speaker, I submit it has a serious problem of political schizophrenia.

SETTING THE RECORD STRAIGHT ON LOUISIANA'S DAVID DUKE

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

Mr. FROST. Mr. Speaker, it is time to set the record straight about the Re-

publican nominee for Governor in Louisiana, David Duke.

President Bush and other national Republicans have gone to great lengths to deny political paternity for Mr. Duke who has been elected to the Louisiana Legislature as a Republican and who calls himself a Republican.

As much as the Republicans deny responsibility for David Duke, the truth is that he is the legitimate son of the illegitimate policies of Ronald Reagan and George Bush.

It was Ronald Reagan who made a career out of wailing against welfare programs and it was George Bush who interjected racism into the 1988 Presidential Campaign with his use of the Willie Horton ads and it's George Bush who has spent 2 years campaigning on the bogus issue of racial quotas.

Mr. Speaker, David Duke is today repeating those themes so richly developed by Ronald Reagan and George Bush before him. David Duke is indeed the legitimate political son of Reagan and Bush.

□ 1130

AMERICA NEEDS SIMPLIFIED TAX AND REGULATORY SYSTEM

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

Mr. SANTORUM. Mr. Speaker, I am here to join my Republican colleagues to talk about a progrowth package. The people at the Shop 'N Save when I am home tell me that they want a progrowth package to help create jobs.

What I understand here in Washington is that there is a misunderstanding between the Republicans and the Democrats as to what creating jobs means. Well, let me try my best to explain that.

What I have seen from progrowth packages from the Democrats is to create Federal jobs here in Washington. That is not exactly what I see the American people wanting from the Congress. Progrowth is not about increasing bureaucracy and Federal jobs here in Washington. Believe it or not, there is an economy outside the beltway where people really care about working in the private sector to improve themselves and their opportunities.

Progrowth does not mean Government spending. Progrowth means people want the money themselves to spend on things that they would like to spend it on.

Economic growth results when savings and investments increase, when there is a reduction in taxes so people can spend their own money, and the overall tax and regulatory system is simplified.

The American public understands it. I hope Members on the Democratic side of the aisle get the point.

THANK YOU, ATLANTA BRAVES; YOU HAVE DONE US PROUD

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

Mr. JONES of Georgia. Mr. Speaker, yesterday in Atlanta a crowd approaching 1 million people turned out to express their gratitude to America's winners, the Atlanta Braves. It is true that the Minnesota Twins were leading the World Series four games to three when the season ran out and we saw the Twins, the champions of indoor baseball. They won the rings.

But think about what the Braves won. They came from last in their division to win the championship in a stretch drive that staggered the imagination. Then they came from behind to beat a fine Pittsburgh team to win the National League pennant in a championship series that some said was the best baseball they had ever seen, until they saw the 1991 World Series.

But the most important thing the Braves won was the enduring love, admiration and respect of a city, a State, and baseball fans throughout the country. They showed a generation of youngsters how to persevere when the chips are down and how to be gracious in victory.

Mr. Speaker, when all of us here are long gone and other voices cheer future heroes, the Braves' name will be spoken by those who love baseball and those who love life. Thank you, Atlanta Braves; you have done us proud.

REBUILDING KUWAIT PROVIDES EXPORT OPPORTUNITY FOR UNITED STATES SMALL BUSINESSES

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

Mr. IRELAND. Mr. Speaker, 8 months ago Kuwait was liberated from the brutal occupation of Iraqi military forces. Since that time, some progress has been made in rebuilding this wartorn country, but much remains to be done.

The rebuilding of Kuwait provides the United States with the opportunity to show the world the importance of small business not only in our national economy, but also in the global economy.

Given the chance, small businesses will create thousands of new jobs for Americans through contracts with Kuwait. We must make sure that smaller American firms have an equal shot at the estimated $20 to 25 billion in contracts that will be available as Kuwait rebuilds.

By encouraging small businesses to invest time, capital, and energy in competing for contracts in Kuwait, we are helping not only to rebuild Kuwait; but also to revitalize our own flagging economy and to provide jobs for our Nation's unemployed.

In our deliberations we must recognize the importance of small-business exports to the U.S. economy. I remind my colleagues: It's easy to say that you are all for small business. But it's how you vote that really counts.

MAKE EMERGENCY FUNDS AVAILABLE FOR LOW INCOME ENERGY ASSISTANCE PROGRAM

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

Mr. SIKORSKI. Mr. Speaker, yesterday the Minnesota wind chill plunged to 5 above zero. Meanwhile, in just one of my counties, 5,400 families were facing fuel shutoffs. Families with kids, facing a winter where 5 above will be a heat wave, and 25 below will be too regular.

Speaking for them, I rise to urge our conferees to support strong appropriations for the Low Income Home Energy Assistance Program. First send a message to Brenda Reese, a single mother of three who told me of having to choose to feed her kids or heat her home. Send a message to thousands of others in Minnesota, and hundreds of thousands in America, who are pleading with us for help. And send a message to President Bush.

The administration wants to cut the Home Energy Assistance Program by one-half and protect Mideast oil, but they deny oil to freezing American families.

Mr. Speaker, I urge the President to make funds available. If he needs more convincing, I invite him to Minnesota to spend a few subzero nights without heat.

TURKEY, A STRONG AND DEMOCRATIC ALLY OF THE UNITED STATES

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

Mr. INHOFE. Mr. Speaker, just last Sunday, October 20, in a fine example of democracy in action, 25 million people went to the polls in the Republic of Turkey.

In a region that is surrounded by the likes of Iran, Iraq, and Syria, as well as the unstable Soviet Republics, I believe Turkey stands out as an example of democracy and free market principles. If Turkey's Soviet Republic neighbors can follow it's example as they begin to rebuild and establish themselves, think how much better, safer, and more productive that region, and indeed the world, will be.

Turkey is a great friend of the United States. The best kind of friend. The

kind of friend that comes to your aid when it is against his or her interest. We saw a very vivid example of this when they were of such key critical assistance during the Persian Gulf conflict.

But less well-known to many Americans are the numerous ways this frontline NATO ally time and time again has demonstrated its friendship, support, and strong spirit of partnership with the United States.

During the Korean war, almost 30,000 Turks served alongside their American comrades in arms.

In 1958, Turkey allowed the use of bases in Turkey to support the United States peacekeeping intervention in Lebanon.

During the 1967 Arab-Israeli War, Turkey permitted the United States to use its communications stations in Turkey.

During the 1973 war, Turkey was the only NATO ally in the eastern Mediterranean to allow refueling of the United States Sixth Fleet vessels. Greece did not.

Turkey recognized the State of Israel in 1949 and has maintained official diplomatic relations with Israel ever since. Until the Camp David accords, Turkey was the only Islamic nation that recognized Israel.

And so, Mr. Speaker, let us pause during these unsettled times and remember who our consistent reliable friends are. Certainly Turkey is high on the list.

CAMBODIAN KILLING FIELDS MUST NOT BE ALLOWED TO RETURN

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

Mr. ATKINS. Mr. Speaker, on October 23 the United States signed a Cambodian peace agreement. I am hopeful that these accords will give that strife torn nation the relief it so desperately needs. But there is, Mr. Speaker, I am sorry to say, still cause to be worried. These accords are predicated on the good will and fair play of the Khmer Rouge. The accords make no mention of the Khmer Rouge genocide and they are silent on the suffering and agony the Khmer Rouge left in their wake.

Yet, within weeks the Khmer Rouge will return in safety and diginity to Phnom Penh. Where, I ask, is the proof that the Khmer Rouge have changed their ways?

Last week it was reported that as many as 22 leaders of the Site 8 refugee camp in Thailand were removed forcibly by the Khmer Rouge to jungle outposts within Cambodia. Refugees are being warned that the United Nations cannot protect them.

Mr. Speaker, when the Security Council of the United Nations planned a modest rebuke of the Khmer Rouge last week, China protested, and the United States refused to condemn China's decision. No statement or resolution was ever issued by the Security Council.

The Cambodian peace accords cannot work unless the United States is willing to give assurances to the Cambodian people that we will not stand by silently while the Khmer Rouge bring back the killing fields.

INTRODUCTION OF LEGISLATION TO REPEAL PRESIDENT'S AUTHORITY TO FORGIVE FOREIGN DEBTS

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

Mr. JAMES. Mr. Speaker, during yesterday's debate, I could not help but notice the references to debt forgiveness; Member after Member blasted President Bush for canceling debt owed to us by other nations.

We noted that the President forgave $6.7 billion for Egypt, $1 billion each for Bolivia and Bangladesh, and $678 million for nearly a dozen other nations.

No one noted yesterday that the President has the authority to forgive only those debts that Congress has authorized him to forgive. Over the years, Congress has given him too much authority, and he has used it.

Today, I am introducing a bill to repeal the President's authority to forgive foreign debts. I invite other Members to join me as cosponsors.

When the President forgives foreign debts, those debts don't vanish into thin air. Instead, the debts are placed on the backs of the American taxpayers.

We are in a recession. The last thing we need to be doing is sending more foreign aid overseas, or forgiving the debts of other nations. Let's put America first.

THE SCARIEST THING THIS HALLOWEEN

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

Mr. SARPALIUS. Mr. Speaker, the scariest thing this Halloween is the American economy. Like vampires, the Reagan-Bush team has sucked the life out of the middle-class people. Oh, they will tell you it was Congress, and they will blame it on the Democrats. But let us look at the facts.

The average income of the top 1 percent increased by 122 percent, while the average income of the bottom 20 percent declined by 10 percent.

What has happened to the middle-class people? Today in every working day there are 2,200 Americans who will lose their jobs.

□ 1140

Now more than ever, a husband and wife have to work to make ends meet. Ten years ago there were more young Americans that owned homes than today. And even if the economy was to have a sudden takeoff and grow by 3.6 percent, Americans would have the lowest annual growth rate since World War II.

Mr. Speaker, tomorrow is Halloween, but the rich have all the candy while the middle-to-poor people are holding an empty bag.

THE LUXURY TAX DEBACLE

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

Mr. MOORHEAD. Mr. Speaker, today marks the seventh day until the first anniversary of the 1990 budget summit agreement. Few on this side of the aisle would question the economic debacle that this accord has created. Yet one of the most notorious and most crippling of all the provisions was the implementation of a new luxury tax.

This misguided concept which was designed to soak the rich has instead left all Americans wet. Instead of paying the luxury tax on automobiles, those that could afford them just are not buying the cars. Not only has it been a job destroyer, it is a revenue casualty. We were told it would reduce the deficit, yet the revenue losses continue to mount every day.

A Temple, Barker & Sloane study predicted that the Federal Government and State governments would lose over $135 million in 1991 alone solely as a result of the luxury tax on automobiles.

Reduced auto sales of $1.3 billion will translate into reduced dealership income tax payment of $26 million, lost customs duties of $22.5 million, lost gas guzzler revenues of $22.5 million, and lost State sales tax revenues of $64.5 million. Additionally, these estimates do not include the cost of enforcing the tax, paying unemployment benefits to the thousands of workers losing their jobs, or reduced tax payments by workers out of jobs.

Mr. Speaker, it it time to commit to an economic course which will put Americans back to work.

MIDDLE EAST PEACE CONFERENCE

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

Mr. OWENS of Utah. Mr. Speaker, at 4:30 a.m. this morning I sat riveted to CNN to witness the opening of the Middle East Peace Conference in Madrid.

For me today is truly a momentous day as it is for millions of people all over the world, especially those living in what is undoubtedly the world's most volatile and dangerous area, the Middle East.

I am strongly optimistic that the convening of the Peace Conference will be the dawn of a new age of peace, compromise, and national mutual respect and recognition.

I know that some will say that we have been here before, that openings have closed, that rejectionists hold the balance of power, that the parties do not truly want peace.

That is why I have introduced, along with the gentleman from California [Mr. LEVINE) and the gentleman from New York [Mr. GILMAN] House Concurrent Resolution 226, to commend the participants in the Middle East Peace Conference and to restate Congress' commitment to seeing this process through.

America has a strong and vital interest in the Middle East. Let there be no question about the determination of this body and the American people to achieve a just and lasting peace in the Middle East.

Mr. Speaker, I strongly urge my colleagues to support this important resolution and to help send a timely and meaningful message to the world.

THE COST OF THE OCTOBER SURPRISE

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

Mr. BURTON of Indiana. Mr. Speaker, after the Iran Contra hearings, the special prosecutor, Mr. Walsh, went to work and he spent $40 million of the taxpayers' money. What did he accomplish with that $40 million?

Ollie North, Colonel North, a national hero, was convicted, but his conviction was appealed and overturned. Admiral Poindexter's is likely to be reversed as well. Three people have gotten some probationary time, and that cost the taxpayers of the country $40 million.

So what are the Democrats going to do now? They are going to have a committee called the October surprise Committee that is going to deal with whether or not Ronald Reagan had something to do with holding the hostages prior to his election back in 1982, so that he could take political advantage of it.

I have been in on two hearings about this with Democrats on the Committee on Foreign affairs. I met with former President Bani Sadr of Iran; the man cannot be trusted. He wants to sell his book. I have met with Richard Aught, who is an adviser to Ronald Reagan. There is no basis at all for that investigation, and yet they are going to go again and spend millions and millions of dollars of taxpayers' money on a witch hunt.

I say to my colleagues on the Democrat side, do not waste any more money.

ECONOMIC ALARM CLOCK IS TICKING

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

Mr. APPLEGATE. Mr. Speaker, I would like to congratulate the President for his peace initiatives, bringing people together who have been warring for centuries. I think it is a major accomplishment. And we in this House all pray that peace will be the result.

Meanwhile back at the ranch the economy continues to decline. This morning I heard there are 3 million more people on food stamps this year than before. Unemployment continues to rise. More people are running out of benefits and more people have less health care. Meanwhile, the President's big-business and rich friends are leaving the country for greener profits.

I guess they have not heard about trickledown philosophy. There is profit, but no jobs.

I am saying this, that the American people are mad as hell and they are not going to take it any more. Their alarm clock is ringing right now, and I think it is time that we listened to that clock. It is time that both the Congress and the President of the United States wake up and do something for the American people. Time is running out.

IRAN'S NUCLEAR THREAT

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

Mr. OXLEY. Mr. Speaker, despite the optimism emanating from Madrid, there is ominous news coming from the Mideast.

United States intelligence officials have concluded that Iran is actively pursuing a nuclear weapons program. An Iranian official has openly expressed Iran's desire to develop an atomic weapon, and Iran has sought to obtain nuclear technology beyond that necessary for peaceful purposes.

These revelations come at a time when neighboring Iraq has been found to have a sophisticated nuclear weapons program. U.N. inspectors believe that when the Persian Gulf war was launched. Baghdad was perhaps only 12 months from producing its first atomic weapon. Iraq had tested a surface-to-surface missile capable of carrying an atomic device, and had the blueprint for an A-bomb small enough to be delivered by missile. In addition, Iraq has begun to manufacture lithium-6, a substance uniquely used in production of the H-bomb.

I recall that during debate on the Persian Gulf war, opponents of the authorization to use force ridiculed the President's assertion that Saddam was nearing nuclear capability. Now we know that had we not acted to neutralize Iraq as a military threat, Saddam would be on the verge of possessing his first atomic weapon.

I commend the President and the United Nations for their persistence in ferreting out clandestine weapons programs. However, the lesson of the day is that the United States must maintain its vigilance and strategic strength.

TRUE COLORS

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

Mr. SCHUMER. Mr. Speaker, President Lyndon Johnson once said that:

> Until justice is blind to color, until education is unaware of race, until opportunity is unconcerned with the color of men's skins, emancipation will be a proclamation, but not a fact.

Mr. Speaker, LBJ's words are as true today as they were in 1968. We have tried to overcome racism in our laws. But its ugly undercurrents are still with us, affecting the daily lives of people in the most basic of ways. Diane Sawyer of ABC's "Prime Time Live" has reminded us in graphic detail of how this is so.

"Prime Time Live" took two friends who seemed equal by every available measure but one, the color of their skin. One white, and one black they set out in an experiment that found discrimination against the black man in his job search, apartment hunting, car buying, and even as he tried to hail a cab.

Mr. Speaker, my distinguished colleague from Georgia, Mr. LEWIS, and I are hosting a screening of "True Colors" for our colleagues today in room 2222 Rayburn at 1 p.m. "True Colors" opened my eyes to the fact that we have much work ahead to make Lincoln's decree of emancipation a fact. I urge my colleagues to join us this afternoon to see that for themselves.

ECONOMIC RESURGENCE AND JOBS CREATION ACT

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

Mr. ZELIFF. Mr. Speaker, on Monday our Task Force on Tax Policy and Job Creation held a hearing on H.R. 2359, the Economic Resurgence and Jobs Creation Act.

Economists and business leaders from across America testified that the restoration of the 5-percent investment tax credit, coupled with cutting the

capital gains tax rate to 15 percent, is the simplest, quickest, most straightforward way to stimulate our faltering economy and put America back to work again.

Witnesses at the hearing suggested strongly that reinstatement of the investment tax credit would help spur the sluggish economy by encouraging new investment and should be part of any economic growth package considered by Congress this year.

Mr. Speaker, I am proud to be joined by 70 of my colleagues in cosponsoring this important growth legislation. The U.S. Chamber, National Federation of Independent Business, and the Heritage Foundation are among the many organizations and businesses that testified in support of my bill.

The passage of the investment tax credit and the reduction of the capital gains tax rate will stimulate job creation and get our economy moving again. The goal of our tax policy should be the creation of good, high-paying jobs.

I urge my colleagues to get moving and stop playing games with our future. Let us pass a progrowth bill.

CHANGING PRESIDENT BUSH'S OPPOSITION TO A CIVIL RIGHTS BILL

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

Mr. DURBIN. Mr. Speaker, we can credit two very different people with changing George Bush's opposition to the civil rights bill: Prof. Anita Hill and David Duke.

Anita Hill's courageous testimony before the Senate Judiciary Committee made it clear that the sexual discrimination which is prohibited by this bill is real. The shabby treatment which Professor Hill received from Republican strategists created a backlash among women across the Nation which President Bush cannot ignore.

And now the emergence of Republican David Duke as America's leading bigot causes real pain for the President's party. Remember, it was the same David Duke who cheered the President's veto of the last civil rights bill, the same David Duke who claims to feel at home with the party of Willie Horton ads and quota bashing. Clearly, the President sees this new civil rights bill as a much-needed break from the bitter legacy of the Willie Horton ads.

So in the end, this new civil rights bill turns out to be a Republican quota bill. The President hopes it gives the Republicans just the right quota of cover to try and persuade America's women that he cares, and just enough distance to put the sound of David Duke's goosestepping racism out of Republican earshot.

WHO PAID THE PRICE?

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

Mrs. BENTLEY. Mr. Speaker, our friends, the Kuwaitis, have caused some questions to be asked about the contract awards in Kuwait after the wake of Desert Storm. Now that the hurrahs are over and the thank yous to the United States for our gallant leadership in saving Kuwait, we hope it is not business as usual.

The latest round is awarding a $134 million contract set-aside for American businesses to clear mines and other explosives to the American subsidiary of a German firm. The firm, MBB of Munich, was able to get its subsidiary, CMS, certified as American by incorporating it in Delaware. And a wholly owned, all American company, USA Technology, reported that its bid was even $8 million lower than CMS's $134 million.

Strange award, which causes us to ask for a report, a full report of all of the contracts awarded by Kuwait over the past year so we can learn first hand and accurately where the benefits are going from that most unfortunate destruction of a nation for which the Americans gave their all to save.

SUPPORT BCCI REFORM AMENDMENT TO THE BANKING BILL

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

Mr. KANJORSKI. Mr. Speaker, today the House is going to be taking up H.R. 6, the omnibus banking bill. I would call my colleagues' attention to an amendment that has been brought about by the BCCI hearings in the House Committee on Banking, Finance and Urban Affairs. It is a reform amendment to address three major problems, major problems of conflicts of interest, the failure to disclose ownership and insider control in dealing.

On the conflict of interest, a number of the participants in the BCCI scandal wore too many hats and served too many masters. Outside legal counsel and accountants are supposed to offer independent, disinterested advice. Instead, they controlled and served as part of the board of directors and gave away their independence and caused conflict of interest by allowing these counsel and these accountants to receive compensation.

My amendment would disallow any outside counsel or accountant from receiving compensation from a depository institution or holding company and serve on the board of directors.

Two, the disclosure of the failure to disclose ownership. We heard testimony that "We did not know." The board of directors of First American Bank claimed that they did not know who really owned the institution, and we even received testimony that the ownership was withheld from them.

My amendment would require disclosure.

Finally, insider control. We would allow or require that the control of the board of directors of financial institutions and their holding companies be made up of a majority of outside directors, not inside employees of the banks or those that are dependent on their incomes from that depository institution or their holding companies.

ECONOMIC GROWTH AND JOB CREATION LEGISLATION

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

Mr. SHAW. Mr. Speaker, like many in the House, I have been deeply concerned that Congress has not done enough toward economic growth and job creation. It would not be too far off the mark to state that we have done nothing meaningful.

Experts estimate that in the housing and real estate construction areas alone, close to 500,000 net jobs were lost from June 1990 to July 1991. Additionally, the Washington Post reported recently that housing starts this year have fallen to their lowest level since 1946.

In addition to the capital gains and passive loss issues, two other related problems also pose serious impediments to a sustained, meaningful economic recovery. One is the lack of available financing options for real property workouts. The second is the trouble commercial lenders have experienced in disposing of properties in their other real estate owned accounts. Yesterday I introduced three bills to address these problems.

The first of my bills represents nothing new. I have combined the President's capital gains proposal with the passive loss legislation introduced in the House by my colleagues MIKE ANDREWS and BILL THOMAS. These are two sound proposals that I firmly believe are necessary for stable property values and a reasonably sound real estate industry.

My second piece of legislation is aimed at easing the burden imposed by current law on taxpayers seeking to work out troubled real estate loans with their lenders. This bill would restore to section 108 of the Internal Revenue Code a provision allowing a solvent taxpayer, in the case of real property business indebtedness, to elect to exclude discharge of indebtedness income if the taxpayer reduces the basis of other real estate the taxpayer owns.

The third bill I introduced would amend the at risk rules in IRC section 465 to clarify that financing provided

by a lending institution will qualify as an amount at risk regardless of whether the financing is recourse or nonrecourse. Current law restricts options available to banks in disposing of the tremendous volume of their OREO properties.

I urge my colleagues to join me in supporting and passing this much needed legislation.

U.S. ROLE IN HAITI

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

Mr. RANGEL. Mr. Speaker, I take this opportunity to congratulate the President of the United States for recognizing the crisis that exists in Haiti and calling upon the Organization of American States to get involved to restore the democratic President to his position that had been taken away by a violent, lawless, ruthless army.

As a result of his efforts, the embargoes have taken place. Soon oil will be missing completely in Haiti, and there is an extreme shortage of food and medicine. And as usual, the poorest of the poorest nation in this hemisphere are feeling the crunch.

What we have to do is to implore that the executive branch open up its doors as well as its heart to the many Haitians that find themselves leaving, some on the high seas, others in the United States in fear of deportation. For years we have said that Haitians were different, not because of color, but because the asylum they sought was for economic reasons. I think it is abundantly clear that as difficult as it is to distinguish economic fear from political fear, the Haitians now live in fear of both, and that we should relax our laws and give them safe haven.

TEMPORARY TAXES

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

Mr. JOHNSON of Texas. Mr. Speaker, some of our colleagues do not seem to know the definition of temporary.

Last week we extended through the end of the century a temporary 2.5-cent increase in the gasoline tax. The gasoline tax extension was a back-door tax hike, plain and simple.

Now the liberals want to extend a temporary tax on Federal unemployment on America's businesses. This too is a tax increase, and believe it or not, has been extended each year since 1976.

When is Congress going to be honest with the American people? There is no such thing as a temporary tax because we just keep extending them.

Mr. Speaker, I got elected to this office primarily because people are fed up with taxes. That means temporary taxes, permanent taxes, any kind of taxes.

□ 1200

What Americans do want is an honest effort to balance this Federal budget and get our economy moving again.

LET'S PASS CAMPAIGN FINANCE REFORM

(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, everyone on Capitol Hill is worried about the terrible image Congress seems to have now and about our abysmal poll ratings. A recent Gallop poll showed the approval rating for Congress at a virtually nonexistent 18 percent.

There is plenty of blame to go around. Certainly the hearings for confirmation in the other body and certainly the check writing problems in this Chamber are part of the cause, but rather than talking about why, let us talk about ways that we might be able to regain some of the confidence that the public has lost in us.

I would suggest we can do that very quickly by passing tough campaign finance reform. We will have an opportunity later this month to tackle that issue. There will be a bill sponsored by the gentleman from Connecticut [Mr. GEJDENSON] which will limit campaign spending, limit the amount of special interest money which can enter a campaign, eliminate some of the soft money which the New York Times called sewer money, and basically move into public financing in an exploratory way.

Mr. Speaker, rather than wringing our hands and crying and bemoaning our fate, let us do something. Let us pass campaign reform and then prove to the public that Congress is worthy of their confidence.

THE INDEPENDENT SOCIALIST

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

Mr. CUNNINGHAM. Mr. Speaker, several times I have heard Members lambaste Mr. David Duke, trying to tie him in with Ronald Reagan. What does that say for the quality of the Democrat who is running against him on November 5? Someone who has been indicted several times, fired from his job and has a reputation for less than honorable conduct.

I would like to draw attention to another alignment. On our monitor in the House, we have Republican votes and Democrat votes and there is an independent. There is no independent in the Congress. The man ran as a Socialist. He is a Socialist. The Soviet Union is rejecting what the Democrats are protecting, but it is put up there as independent because they know the votes tie in with the Socialist Party.

I would ask the leadership to change this discrepancy. All Republican monitors will have an overlay that says Republican, Democrat, "Socialist."

I am proud of both the Democratic Party and the Republican Party, however, for coming up with a civil rights bill that will actually help people and not destroy business. My appreciation goes to the other side of the aisle.

I also would mention that true colors did not happen in the South. It happened in the most liberal democratic State of the Union.

MIDEAST PEACE TALKS—A POSITIVE STEP

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

Mrs. BYRON. Mr. Speaker, on Monday I presented a poster-sized copy of our Constitution to the Smithburg High School in Washington County. We talked about how fortunate they are to live in America and how many other nations and regions of the world strive for what we have enjoyed for over 200 years. I told the students they need to look no further than up the hill from where they live, because they live at the foot of the Catoctin Mountains, the home of Camp David.

They are too young to remember the bold steps that were taken by Anwar Sadat, who stated in 1978 that he would be willing to go to the Knesset in an effort to seek peace. They are too young to remember the bold steps taken the next week by Menachem Begin, who invited him to Israel to begin the peace process.

The students are too young to remember the Camp David talks in 1978.

As new peace talks begin today in Madrid, I am hopeful that progress once again will be made. The talks will be the next big step forward in bringing peace to that region. All parties are willing to build on the progress that was made and that can only be achieved by bringing everyone together. I believe that the peoples of the Middle East, as participants, and the rest of the world, as eager onlookers can only benefit from face-to-face dialog. It is truly preferable than face-to-face combat. And as our young Americans live in an everchanging world and they look beyond our shores, but secure in the knowledge that our Constitution is still young.

PRESIDENT'S PEACE EFFORTS HELP DOMESTIC AMERICA

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

Mr. SCHIFF. Mr. Speaker, today an historic peace conference has begun in Madrid, Spain, involving the major participants in the Middle East. The conference was opened by our own President of the United States and the President of the Soviet Union.

I hear the question asked, why is the President of the United States going to Madrid to work on matters overseas? Why does he not stay concerned about matters which affect Americans?

Affect Americans? Why, just this year more than half a million American servicemen and servicewomen were called upon to go over to the Middle East. Why? Because Saddam Hussein had violated international law and had threatened the vital interests of the United States.

We have never been immune to matters happening overseas since the founding of our Republic. I believe that if the President of the United States can help bring about a permanent lasting peace in the Middle East, that will help Americans, too.

REMEMBERING THE HOME FRONT

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

Mr. RICHARDSON. Mr. Speaker, as we move toward adjournment, the Congress is trying to deal with unemployment insurance, tax cuts for the middle class, health care, energy, banking issues, education, campaign finance, and many other issues. But where will President Bush be in the days ahead? South Korea, Japan, Australia, Rome, Singapore, and the Netherlands.

Last month alone the President met with 21 leaders of foreign countries, ranging from Micronesia to Lichtenstein, but only three meetings with Cabinet Secretaries dealing with domestic issues, two of those meetings aboard Air Force one en route to political events.

To deal with domestic issues, we need a partnership with the President. It would help if the President stayed home. The economy is hurting, people are hurting. We know foreign policy is exciting, but domestic policy is where the critical needs of this country are.

TERRORISTS OPERATING WITH IMPUNITY IN PERU

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

Mr. LAGOMARSINO. Mr. Speaker, I recently returned from a brief weekend mission to Peru and Colombia with Congressmen TORRICELLI, RANGEL, and SOLARZ to review those governments' efforts to control international trafficking in narcotics. It was a sobering and somewhat discouraging experience because it became clear in a hurry that those groups engaged in the drug trade control resources and resort to inhuman tactics of terrorism that make it extremely difficult for the legitimate governments to counter.

One of the most frightening and extreme of these groups is the Sendero Luminoso—the shinning path—guerrillas operating almost with impunity in Peru. Their alignment with the drug trade as well as their efforts to undermine the legitimate government entities in Peru have resulted in a rampage of brutality that has not been seen in Peru since the time of the Incas.

I wish to call your attention to Extensions of Remarks today which highlights the history of the Sendero Luminoso and provides vivid examples of the brutality of this group. Some of the examples of torture and murder are difficult to read but it is imperative that everyone be aware of the extremes this group is willing to go to carry out its terrorism campaign.

THE PRESIDENT'S DOMESTIC AGENDA

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

Mr. DREIER of California. Mr. Speaker, last March following the successful liberation of Kuwait, President Bush stood at this second lecturn right here and looked out and told us that he would like to have the Congress within 100 days get to his desk a crime bill and a highway bill.

Well, we have seen that we spent about 150 days in this place saying that President Bush had no domestic agenda. We have finally gotten to the point where we now have worked out a highway and a crime bill and we hope it will finally get down to the President's desk. But there are a lot of other things the President has asked for. We have heard this constant cry, "No domestic agenda." We hear people saying that we have a Republican recession.

□ 1210

The fact of the matter is 3 years ago President Bush called for an economic growth package, one which would be designed to stimulate the economy, create jobs and opportunity.

I hope very much, Mr. Speaker, that we can get this house together and respond to that plea which the President has made for the past 3 years.

PERMISSION FOR SUBCOMMITTEE ON POLICY RESEARCH AND INSURANCE OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TOMORROW DURING THE 5-MINUTE RULE

Mr. ERDREICH. Mr. Speaker, I ask unanimous consent that the Subcommittee on Policy Research and Insurance of the Committee on Banking, Finance and Urban Affairs be permitted to sit on Thursday, October 31, 1991, to consider the resolution of the troubled insurance companies.

Mr. Speaker, I have discussed this with the ranking minority member, the gentleman from northeast [Mr. BEREUTER], who concurs in this request.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 6, FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 264 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 264

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the house resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After a period of general debate, which shall be confined to the bill and which shall not exceed one hour and forty-five minutes with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, and with forty-five minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the Committee of the Whole shall rise without motion. No amendment to the bill shall be in order except as subsequently determined by the House.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During the course of the debate on House Resolution 264, all time yielded will be for the purpose of debate only.

Mr. Speaker, I will be brief. House Resolution 264 was reported by the Committee on Rules yesterday evening in order to expedite the consideration of H.R. 6, the Financial Institutions Safety and Consumer Choice Act. House Resolution 264 only provides for 1 hour and 45 minutes of general debate on the banking bill; the Committee on Rules anticipates that it will report another rule today which will provide for additional general debate time and which will provide for the consideration of H.R. 6 by amendment.

Therefore, Mr. Speaker, House Resolution 264 will enable the House to begin consideration of this most complex and important legislation prior to the time that the Committee on Rules has worked out the details of the consideration of the bill and amendments thereto. The rule provides that all points of order against the consideration of H.R. 6 are waived, and provides that the 1 hour and 45 minutes of general debate time shall be divided as follows: One hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking; and 45 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. The rule also provides that after the general debate provided for in this resolution has been completed, that the Committee of the Whole shall rise without motion. Finally, Mr. Speaker, the rule provides that no amendment to the bill shall be in order except as subsequently determined by the House. As I said, it is anticipated that a rule providing for such consideration of amendments will be reported by the Committee on Rules later today.

I urge adoption of House Resolution 264.

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

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 264, which provides for general debate only on H.R. 6, the Financial Institutions Safety and Consumer Choice Act of 1991. My support for this rule, however, is accompanied by a twinge of reluctance because we are asking Members to speak on specific provisions of the bill without knowing what amendments will be made in order. Nor do we know whether H.R. 6, as reported by the Committee on Banking, Finance and Urban Affairs, will be the original bill for purposes of amendment.

However, we sat through over 7 hours of testimony in the Committee on Rules yesterday and, if that is any indication of how long it will take to make our way through this legislation, I feel this unusual procedure is justified.

Mr. Speaker, I am concerned about the way in which H.R. 6 was brought before the Committee on Rules. Both Chairman GONZALEZ and Chairman DINGELL have requested that their so-called compromise agreement be included as original text to H.R. 6. This is rather peculiar, considering that the Dingell-Gonzalez substitute was not voted on in either the Committee on Banking, Finance and Urban Affairs or the Committee on Energy and Commerce. In addition, other than the sponsors of the amendment, not one member who testified before the Committee on Rules was privy to the negotiation process.

Remarkably, the justification for the Dingell-Gonzalez prohibition against mixing commerce and banking is, according to the Committee on Energy and Commerce report, rooted in the British Parliament's charter of the Bank of England in 1694, as well as the charter of the First Bank of the United States in 1791, and the National Banking Act of 1864.

In contrast, Mr. Speaker, H.R. 6, as originally reported by the Committee on Banking, Finance and Urban Affairs, is designed to address the realities of today's global financial marketplace. One reality is that the marketplace is skewed against commercial banks, which are unable to compete with the numerous nonbanking entities that offer many of the same types of financial products and services.

Another reality is that the United States remains one of the few industrialized countries that require a strict separation between commerce and banking. Yet commercial firms in this country are allowed to affiliate with banks. It is this lopsided arrangement that the Dingell-Gonzalez substitute seeks to protect.

It is an arrangement that permits Ford Motor Co.—a commercial entity—to own one of the largest federally insured savings and loans in First Nationwide Bank. It is an arrangement that permits American Express—a commercial entity—to own Boston Safe Deposit and Trust, an FDIC-insured bank. It is an arrangement that permits Sears—a commercial firm—to own Greenwood Trust, which is also an FDIC-insured institution.

Mr. Speaker, the Dingell-Gonzalez substitute ignores these realities. It is simply an attempt to turn back the clock to the days when banking was the scorn of the Catholic Church. The implications to the taxpayers are enormous. Commercial banks desperately need access to new sources of capital if we hope to return the industry to good health and prevent another taxpayer bailout. But nearly three-quarters of that domestic capital is in the hands of commercial firms.

Ironically, foreign ownership of U.S. banking assets has risen dramatically since the late 1970's and passage of the Dingell-Gonzalez substitute will virtually guarantee that U.S. banks will continue to look overseas in their search for new capital. The Dingell-Gonzalez substitute will also impose onerous and duplicative regulatory barriers to prevent banks from competing with other financial services providers.

Today, two of the top four originators of home mortgages are nonbanks. Four of the top five lenders of consumer credit are nonbanks. Six of the top ten credit card issuers are nonbanks. Passage of the Dingell-Gonzalez substitute will ensure that the banks' best customers will continue to abandon the banking system, leaving behind the unprofitable activities and exacerbating the demise of the industry.

Let me emphasize, Mr. Speaker, that there are no parallels between the legislation we are debating today and the 1982 legislation that gave savings and loans new powers. The 1982 law permitted savings and loans to undertake risky investments using insured deposits. H.R. 6 does not grant any new powers to commercial banks. It merely allows banks to affiliate, through a highly capitalized holding company, with a separately capitalized securities subsidiary that will have no access to insured deposits. It must stand on its own.

Mr. Speaker, I hope as we continue in the Committee on Rules we will be able to get a fair rule for tomorrow so that these issues can be adequately debated. I support this rule.

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

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, I have proposed two amendments for this particular bill. The Committee on Rules has not ruled at this point. I wanted to briefly discuss an element of this particular bill that I think is very important.

I had a bill that would try to incentivize the creation of community development corporations in communities that are really depressed economically. That bill was not basically put in here, but the committee addressed itself to CDC incentives by allowing those CDC's to get a discount break on their insurance premiums, and that is good.

□ 1220

Mr. Speaker, in that regard I do not think I could offer my technical bill which called for grants that would buy down interest rates in economically depressed communities. It would not give grants for the direct activity of the loan or the economic development. That would buy down the interest rate after a bank or group of banks have qualified an individual who is willing to make a commitment. That is good policy.

So, in any regard, not being able to affect the policy, I have submitted an amendment calling for a study by the Secretary of HUD and/or the Secretary of the Treasury that would look at the community development corporation, banks, and private banks and consortium banks who would take it upon themselves to energize and reinvest in low income communities, and the tool

of being able to buy down interest rates being the incentive. I think it would be a good policy. It could be coupled with the President's enterprise zone philosophy. I think it would work.

The second amendment, my colleagues, I think is very important, and I think this bill is weak without it. One thing we should have learned from the savings and loan fiasco is, when we took the shackles off, everybody was making deals, and everybody started making money, and there was a lot of fraud in the savings and loan collapse. The Traficant amendment would call for a complete disclosure of every board director, chief executive officer, anybody in an important position in the bank who is going to handle money, make loans, make investments or who could rip off the bank.

Now the bottom line is we insure the American taxpayers, our banks, and I think it is realistic for us to have an amendment that says those key people must disclose to us their stock holdings and their financial information. In addition, when they have a relationship from the past employment, past investment or family relationship that appears to be a conflict of interest, they speak to that conflict of interest with an affidavit and assure our regulators that there exists no conflict, that we have regulators, not colluders.

I think these are very important. I think overall Congress should be careful about taking the shackles off the banks. The last time we took the shackles off we started putting a lot of taxpayers' dollars up to it. They are saying it will be $1½ trillion to bail out, before it is over, the savings and loans. I am saying we should have some basic protection to make sure the people involved with these banks do not swing with the money, and let me say this in closing:

When there is money in the vault, there is larceny in the heart, and it is good to have a little safeguard to make sure the larceny in the heart is subdued a little bit before we start bailing out the banks.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. WYLIE], ranking member of the full Committee on Banking, Finance and Urban Affairs, who is offering at least two of the most important amendments that we hope to be considering tomorrow.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] very much for his generous yielding to me of this time, and I thought I would take some time right now because we are going to be limited in debate a little later on. But I do rise in support of this rule.

Mr. Speaker, I do think we need to move ahead on this important legislation as quickly as possible. We need to recapitalize the bank insurance fund. The reserve in that fund is dangerously low. It is now at $2.2 billion and we have been told by Mr. Seidman in his swan song that the bank insurance fund is likely to be at zero level by the end of this year if we do nothing. The bill increases the credit limit to $30 billion from $5 billion, so that $25 billion will be made available immediately to go into this fund. It is absolutely essential that we pass this particular provision of the bill to avoid a taxpayer bailout. All of the money going into this fund will be paid for by the banks with no taxpayer money involved.

Second, we need to provide a mechanism for early intervention of a failing bank, which this bill also does. We need to provide deposit insurance reform, and I am going to be offering an amendment to strike the provision or to modify the provision on multiple accounts. This legislation does very little in the way of deposit insurance reform. My amendment will simply state and say, as was said in the original legislation which came from Treasury, that a depositor would be insured up to $100,000 on a personal savings or checking account and $100,000 on an IRA account in one institution. So, a depositor could be insured up to $200,000 in one institution.

The multiple account arrangement has caused many abuses in the system. Under the present law, through this loophole, a family of four, for instance, could have $1.4 million insured in one institution. My amendment will still cover 97 percent of all Americans with a deposit in the bank, so it would affect less than 3 percent, and those are the wealthiest of the sophisticated depositors. I think that is a big loophole that we ought to close.

Mr. Speaker, I offered an amendment back in 1982, when the savings and loan bill was on the floor, to provide 3 percent net worth for savings and loan. That amendment was defeated pretty much along party lines. All of us who voted for that amendment speak with pride about that amendment because, if that had passed in 1982, we would not be in the savings and loan mess we are in today.

Now I think the multiple account amendment is that kind of an amendment. We do allow 3 years for transition in the amendment so that it would coincide with the end of the so-called too-big-to-fail doctrine.

We also would hope that the body would adopt an amendment which would allow commercial firms to buy failing banks. If a commercial firm puts private capital money into a failing bank, then that means that the bank will not fail and we would not have the exposure to the Federal Deposit Insurance Corporation fund that we might otherwise have. I think that is a very important amendment.

I hope that title III, which is the interstate banking provision, will stay in the bill. Some of us will be offering what is called an opt-out amendment so that the State can vote to opt out of interstate branching and banking if it so desires. I think it is important that banks be allowed to operate across State lines. I think it could diversify the risks. I think it could insulate agricultural sectors and oil sectors from some of the declines we have seen in Texas and New England which have caused a lot of exposure to our banking system. In Ohio we have had interstate branching and banking for many years now, and it has worked very well. We have what is probably the strongest of all of the banking States in the country in part because we got into the interstate banking business early. It can also affect the economies of scale. We have auditing, accounting and examining reforms in our bill which were recommended by GAO.

Mr. Speaker, I happen to think that the bill which was reported out of the House Committee on Banking, Finance and Urban Affairs was a superior bill, and I hope that we can come to a bill, when we vote it out of this House sometime on Friday, which comes fairly close to the Committee on Banking, Finance and Urban Affairs bill.

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

The SPEAKER pro tempore. (Mr. MCNULTY). The time of the gentleman from Ohio [Mr. WYLIE] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 2 additional minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. I yield to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the gentleman from Ohio [Mr. WYLIE], my friend, for yielding, and I just want to say to the gentleman that we may disagree on some parts of this bill, but the one thing I want to say is that I think the gentleman is offering a very constructive amendment with regard to the issue of deposit insurance reform, and I would just call to my colleagues' attention that there are a number of banks across this country, especially in smaller communities, that are very troubled about the prospect of some changes in this area. I understand that, but I would urge my colleagues also to take into consideration, as the gentlemen from Ohio [Mr. WYLIE] has suggested, that that is the reality of the taxpayers in effect insuring deposits up to $1.4 million in an individual bank for one family of four, and I would just observe that a year from now, when we are dealing with a growing problem in our banks in this country, and dealing with the prospect, that we are going to have to do something beyond FDIC insurance to deal with this problem. It is going to be extremely difficult to go to the taxpayers in this country, or anybody else, and ask them to step up and help deal with

this problem when we are talking about help covering deposits in excess of a million dollars in a bank.

So, Mr. Speaker, I just really hope, in spite of the opposition from some banking interests in this country, that our colleagues will listen carefully to the gentleman from Ohio [Mr. WYLIE] and listen to what his arguments are with respect to the need for deposit insurance reform.

□ 1230

If we finish our work on this legislation, or if not, if we have not enacted some deposit insurance reform, as the gentleman has suggested, I think we would make a bad mistake.

I conclude by urging also that my colleagues take a hard look at the amendment the gentleman from New York [Mr. SCHUMER], the gentleman from California [Mr. CAMPBELL], the gentlewoman from New Jersey [Mrs. ROUKEMA], and I will be offering dealing with core banks, because it also in my judgment provides some general fundamental reforms that I believe are desperately needed.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his very significant support. I feel very strongly about this amendment. It is the right thing to do, and I think it will be important to the enactment of the legislation.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, it indeed is a pleasure to participate in this debate on this historic legislation that the House is beginning today to debate and consider.

We must be mindful of the fact that this really is a very important moment in the history of banking legislation in this Nation, because if prior experience over the past 150 years serves us right, the decisions we make involving banking structure this week are likely to guide the structure of the industry for the next 10 or 15 years, perhaps longer, if we are successful, because we must remember that accompanying this legislation is a request for $70 billion in borrowing authority to take care of failed banks which are clearly on the rise. And if we are not successful in drafting this legislation, the FDIC will be back here next year or the year after requesting additional tens of billions of dollars for a banking industry that is under stress. So it is very, very important that we do this job right.

In the Banking Committee, since we passed FIRREA whenever it was, 1 or 2 years ago, we have been able to focus on bank structure reform, and in that process we have had an opportunity to hear from economists around the country—Bob Litan, for instance, from the Brookings Institution; Jim Brumbaugh, formerly of Stanford; Jim Barth, from Auburn; and other nationwide experts who have told us what our banking structure ought to be. We have had an opportunity to hear from the regulators in hearings, from Bill Seidman and others who were involved on a daily basis in the regulation of the banking structure. We have heard testimony from every kind of industry representative. We have had an opportunity to review GAO reports which discuss the strengths and weaknesses of our current structure and, of course, the lengthy and extensive reports submitted by the Treasury Department recommending this legislation.

What do the experts tell us? The experts tell us, first of all, that there is an authentic problem in the banking system, that bank failures before 1970, were at the rate of less than 25 a year; beginning in the 1970's, they got well into the double digits, and beginning in about 1984, bank failures were in the triple digits, 200 or 300 a year, each year from then into the present.

The experts tell us that this is the case because of declining market share. This is the case because of a number of other systemic problems that have been imposed upon the industry that in many respects are not the fault of the industry. Let us enumerate some of those briefly. Why is the banking system under such stress today? Let us enumerate them briefly.

First, they have lost many of their best customers. Many of the large corporations in America are now issuing their own paper. They do not go to their friendly commercial banker for a loan.

Second, the securitization of mortgage and other instruments has narrowed the profit margin for banks in the mortgage and auto loan business.

Third, they have lost many of their customers permanently to money market accounts and to mutual accounts that do not have nearly the overhead that a full-scale bank structure does. As a result, the banks have been chasing less creditworthy customers, and because of overcapacity in the banking industry, they have made many, many bad loans that we will hear about in the debates on this bill later today and tomorrow.

Now, given these problems, what are the solutions? There is general agreement among the experts that we need to do three things. First, we need to relieve the banking industry from outdated government regulations, from Depression-era statutes that are constricting the industry from being successful. The most prominent of those, of course, are the regulations on interstate branching. We are the only country in the Western World basically that denies its national banks access to the full national market. Liberalizing the interstate branching requirements is an idea whose time has come and gone. We should have done it years ago. It has been 58 years since we amended the McFadden Act which restricts national banks and prevents them from branching outside their State of origin.

The second recommendation is to allow banks to participate safely in other, more profitable activities, and there are other, more profitable activities out there, activities that are today more profitable in the banking business that the banks can successfully and safely participate in.

The Banking Committee developed a structure of holding companies that insulate and insure deposits from these non-banking activities. Why not strengthen the banking industry, strengthen banks by giving them the opportunity to participate?

Third, we should give them access to capital. Eighty percent of America's capital is off limits to investment in the banking industry. We have major corporations throughout America that have enormous liquid reserves—General Motors, AT&T, IBM, Ford, companies that have billions of dollars in liquid reserves. Why not, in a safe and careful way through a series of holding companies, allow them to invest in America's banking industry?

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from Nebraska [Mr. HOAGLAND] has expired.

Mr. DREIER of California. Mr. Speaker, I yield an additional 3 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, let me indicate that another source of strength for a distressed banking industry would be to allow access to America's capital. Why not? Let us say Citicorp is under stress. What is the solution? Citicorp sells $600 million worth of stock to a Saudi prince because Federal law prohibits these corporations, that I named earlier, from investing. Is that good policy? I do not think it is.

Now, we will be confronted today and tomorrow with a choice, a choice between a title IV that is drafted by the Banking Committee, which I believe is important because it will strengthen the industry, and also a title IV drafted by the chairmen of two of the most prominent committees, which I believe does not advance these goals and would be a mistake to adopt.

The practical results are that we have a title in one instance that tilts toward the bank, and we have an alternative proposal that tilts toward the other direction. It would be my thought that because of the confusion, because of the fact that very, very many thoughtful people are drawing such opposing conclusions and making such opposing recommendations, let us simply strike title IV. Let us simply leave current law in place in the whole area of new products for banks, commercial ownership of banks, to allow us to continue to try to work out a solution of the problem.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. HOAGLAND. I am glad to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding.

I take this time really to congratulate the gentleman for his fine statement and also to get to the gut of what it is we are discussing here, and that is that we have this so-called Dingell-Gonzalez compromise which has come forward. I understand that in the Banking Committee there were a number of aspects of the so-called compromise that were voted on.

I was wondering if my friend could tell us, and share with our colleagues, the outcome of those votes that were cast in the Banking Committee.

Mr. HOAGLAND. Mr. Speaker, some of the essential elements of the Dingell-Gonzalez agreement are stiff firewalls involving securities and insurance activities by national banks. Many of those specific firewalls, or some of those specific firewalls, I should say, were specifically voted on and rejected by the Banking Committee.

Mr. DREIER of California. Mr. Speaker, let me ask my friend another question, if he would continue to yield.

As we look at the question of whether or not we are going to allow commercial firms to engage in the ownership of these financial institutions, is it not true that if we do not allow that, these institutions will continue to look to foreign investors as potential owners?

□ 1240

Mr. HOAGLAND. Mr. Speaker, it is my view that that will happen. Also those institutions will continue to weaken, and some of them will fail. So why not let corporate America invest in banks, rather than have those funds be drawn from the bank insurance fund, and perhaps ultimately from the taxpayer.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield further, we have the threat of both the U.S. taxpayer being further responsible and further foreign investment in U.S. financial institutions.

Mr. HOAGLAND. Mr. Speaker, absolutely. Let us make available the 80 percent of corporate capital that is currently off limits.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. BAKER], a member of the Committee on Banking, Finance and Urban Affairs.

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

Mr. Speaker, the rule we now have before us is obviously not one of controversy, but is the first step in a lengthy process in consideration of House banking reform measures. Regrettably, we do not now know at this moment whether in fact the work product of the House Committee on Banking, Finance and Urban Affairs will be the document from which consideration will now proceed. It may well be that the Dingell-Gonzalez compromise becomes the product from which all amendments will then be considered.

Regrettably, we do not now know if the House banking substance report will even be an amendment in order to the Dingell-Gonzalez compromise if it then becomes the document from which proceedings will be considered.

Mr. Speaker, it is extremely important that the work product of the House Committee on Banking, Finance and Urban Affairs at least be considered on this House floor. Not that everyone here will agree with every provision that is included in it, but it is the beginning point of an extraordinarily important reform process.

It goes beyond the question of whether bank officers and directors will simply find themselves making more profit. It even goes beyond the question of whether or not our domestic economy will recover and we can create jobs through small business.

It goes beyond that point to the question of who is going to pay for the disappointments of the past decade. Will it be the taxpayers of this country, or will it be the banking industry itself as it recovers, grows and prospers, and provides the premiums and dollars necessary to pay off the failures and losses of institutions around this country.

It is no secret that the problems that began in the Southwest are now commonplace in the Northeast, that no section of our domestic economy is exempt from banking difficulties. If we are to address this issue on a rational basis, the bill as reported by the House Committee on Banking, Finance and Urban Affairs must be considered on this House floor. We must give Members a chance to understand the vast magnitude and scope of the issues we dealt with, and the fact the committee dealt with these over a period of weeks, not simply minutes or hours or even days.

After a very large number of controversial votes, the work product of the House Committee on Banking, Finance and Urban Affairs deserves to be heard on this floor.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the rule and the process that brings us here today to consider the rule on the banking reform legislation which has been requested by the administration.

Mr. Speaker, it has often been said in debate concerning the banks that they have to be modernized and brought into the new integrated financial marketplace. I believe that this is true. To date that has happened only in regulatory or a court procedure in the last decade.

Although the Committee on Banking, Finance and Urban Affairs and other committees in this Congress have been striving to have those issues brought to the floor enacted by Congress and represented in law. The motivation and goal today, is to finally accomplish in 1991, that which has alluded us the past decade. As we do that, of course, I think we find that very often the jurisdiction of committees is also becoming somewhat integrated. That should not be a big surprise.

Clearly the Committee on Banking, Finance and Urban Affairs, the Committee on Energy and Commerce, the two major committees, and two other committees, the Committee on Agriculture and the Committee on the Judiciary, have roles to play in this process.

What has happened with the agreement between the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Michigan [Mr. DINGELL] is exactly the process that is provided in the House. When committees have varying differences concerning legislation, the leadership comes together and try to work them out in areas where they have various and shared responsibilities. That is essentially what has happened in this bill.

Mr. Speaker, clearly I would advise and request the Committee on Rules to make in order the major amendments which give Members an option to vote on issues that are of consequence. But I would also point out that one of our major responsibilities in the argument is correct and limit the risks to the deposit system.

The administration and others are seeking to use the failures of banks, the losses of banks in the past, and to the deposit insurance system, which, of course, have been so evident with regard to the S&L's, they are using this problem as a basis to expand the powers and activities of banks and financial institutions in yet new areas of risk. They advocate bank involvement in areas where they have not been involved.

Mr. Speaker, I am very concerned about this policy path, a philosophy or theory that espouses and favors free enterprise, but declines to practice it to absorb the risk. I hope our deposit insurance and our banking system will not be expected to insure the activities that are not directly related to banks and to the protection of deposits which the system was set up for in the first place.

We cannot carry the free enterprise system on the backs of the bank or S&L deposit insurance system—the privatization of profit and the socialization of risk by the U.S. taxpayers.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. RIDGE], a hard-working member of the Committee on Banking, Finance and Urban Affairs.

Mr. RIDGE. Mr. Speaker, when this bill started off in the House, it had some warts but overall it was a good bill. It recognized that we needed a whole new world for banks, that the fast-moving markets required an update in the way this Government views banks and financial intermediation. Despite the skeptics' doubts, the House Banking Committee produced a bill that increased supervisory powers where necessary and prudent, introduced market discipline, and removed outdated laws that only gave competitors of banks an advantage over banks themselves. When we finished with the bill and reported it out, we knew we had a hard road but we were generally pleased.

Since then, however, it has been all downhill. Today, I must state for the record that the direction of this bill, in combination with a recession that will not quit, will almost certainly force a taxpayer bailout of banks in the next 2 or 3 years. I wish it were otherwise. I wish unemployment claims were dropping and housing starts and real estate values were rising. But they are not. Unemployment claims continue to rise, housing starts and durable goods orders are flat, and real estate markets are not recovering—in fact, we fear further losses in California. As long as the recession continues, we know that more banks will fail.

This alone is cause for alarm. But now here comes the banking bill where the momentum is clearly in favor of isolating the bank charter while forcing more regulation at every corner. The momentum is not for modest product and service reforms, but for stripping away existing authority! The momentum is not for regulation where it is most needed, but regulation for its own sake. We are going backward, partly because we're fighting the last war, the S&L war, and partly because the opponents of the bill have divided and conquered. I can sum up these factors by saying the bill is a product of paranoia.

I want to specifically address the issue of fighting the last war. Some have said that the Banking Committee's reform bill would lead to a replay of the S&L situation. It is vastly different. The thrift industry operated without separately capitalized affiliates and holding companies, without firewalls keeping insured funds from risky activities, and without adequate regulatory early intervention, three policies the Banking Committee included in strong measures.

While this underlying framework is still in the bill, I regret it has been severely weakened by last minute changes by our own chairman, changes that nullified weeks of work and will only harm the banking industry. Once Wall Street fully digests the direction of this bill, investors will begin taking their dollars elsewhere. Investors will correctly perceive that Congress cannot deal with the bank charter obsolescence in a meaningful way, that Congress does not understand the principle of diversification of risk, and that Congress is dooming a bank charter to extinction. And there only two classes of people with money for the industry: investors and taxpayers. When the investors go, only you-know-who is left. And what will we do when the taxpayers come to us? Tell them to get an appointment with Mr. DINGELL?

There is hope. Perhaps we will find a way to win floor votes that will greatly improve the bill. The bill also has important parts that will allow interstate branching, will cut way back on the too-big-to-fail syndrome, and encourage banks to greenline distressed neighborhoods, a problem illustrated by the just-released Federal Reserve report on mortgage rejection rates.

FLOYD FLAKE and I have worked on the Bank Enterprise Act and we know it will make a radical difference in the way banks operate in underserved areas.

But overall, unless we make improvements this week, I think someday the banking reform bill will be recognized for what it truly is: A colossal policy failure and another indication that the Congress is unable to understand markets and make them work for the benefit of consumers and taxpayers alike. It will be another indication that congressional action erodes our national competitiveness in a world that rewards efficiency and innovation. It will be another indication that our national treasure, the earning power of working Americans, is taxed not for investment in jobs or education or infrastructure but for filling the black hole of economic and political incompetence.

□ 1250

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. HUBBARD].

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. HUBBARD] is recognized for 4 minutes.

Mr. HUBBARD. Mr. Speaker, I urge my colleagues to oppose the Wylie amendment to restrict deposit insurance coverage. This is the third time this issue has been debated, and we defeated it in subcommittee and in the full Banking Committee.

What do the New York Times, the Washington Post, the American Association of Retired Persons, the U.S. Chamber of Commerce, and the National Association of Home Builders have in common? Each opposes new restrictions on existing deposit insurance coverage.

Their opposition is based on the fact that to reduce deposit insurance is ineffective at best. At worst, it would be a mistake that would result in significant, nationwide harm to our already fragile economy.

Consider, if you will, the following quotes: "I don't think changing the amount of deposit insurance will make a big difference as to what the liability is that the Federal Government is looking at," said Comptroller General Charles Bowsher. Restricting coverage would cause nothing more than an inefficient shuffling of funds between institutions—without reducing the risk to the deposit insurance funds.

In an article entitled "Banking Reform Proposals Are Already Rattling The System and Making The Credit Crunch Worse," the Wall Street Journal noted:

> Even the chance of change is prompting many businesses and individuals to reduce the amount of deposits they are holding . . . Some small banks say the departure of their largest deposits is crimping their ability to make loans—and, as a result, hindering the economic recovery.

That's why U.S. Chamber of Commerce President Richard Lesher wrote in a recent letter:

> Restricting the number of accounts covered by deposit insurance or simply cutting back federal deposit insurance guarantees would make the banking industry far less viable than it is today.

Mr. WYLIE of Ohio said there are many abuses in the system. I challenge my friend from Ohio to name one bank that's failed because of multiple accounts.

Jerry Knight in last Sunday's Washington Post wrote an article about the banking industry problems:

> The banking industry is in trouble because of a series of ill-fated decisions over the last decade to lend money to Third World countries, corporate takeover artists and real estate developers who ended up not being able to repay their loans. Those bad loans have caused nearly 1,000 banks to fail, left hundreds more on the brink of failure and badly eroded the capital reserves of another 2,000 banks.

It's universally agreed that the banking industry is not in trouble because of multiple accounts. It's in trouble because of ill-fated decisions to lend money to Third World countries, corporate takeover artists, and real estate developers who cannot repay their loans.

What will happen if you restrict multiple accounts? Many will take their money out of the banking system entirely, which means less money for loans to small business and consumers, and will add to our economic problems. My constituents in western Kentucky will possibly consider moving their money to banks that might be consid-

ered too big to fail, and let me add there are no too-big-to-fail banks in western Kentucky.

Let me conclude by sharing a portion of an editorial from the Washington Post entitled "Don't Cut Deposit Insurance":

While many things need to be changed in the American banking system, the basic system of deposit insurance is not one of them. As Congress goes to work on the banking bill this week, it would be wise to leave deposit insurance alone. The purpose of this bill is to produce stronger and more stable banks. Cutting back the insurance of depositors would do just the opposite.

I urge my colleagues to vote against the Wylie amendment to restrict multiple accounts.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. WYLIE], the distinguished ranking member.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding time to me.

One, my amendment would only take effect now at the end or termination of the so-called too-big-to-fail doctrine. That was one of the arguments the gentleman used in the committee in opposition to mine; that money would flow to the too-big-to-fail institutions. They are terminated in 3 years. That is the same time my amendment would take effect.

Maybe multiple accounts did not cause savings and loans to fail, but they contributed to the huge bailout problems when depositors were paid off. And that is one of the conclusions of the study that was done by the Treasury Department.

This seems like deja vu all over again, may I say, Mr. Speaker. Back in 1982, when I offered the net worth amendment, which would require savings and loans to have 3-percent net worth, the U.S. League opposed it. The first gentleman on the floor to oppose my amendment was the gentleman from Kentucky. He prevailed then.

I hope that he does not today.

Mr. FROST. Mr. Speaker, for purposes of general debate, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, let me thank the gentleman from Texas for yielding time to me.

Members have come to the floor and indicated, if we pass this bill in one form or the other, we are going to induce a bank bailout.

My colleagues, make no mistake about it, we are already involved in a bank bailout. No matter what version of this bill passes, contained in any version will be a $70 billion loan from Treasury to the bank insurance fund, to the FDIC. And if we think the banks will have it within their power or wealth to pay that back, we are dead wrong.

Pending before the Committee on Rules is an amendment which I offered yesterday. It would provide an option for the House to vote for a narrow bill versus a broad bill. A narrow bill would do only two things: It would provide for the $70 billion loan, some meager deposit insurance reform, and it would also provide for some regulatory reform. That is all.

Let us do no more. Let us not expand the powers of the banks. Let us wait for the insurance fund to become healthy, for the banks to become more healthy, and let us talk about giving them additional powers.

Until that happens, I think it is unwise to move on. However, if the House rejects that and states that now is the time to do the broad bill, a couple of things should happen.

No. 1, title IV, which is the agreement between the gentleman from Michigan [Mr. DINGELL] and the gentleman from Texas [Mr. GONZALEZ], is a must. Why do the big banks oppose title IV? Because it is too tough on them. That is why. They want their cake and eat it, too. They want no powers and invest in what they want without oversight by this Congress.

So if we do the broad banking bill, we need the title IV.

Also we talked about deposit insurance. The gentleman from Kentucky just indicated, do not tamper with deposit insurance. My colleagues, what is going on is ludicrous. We have zero dollars in the banking insurance fund and $3 billion on deposit which the taxpayers of this country are liable for.

He says, "Don't tamper with deposit insurance." A family of four in this country today under the current law can have up to $1.4 million in one bank and have it all totally insured by the taxpayers.

□ 1300

I think we should at least support the Wylie-Gonzalez approach which spreads the risk and says "OK, taxpayers, it is $200,000 per bank and we will spread it around."

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, let me just say at the outset that what is good for the goose is good for the gander. Let me take a couple of minutes and talk about banking, insurance, and consumers.

Under current law, insurance companies can own banks and they can market to their insurance policyholders banking products all over the country, under current law. Under current law State-chartered banks can own insurance subsidiaries and they can sell insurance products to their banking customers throughout the country, without impediment. It is sort of a two-way street, a mirror image, one of the other. That is good for competition and it is good for consumers.

The legislation coming to us under the revised version of title IV, this bill would say on the one hand that we are going to continue to allow insurance companies to own banks and to market those banking products to their customers, but we are going to greatly curtail the right of State-chartered banks to own insurance companies and market insurance products across the country to their banks and customers. Well, if it is good for the goose, ladies and gentlemen, it is good for the gander.

In terms of what is good for consumers, the status quo is good for consumers. I will be offering, with a number of my colleagues, an amendment to title IV that does several things. First, it makes it perfectly clear that any State that wants to sell insurance in another State, any bank that wants to sell insurance in another State, one has to be licensed to do that. Second, that other State can pass a law and say "No, you cannot sell within our borders."

Third, any State's banks that may want to export powers—that may want to export insurance powers—they have to sell those same powers, the same insurance powers, in their own State. Any State that wants to export their banking powers to another State has to have a reciprocal arrangement. The other has to be able to sell in the would-be exporting State. If we do not want illegal tie-ins to prevail; "I am a bank, and in order to buy my banking products you will have to buy my insurance products," that is illegal. That is made punishable by law.

I would ask Members for the support of this law.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, I thank the gentleman for yielding time to me.

I intend to take some time later in general debate, but I saw that this discussion was going on here and I just want to make one point at this time, if I may. There is a broadly held misunderstanding that what the committee has done regarding banks is something like what was done with the savings and loan industry when they got in trouble during the 1980's. This has been written several places, several Members have mentioned it, and I just wanted to make it clear that this is a very bad misunderstanding.

When the savings and loans got into deep trouble in the 1980's their capital requirements were reduced. At the very same time, they were allowed to go into commercial lending, such as junk bonds, direct investment in real estate, and at the very same time supervision and regulation was reduced.

Now, this proved to be an absolute recipe for disaster. The committee learned from this experience, and in the banking bill before the House the committee on Banking, Finance and

Urban Affairs has done precisely the opposite. Capital requirements have been increased, not reduced, as they were with the savings and loans. We improve and expand regulation and supervision, not reduce it, as was done with the savings and loans, and we do not allow—in the version of the Committee on Banking, Finance and Urban Affairs—expanded activities with taxpayer-insured funds. Frankly, I am not even sure we are going to get to consider what is really the version of the Committee on Banking, Finance and Urban Affairs. The new activities that would be allowed would be in separately capitalized affiliates of banks.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. Speaker, will the gentleman yield?

Mr. NEAL of North Carolina. Mr. Speaker, I thank the gentleman for yielding time to me, and I am delighted to yield back to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I appreciate my friend yielding. I simply wanted to ask him if he could tell us if he was, first of all, a part of this so-called Dingell-Gonzalez compromise which we saw negotiated and it came before our Committee on Rules. As I said in my opening statement, I have yet to find anyone, other than Chairman DINGELL and Chairman GONZALEZ and a lot of staff people in this place, who was part of that negotiating process.

Mr. NEAL of North Carolina. I must say to the gentleman that this is a most unusual situation. Most elements of the so-called Dingell-Gonzalez compromise, and I say "so-called compromise" because there is no compromise involved. It is a creation of the Committee on Energy and Commerce, which our chairman chose to accede to. That is the only way I can see it.

Many of the main provisions of that document were brought up during both the subcommittee considerations of this bill and the full committee considerations, and were rejected by very substantial votes.

Mr. DREIER of California. So, in other words, am I to understand correctly, then, that many of the provisions in the compromise were overwhelmingly defeated when those aspects came up for votes in the Committee on Banking, Finance and Urban Affairs?

Mr. NEAL of North Carolina. Yes, sir, that is absolutely correct.

Mr. DREIER of California. Mr. Speaker, I would like to ask my friend how is it possible that this could be part of a compromise, then.

Mr. NEAL of North Carolina. I must say, I do not see it as a compromise. I must tell the gentleman that I have the highest regard in the world for Chairman GONZALEZ and Chairman DINGELL.

Mr. DREIER of California. I do, too.

Mr. NEAL of North Carolina. But this document is not a compromise. This is a provision of the Committee on Energy and Commerce. I understand that the Committee on Rules may make it a part of the document that we will be considering, and it may be that we will yield to what reality most people say exists, and that is that we cannot pass meaningful reform at this time.

If that is true, I must say that it is a real shame. Every major study, every major series of hearings on this subject in our subcommittee has come to the same conclusion, that if we are not going to have a taxpayer bailout of the banking system somewhere down the line, this industry must be allowed to make a living.

The product of the Committee on Banking, Finance and Urban Affairs, which passed the subcommittee, as I recall, unanimously, over 30 votes to nothing, passed with a majority in the full committee, opened up new diversification and opportunity, and would allow for this industry to thrive in the modern world.

All of this will be cast by the wayside if we adopt the Dingell-Gonzalez approach.

Mr. DREIER of California. Mr. Speaker, if I could ask my friend, is it correct to assume, as we heard up at the Committee on Rules yesterday, that this Dingell-Gonzalez compromise is really based on the 1964 Bank of England Charter, the 1791 establishment of the Bank of the United States under Thomas Jefferson, and the 1864 laws?

Mr. NEAL of North Carolina. I am afraid I do not know about the entire history of it, but it is not the product of the Committee on Banking, Finance and Urban Affairs, I will say that.

Mr. DREIER of California. I see. I thank my good friend for responding to the question.

Mr. Speaker, I am happy to yield 2 minutes to the gentleman from California [Mr. RIGGS], a very hard-working member of the Committee on Banking, Finance and Urban Affairs.

Mr. RIGGS. Mr. Speaker, I thank the gentleman from California for yielding time to me, and for his nice comments and his hard work on this rule.

I am not certain whether I support the rule or not, because quite frankly, the rule is evolving upstairs as we have this debate now. But I just want to go on the record as saying, as one member of the Committee on Banking, Finance and Urban Affairs who worked hard on this bill that we marked up that I think it is a fine product. Unfortunately, I do not like the efforts that have occurred since to dilute and water down this bill. I am far too afraid that when we finally get a bill out here on the floor I am not even going to recognize it, and I think I probably speak for the rest of my colleagues on the Committee on Banking, Finance and Urban Affairs as well.

What we did in this committee was good legislation. We sought to recapitalize the BIF by increasing bank premiums, putting premiums on a risk-based basis.

□ 1310

We were willing; we were going to adopt certain new title I safety and soundness requirements requiring early intervention on the part of Federal regulators, doing away with this idea of forbearance which was one of the contributing causes of the savings and loan problems, and, yes, granting certain new powers, expanded powers to the American banking industry, not the least of which is interstate banking and branching.

So in terms of where we go from here, for any of my colleagues who are listening to this debate back in their offices, I know that they are going to be weighing a number of amendments on this bill, but let me just say that let us at all cost retain the interstate banking and branching provisions. We are going to have an opt-out amendment which will actually give the States the ability to opt out of that system, so hopefully that will allay the concerns that Members might have in that area.

Although I did not think this was going to be possible, I think some of the legislation, frankly, that is going to be coming before us, particularly the Dingell-Gonzalez amendments to title IV, would actually make a marginal situation worse, so I am standing up today during this early debate on the rule going on the record as saying that I am going to support the motion to strike title IV, to go with the existing law, because, frankly, it is a better arrangement than what we get from the muddled mess that has been produced now through this hybrid compromise between the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce.

I also want to say that I am going to support my ranking Republican member on the Committee on Banking, Finance and Urban Affairs and his provisions to make deposit insurance reforms to put some restrictions on deposit insurance. For me, it has been a real troubling issue to struggle with. But I am going to support that, because I think, again, it is a necessary precaution to take at this point in our country's juncture.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for his contribution. He raises a very good point,

that being that we do not know whether or not those amendments will be able to be considered, and that is something that I hope the Committee on Rules will grant today when we bring up the rule. There is an opportunity for all of those amendments to which the gentleman referred to be considered here.

Mr. RIGGS. I thank the gentleman. I know my time is expired. If I might just comment that, frankly, there is so much confusion around all of these issues, all of these amendments that are swirling now, that I hope that we can get as broad or as open a rule as possible.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have listened to much of the debate on the rule, which I strongly support. There is, however, one little part of this discussion that I want to point out.

Several of my colleagues have said that they want to strike title IV. Title IV is a very important piece of this legislation. I am sure that everybody in this House has been receiving messages and telephone calls from the big banks in their districts and in their States and so have I.

And I am sure that all of us have been receiving all kinds of phone calls from the insurance companies in our districts. I think that, as a Congress, we have the responsibility to try to do what we can for both of these industries. By removing title IV, we would, in fact, be saying to the insurance industry that, "We do not care about you. We are not going to try to keep you from becoming more and more insolvent." Believe me, we are having more insurance insolvencies than we have had probably in the last 20 or 30 years.

What we are saying to those insurance companies is, "No, we are not going to be concerned about you. We are going to give all of your business over to the banks. We are going to let them underwrite, we are going to let them do tie-ins, we are going to let them do all kinds of different things."

I do not think that is what this Congress is all about. I think that we have a responsibility to the American people to make sure all of our major industries are, in fact, kept intact; are, in fact, as profitable as can possibly be. That is why I am totally against anybody trying to take out title IV when it comes to the general debate for the passage of amendments on this piece of legislation.

Let me just remind you very quickly, how some of us seem to forget about what the traditional business is of banking. It is about being depositories of moneys, it is about loans. Basically that is it.

Over the years we have allowed other forms of transactions to come into the banking industry, and I think some of that was good, but by and large, some of it has helped us to be in the position we are today where you have more banks failing than we have had in years, 127 this year. In the last 10 years, over 1,100 banks have failed.

If you give them insurance, more are going to fail.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am incorporating in the RECORD at this point the statement of administration policy.

Mr. Speaker, I urge support of this rule.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 29, 1991.

STATEMENT OF ADMINISTRATION POLICY

H.R. 6—FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

The Administration strongly supports H.R. 6 as reported by the Committee on Banking, Finance and Urban Affairs, and with the amendments described below. However, if the Energy and Commerce Committee amendment or a similar amendment to Title IV is adopted, or the interstate branching provisions are substantially weakened, the President's senior advisers would recommend a veto.

H.R. 6, as reported by the Banking Committee, is comprehensive legislation designed to create a safer, more competitive banking system. H.R. 6 recapitalizes the bank deposit insurance fund, sets clear standards for prompt corrective action by regulators to resolve troubled banks, and permits banks to reduce risk by diversifying their activities across more product lines and more geographic areas. It also greatly enhances the franchise value of banks and greatly expands the ability of banks to attract voluntary private capital into the industry, thereby increasing the capacity of banks to absorb losses ahead of the taxpayer. The administration strongly supports all of these efforts, though certain modifications would make H.R. 6 even more effective in strengthening the banking system and reducing taxpayer risk.

Four other House Committees—Energy and Commerce, Ways and Means, Judiciary, and Agriculture—have considered H.R. 6 and recommended amendments to the Banking Committee's bill. The Administration supports the Ways and Means amendment and parts of the Agriculture amendment. The Administration is concerned, however, that the Judiciary Committee's amendment to the bill's anti-tying provisions is unnecessary and could result in overly restrictive regulation of commercial practices.

The Energy and Commerce Committee has recommended a substitute to Title IV, the provisions that would otherwise increase the value of a bank franchise and attract private capital into the industry to absorb losses ahead of the taxpayer. (A slightly modified version is likely to be substituted for the Energy and Commerce Committee amendment for Rules Committee consideration, but there are no significant differences between the two versions.) As set forth below, the Administration strongly opposes both the Energy and Commerce substitute and the slightly modified compromise substitute as anticompetitive amendments that will weaken the banking system, impede the economic recovery, and increase taxpayer exposure to deposit insurance fund losses.

Amendments supported by the administration

While the Administration strongly supports H.R. 6 as reported by the House Banking Committee, the following modifications would substantially strengthen the bill:

Limiting deposit insurance coverage for individuals to $100,000 per person per bank, with a separate $100,000 in coverage for retirement accounts. This will reduce taxpayer exposure by limiting protection to average depositors.

Providing limited flexibility in the "firewall" provisions that will allow regulators to make technical adjustments to promote safety, soundness, and competitiveness.

Providing greater flexibility for bank regulators to avoid the premature shutdown of a weak bank that has clear prospects for recovery.

Eliminating provisions described below that increase the deficit for "pay-as-you-go" purposes by more than $1 billion over four years.

Eliminating the provision that deems the President to have designated the emergency loan guarantee for Rhode Island as an "emergency requirement." This provision violates last year's budget agreement.

Providing flexibility for regulators, in consultation with the administration, to protect against systemic risk in the banking system, with costs borne by the banking industry.

Eliminating provisions that reduce the regulatory authority of the Office of the Comptroller of the Currency, e.g., enforcement and the resolution of troubled but insolvent institutions.

Opposition to Energy and Commerce amendment

The Administration strongly opposes the Energy and Commerce Committee amendment or the slightly modified compromise amendment that is likely to be offered as a substitute to Title IV. For the following reasons, these substitutes will make banks weaker and less likely to provide credit in good times and bad; hamstring the ability of U.S. banks to compete with Japanese and European competitors; and increase the likelihood that taxpayers will pay for bank losses:

The amendment prohibits diversified companies from owning banks, which will stop new capital from voluntarily flowing into banks to absorb losses ahead of the taxpayer. Commercial firms should at least be able to purchase failing banks where taxpayer savings are immediate and substantial.

The amendment imposes unworkable "firewalls" unrelated to safety and soundness, which penalize banks to protect securities firms from competition.

The amendment requires the Securities and Exchange Commission to regulate the same firewalls as the Federal Reserve. This would undermine functional regulation and lead to regulatory gridlock, confusion, and increased costs.

The amendment takes away riskless and profitable insurance activities of banks, even where permitted by State law.

If the Energy and Commerce amendment or the slightly modified compromise amendment is adopted, the Administration would strongly support a motion to strike Title IV from the legislation. Current law is far more likely to keep banks stronger, safer, and more competitive.

Other amendments opposed by the administration

The Administration also strongly opposes all of the following amendments:

Amendments to strike or weaken the interstate branching provisions, especially one that would (1) prohibit interstate branching unless each State "opted in" by statute and (2) subject national banks to State banking laws for the first time. Such changes would be worse than preserving current law.

An amendment to expand the Community Reinvestment Act to impose onerous new requirements that would impede interstate branching and new financial activities for banks.

A "core bank" amendment with overly stringent lending limitations to one borrower and a form of interest rate controls because it could choke off credit to the economy.

An amendment that requires deposit insurance losses not paid for by the industry to be funded in a deficit neutral manner. This amendment violates last year's budget agreement, which recognized that currently outstanding deposit insurance liabilities should not be subject to pay-as-you-go requirements.

The Agriculture Committee amendment that requires an interstate branch to make a fixed amount of loans in rural areas or risk branch closure. This Government allocation of credit would discourage banks from opening branches in distressed rural areas that need credit.

An amendment that requires the Federal Deposit Insurance Corporation to begin a new housing subsidy program funded by banks. This expense would be shifted to taxpayers because it would require a pay-as-you-go offset.

Amendments that stop banks by statute from making specific kinds of business loans involving highly leveraged transactions, or that stop securities affiliates from underwriting or dealing in high yield bonds.

Scoring for purposes of pay-as-you-go

H.R. 6 would increase direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). A budget point of order applies in both the House and the Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the House waives any such point of order that applies against H.R. 6, the effects of enactment of this legislation would be included in a look back pay-as-you-go sequester report at the end of the congressional session.

OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If H.R. 6 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

ESTIMATES FOR PAY-AS-YOU-GO [1]

[Dollars in millions]

	1992	1993	1994	1995	1992–95
Outlays:					
Rhode Island loan guarantee	+70	.....	.....	.....	+70
Receipts:					
Credit for distressed communities lending and deposit gathering	.....	−266	−319	−358	−943
Lifeline banking	.....	−7	−9	−11	−27
Net deficit increase (+) or decrease (−)	+70	+273	+328	+369	+1,040

[1] The bill's "too big to fail" provisions would decrease outlays, but it is not possible to estimate the size of the decrease. Similarly, estimates of the pay-as-you-go impact of the bill's provisions on passed through insurance are not available at this time.

The above estimate does not take into account anticipated floor amendments.

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

Mr. FROST. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991, AND AGAINST CONSIDERATION OF CONFERENCE REPORT

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 232 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 232

Waiving all points of order against the conference report on the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, and against the consideration of such conference report.

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes. All points of order against the conference report and against its consideration for failure to comply with the provisions of clauses 3 and 4 of rule XXVIII are hereby waived.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 232 is the rule providing for the consideration of the conference report on H.R. 2508, the International Cooperation Act of 1991.

The rule also waives all points of order against the conference report, and against its consideration, for failure to comply with the provisions of clause 3 of rule XXVIII and clause 4 of rule XXVIII.

Mr. Speaker, clause 3 of rule XXVIII pertains to the requirements of scope. This waiver is necessary principally because of the dramatic events the world witnessed in the Soviet Union last August. Conferees decided to drop all provisions pertaining to the Soviet Union after the Soviet system changed, and to defer action until a later date.

The waiver of clause 4 of rule XXVIII pertains to germaneness. This waiver is necessary because nongermane provisions having to do with international development and finance were added to the bill.

Mr. Speaker, H.R. 2508, also known as the foreign aid authorization bill, contains many comprehensive revisions to our foreign assistance programs. The bill authorizes development assistance, foreign military financing, and economic support assistance for fiscal year 1992 and 1993.

As chairman of the Select Committee on Hunger, I am particularly pleased with a number of provisions. I would like to commend Chairman FASCELL and ranking minority member, Representative BROOMFIELD for shepherding many of the provisions from my Freedom From Want Act through the conference. In section 1401 of the conference report, we were successful in establishing food as a human right. Section 1403 includes language to reform and restructure the U.N. response to international disasters.

In addition, the conference report includes important waiver on assistance to Ethiopia, which are necessary to provide economic and food assistance to a country with a history of famine. Language is also retained urging the Agency for International Development [AID] to allocate $275 million for child survival programs, $135 million for basic education activities, and $12 million for programs to reduce vitamin A and other micronutrient deficiencies. We know these programs work by offering the world's poorest people a chance to climb out of poverty.

I am also pleased that the conference report requires information to be provided in AID's congressional presentation documents regarding the administration's specific actions—including funding—to implement the World Summit for Children and the World Declaration on Education for All.

Finally, I commend my colleagues on the conference for retaining our lan-

guage on conventional arms control. The many provisions in chapter 5 of title II, concerning the arms transfers restraint policy, will hopefully lead to a more peaceful and settled world.

Mr. Speaker, this is a good bill, one which can help alleviate poverty and suffering among people. This rule passed in a voice vote in the House Rules Committee. I urge my colleagues to adopt it.

□ 1320

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

Mr. Speaker, I rise in opposition to this rule, and I do so because of the general principle I try to adhere to in opposing rules that contain waivers of points of order against scope and germaneness.

The issuance of these kinds of waivers has become a bad habit around here, Mr. Speaker, and for the most part it is not an appropriate way to do business. It is one of the major reasons why we run deficits each year, and this year certainly is no exception. I think the deficit this year is already approaching $370 billion.

Nevertheless, I have no desire to obstruct the work of Congress from going forward. Although I am personally opposed to this rule, Members should feel free to vote on it any way they wish in the event that we do have a recorded vote.

Mr. Speaker, it should be noted that the authorization for programs contained in this conference report is nearly $91 million above the figure that was passed by the House last June. It is higher than what we passed, and it is about $190 million above the figure that was passed by the Senate in July.

So Members should realize that the waiver against scope contained in this rule serves to excuse the fact that this conference report contains a higher authorization for spending than was passed by either House of Congress.

So if Members are back in your offices, they ought to listen to this.

The rule also excuses the fact that this conference report contains a $12 billion—not million, but $12 billion—authorization for the International Monetary Fund and other multilateral development agencies. That authorization has not been passed by either House in any form this year. So once again the normal legislative process is being short circuited by this rule. My colleagues, that is not a good way to do business.

All of that having been said, Mr. Speaker, the rule does not serve to single out for special protection any other provisions in the conference report. Nothing else in the rule is being hidden, and you can take it from me, that is the truth.

Indeed, the problems in this conference report are well known. There are no secrets in it, and there is no secret as to why the President has every intention of vetoing this legislation if and when it reaches his desk.

So I will devote the rest of my remarks to some of the problems contained in the conference report itself, and why I intend to vote against the rule and the conference report.

First, I would point out to Members that the administration is concerned—as I am concerned—about what has been done with the family planning issue. This conference report contains a $20 million earmark in support of the U.N. Fund for Population Activities, an agency which has been implicated in supporting the coercive family planning policies and practices in China.

Mr. Speaker, the conference report also contains a provision that repeals the so-called Mexico City policy, which prohibits United States aid from being provided to organizations that advocate abortion as a form of birth control or family planning.

Both the earmark for UNFPA and the provision repealing the Mexico City policy should be repugnant to every single Member of this House, regardless of one's personal position on the abortion question.

There is no way United States funds—which are fungible—should be used directly or indirectly to support social oppression in China, of which coercive family planning policies are a prominent feature. And there is no way we should give the slightest countenance to the notion that abortion is an acceptable form of birth control—at home or abroad.

Second, there is the issue of cargo preference, a requirement that foreign aid recipients use a portion of that assistance to purchase U.S. commodities which are then shipped on U.S.-flag vessels. I happen to be a supporter of this concept, and I have worked in past years for its enactment, as I will this time. But I am duty bound to advise Members on both sides of the aisle that the expanded requirements contained in this conference report are totally unacceptable to the administration and will prompt a veto.

Third, and most importantly, there is the issue of arms sales. I would call this to the attention of every Member of this House because this is changing American policy as far as arms sales are concerned. There is a provision in this conference report which was added by the other body, not by our own good people over here. It moves our foreign military sales program sharply in the direction of becoming a grant program. I call this to everyone's attention, particularly those Members who have been wailing about aid going overseas.

In other words, our arms sales program will become a giveaway program.

Indeed, the sponsor in the other body of this particular provision wants to see all foreign military sales phased out over a period of 4 years and be replaced by a program which is exclusively grants.

And just as surely as summer follows spring, we can expect each and every nation that has outstanding debts for past military purchases to apply for foregiveness of those debts the moment this program becomes exclusively grants.

Mr. Speaker, this provision will prompt a veto. The time has come to tell the rest of the world that the gravy train is over. It is over. We are a debtor nation. We should not be moving the military sales program in the direction of grants. We should be going the other way. We should only be making items available through cash sales or loan programs that must be repaid, and they must never, never be forgiven.

The other day, the majority leader, the gentleman from Missouri [Mr. GEPHARDT], made reference to the extraordinary sacrifices the American people have borne over these last 40 years. In the context of the debate here today, I would like to endorse the remarks of the gentleman from Missouri [Mr. GEPHARDT].

America has paid a tremendous price these past 40 years in protecting other countries from the malignant virus of communism. We have made a singularly awesome expenditure of money, energy and resources to contain and subdue the Soviet Communist system.

Mr. Speaker, so intensive and prolonged was this effort that even such a great leader as President Eisenhower feared for the very survival of our own democratic institutions.

Well, the time has come to tell the rest of the world to grow up, that Uncle Sam is not picking up the tab anymore. When the IMF funding is folded into this conference report, we are looking at a $37 billion giveaway.

Mr. Speaker, that is $37 billion, a $37 billion monstrosity.

Where in the world is the money coming from?

Mr. Speaker, none of what I have just talked about includes a dollar of aid to the former Soviet Union, and that aid package could equal or exceed all of this giveaway I am talking about here today. I would not be a bit surprised to see a bill come on this floor to have $40 billion going to the former Soviet Union.

Mr. Speaker, there has been a lot of partisan rhetoric coming from your side of the aisle lately, accusing President Bush of being more interested in helping foreigners than he is in helping Americans.

Members of this House, and especially those on the Democratic side of the aisle, now is the time to put your vote and your money where your mouth is.

The other day the new chief deputy whip on the majority side, our good friend, the gentleman from Georgia [Mr. LEWIS], for whom I have the great-

est respect, said on this floor, "Come home, America. Come home, America."

Mr. Speaker, that was good advice then and it is even better advice today.

□ 1330

Come home, America; come home, Democrats; 232 of you, almost all of you, 90 percent of you, voted last Thursday to appropriate half of this foreign aid giveaway.

So I say to the 232 Democrats, either vote down this $37 billion giveaway today or knock off your criticism of President Bush.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I think the American people are basically upset with Congress because they are trying to figure out our priorities. Our national debt is over $4 trillion; our deficits annually, some say next year may be half a trillion dollars.

Mr. Speaker, we are cutting housing, education, everything you can think of. Let me tell you like it is: We have a foreign aid bill that comes back from conference that put the little cut that we made on this House floor back in, waives all points of germaneness and gives $5,000 a year to every man, woman, and child in Israel—$3 billion, and you want to talk about the way Congress really is? Congress will pass this because AIPAC may target it.

Now let us tell it like it is: $3 billion for Israel, $2.1 billion for Egypt, money for everybody, and we are broke. I cannot justify that, folks.

Now, I had passed an amendment, supposedly, in the authorizing committee, and the authorizing bill has never become law. The appropriation bills become law.

Let us tell it like it is. It called for a study that if we took $3 billion from this pork-barrel account overseas and put it to our domestic use, what would the impact be on both our foreign accounts and our domestic affairs?

From what I understand, evidently the staff was voted out because no Members know anything about it.

Folks, let me tell you what: If we can provide $5,000 a year for every man, woman, and child, every citizen of Israel, we can provide money for jobs, housing, education, and health care in America.

If we could find $2.1 billion for Egypt and forgive a $7 billion loan to Egypt, we can provide unemployment compensation for Americans who are out of work.

Now, that is just the way it is. I have nothing against the rule except if the rule is defeated, there is no bill, and I do not want to see the bill passed.

I am mentioning this to Members of Congress, if you want to know why the American people are fed up, they are tired of this rap. There is $2.5 million in this bill for a public relations account to sell the American people on continuing the foreign aid program.

Well, maybe you can fool some of the people some of the time, but you cannot fool all of the people all of the time.

Mr. Speaker, I am against $12 billion in money that was never authorized for an International Monetary Fund to help people overseas.

I am sick and tired of housing guarantees overseas, I am sick and tired of grants overseas. I ask for a "no" vote on the rule and a "no" vote on the bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in strong opposition to the Rule due to two provisions in the conference report. The first provision to which I am opposed would authorize $20 million for the U.N. Population Fund [UNFPA].

As I have stated before in this Chamber, UNFPA continues to be a strong supporter of China's population control program, which is widely known to utilize coercive abortions as one of its methods. In spite of evidence that forced abortion and involuntary sterilization are widely used to enforce China's one-child policy, Nafis Sadik, the executive director of the U.N. Population Fund has repeatedly stated publicly that China's program is totally voluntary. Mr. Speaker, this statement is made in the face of mountains of evidence that China's population control officials do indeed employ coercive and involuntary abortions and sterilization to enforce their policies.

Nafis Sadik went even further to praise China's program on April 11 of this year in making the following statement:

> China has every reason to feel proud of and pleased with its remarkable achievements made in its family planning policy and control of its population growth over the past 10 years.

Sadik also told China's official news agency of her organization's plans to increase its free aid to China.

Mr. Speaker, the second provision to which I am opposed is the one that would overturn the Mexico City policy. In effect since 1984, this vital policy restricts U.S. population funds from going to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning. Overturning this policy would allow Federal funds to go to organizations which actively promote abortion—both coercive and voluntary—as a method of family planning.

I think it is important to note that abortion as a method of birth control is legal in only 13 out of 126 nations classified as less developed by the United Nations according to a 1984 U.N. study.

Finally, it is vital that proponents of overturning this policy recognize that the Mexico City policy has not reduced U.S. support for international family planning by even one penny. Every dollar that has been withheld from the U.N. Population Fund or other organizations which have refused to sign the Mexico City contract clauses has, in turn, been redirected to other family planning providers in the developing world.

I intend to vote "no" on this rule and on the conference report and encourage my colleagues to do likewise.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, I support the rule that is before us, but I will oppose the conference report when it comes before the body.

I do this with genuine reluctance and regret, and I do not urge others to follow my suit. I merely want to explain to my colleagues why it is that I have opposed foreign aid authorizations and appropriations over the last couple of years and why I will have to oppose this conference report today.

Mr. Speaker, as I say, I do so with real regret because I believe in foreign aid. If anything, I think we in the United States do not spend enough for foreign aid, not that we spend too much.

Additionally, I am a former member of the Committee on Foreign Affairs, and I still feel considerable loyalty to the committee.

Finally, I have the utmost respect for the chairman, the gentleman from Florida [Mr. FASCELL], a very dear friend of mine.

So I rise reluctantly, but oppose the conference report I must, just, as I say, as I have opposed other foreign aid bills for authorizations and appropriations in the last few years.

I do so basically because there is too much money in the bill going to too few countries. And of the money which is going to our friends overseas, too much of that aid is military aid, not enough is development aid.

The total under this bill for each year of a 2-year authorization period is $12.5 billion. Of that amount, $3 billion is for Israel, $2.1 billion is for Egypt, $690 million is for Turkey, and $350 million is for Greece.

□ 1340

Mr. Speaker, I look at those figures, and I see that almost half of all of our foreign aid goes to just four countries.

The aid to Israel reflects a commitment which this Nation has long had to the nurturing and protection of the State of Israel, and I support that commitment. Indeed, this week, with the peace conference starting in Madrid, we ought to be particularly aware of that commitment. But it appears to me the foreign aid policy of the United States is on automatic pilot regarding

Israel. There is no evidence that the committee has discussed and decided that too much is going to Israel, or too little is going to Israel, or just about the right amount.

Egypt is getting $2.1 billion essentially because of a pattern started by President Carter to reward Egypt for its signing a peace treaty with Israel. But it looks to me now, after 11 or 12 years, that this aid to Egypt is going to go on in perpetuity.

Mr. Speaker, the evidence suggests that there is an inability on the part of the committee to break out of a rut. Two dollars for Egypt for every $3 for Israel. How can we justify one-sixth of our total foreign aid each year going to Egypt year after year after year, when other countries have similar and more pressing developmental needs, when Egypt was accused just recently by Amnesty International of having a security apparatus that, "routinely tortures, beats, and abuses its prisoners"?

Turkey is getting $690 million. Apparently that started many years ago because Turkey was on the border with our enemy, the Soviet Union, but where is the threat now from the Soviet Union? Why are we continuing to provide large amounts of aid to Turkey?

Apparently, Greece is getting money simply because it is next to Turkey, and is rival. Turkey is getting money, so Greece must get money. That has been true for years and years.

Again, Mr. Speaker, I think the committee is in a rut. These four countries consume $6.2 billion—just barely under half of all of our foreign aid—and most of the aid they do get is military aid at a time when we are trying to cut down on armed conflict around the world. In contrast, only $1.46 billion goes to 25 of the poorest countries in the world.

Mr. Speaker, something is seriously out of whack.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. ROTH], a distinguished member of the Committee on Foreign Affairs, and a classmate of mine.

Mr. ROTH. Mr. Speaker, I thank my good friend, the gentleman from New York [Mr. SOLOMON], for yielding this time to me.

Mr. Speaker, I say to my colleagues, "If you have any questions as to why the American people are so incensed with Congress, and so determined to impose term limitations, and so outraged, here is the answer."

Look at this bill. Congress, in my opinion, is really thumbing its nose at American public opinion, and then we have Congressmen on Capitol Hill who wring their hands and ask: Why is the public so upset with Congress today? Let us review some provisions of this bill.

Mr. Speaker, this bill, in essence, borrows $25 billion—saddles our children with the additional $25 billion debt, and takes the money and sends it overseas. There isn't a Congressman in this Chamber who can stand in this Chamber and claim that the majority of the American people are for this bill. In fact, the only people for this bill are the foreign aid establishment and those Members of Congress who will vote for this bill.

Mr. Speaker, it is ironic that the opposition party bashes President Bush for concentrating on foreign affairs and then at the same time their foreign aid bill here today increases the deficit by $25 billion. The majority party does not mind selling our Nation into financial servitude.

Let us look at just a few of the items in this bill, and I say to my colleagues, "Ask yourself if you really want to vote for it."

There is $1 billion to AID without any allocation even though that agency is under investigation for waste, mismanagement, and corruption. Nearly $3 billion goes to so-called development assistance in other countries. Translated that means public works projects, but here at home we cannot find the money to fix and repair our roads and our bridges. Eight million goes to new guaranteed housing loans, not for Americans, understand, because they are not eligible. But these are guaranteed loans for people in Portugal, Morocco, Tunisia, Chile, Indonesia, and India. We have homeless right here in our streets in America. We have farm families losing their farms. But the Democrat leaders in this House want the American taxpayers to cosign another $800 million in guarantees for these countries and to have the American taxpayer, when these defaults arise, to pick up the tab, but no American need apply. If one is a small businessman in South American or Asia, the Democrat leaders in Congress have a program for them, too. That foreign aid bill is $132 million in guaranteed small business loans. Never mind that small businesses here in America are struggling to stay alive in the midst of a severe credit crunch. If one is a foreign business owner, the Democrat leaders in Congress are coming to their rescue.

If those foreign aid programs are not ample here are a few additional examples. Twenty million dollars for police training overseas while here American citizens cannot walk the streets in our Nation's Capital. Scholarship program for Cyprus while American kids cannot afford college. Twenty million dollars for unnamed private groups in the Middle East to foster pluralism, as if the Middle East needed more of that, and a half a million dollars to pay for an architect to design an International University of the Americas somewhere south of the border.

Mr. Speaker, page after page of this bill has more examples like this, but here is the most outrageous example of all. I have the bill, page 274. This bill actually authorizes $2½ million in grants to sell our own people on the benefits of foreign aid. That is right, $2½ million to attempt to brainwash our own people. The people are so incensed with this legislation that we are going to spend money to get them to agree with us. I say to my colleagues, "Shame on you. Nothing could better underscore how out of touch the Democrat leaders are with the mood of the American public."

As my colleagues know, if Brezhnev came back to the Soviet Union, he would be totally out of step. But this Congress is just as out of step, just like Brezhnev would be if he came back to the Soviet Union today.

Now let me tell my colleagues what is not in this foreign aid bill. This bill, when it was here on the floor, I had mentioned to this House that in AID we had $8.8 billion in this pipeline as much as 10 years. Congress pushes so much money into the pipeline that they can't spend it fast enough overseas.

GAO came in and said after 2 years it should be deauthorized. I offered an amendment. After 3 years my amendment read that it should be deauthorized. We had 216 Members in this House vote for the amendment, but what happened in conference? What happened in conference? Our conferees, most of them, did not even speak up for it. I thought we had a fiduciary duty. If one is a conferee, he or she is supposed to speak up for amendments that are passed here in the House. But obviously nobody pays attention to that. We did not have a single conferee appointed to the conference committee that voted for this amendment. Why?

Mr. Speaker, we cannot keep playing games. We all want to work together, but I in good conscience cannot say that I am going to stand for whatever the leadership does. I do not care what the consequences are. Things have got to change in this body, and things have got to change with this bill if we have any intellectual integrity.

My colleagues know what the problem is with this Congress on all these issues. We must be frank, candid, and forthright with each other. These subtle manipulations poison the process. The conferees tore up the House provision, so the one provision which would have actually saved the American taxpayer money was pulled from the bill in conference.

Mr. Speaker, the American people are outraged for a good reasons. Ever since the House voted on my amendment in June, people have written me from all across the country. I have stacks of letters here which I brought along in case Members would like to review the letters.

A woman in Turlock, CA, urges Congress to stop trying to buy our friends with foreign aid.

A woman in Naples, FL, wants to remind Congress that it is our money Congress is giving away.

Mr. Speaker, it is all right here in these letters.

□ 1350

A man in Columbus, GA, asks: "Is it better to be buddy-buddy with foreign countries at the expense of the working people in this country?"

A woman in Chicago writes: "No more loans or foreign aid! The American people have had it with our government."

A veteran in Harlingen, TX, says: "I am sick of our national lifeblood being squandered on international schemes."

A Florida native who is working in Costa Rica writes: "The U.S. aid policy in this area of the world is a total failure."

It is all right here in these letters. These are from our constituents.

Finally, a Greensboro, NC, gentleman says: "I can't understand so-called intelligent people continuing to vote for foreign aid."

There are the voices of ordinary Americans speaking, I say to my friends.

Mr. Speaker, they have a clear message to this House, and we should pay attention to what these people are saying.

The SPEAKER pro tempore (Mr. NCNULTY). The time of the gentleman from Wisconsin [Mr. ROTH] has expired.

Mr. SOLOMON. Mr. Speaker, I will yield my last remaining minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I will try to hold it to 30 seconds.

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. ROTH. Mr. Speaker, my colleagues will hear those quotes again next year, during the campaign. It is time for America to take care of its own people and its own problems first for a change.

After a CNN program, an elderly couple from Pennsylvania stopped in my office, the woman said to me: "I can't see how our Congress can give money overseas when we have all these problems at home."

And the husband said, "Well, it isn't our Congress. This is Congress' special interest."

Mr. Speaker, I say to the Members, let us make Congress the people's Congress again. I hope the Members remember this when they vote today.

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I am happy to yield if I have some time left.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would like to commend the gentleman for his desire to see intellectual integrity. I would like to point out to the gentleman that although this agreement is for $92 million more than what the House passed earlier this year, it is still $24 million less than the President of the United States requested in his budget.

Mr. ROTH. Mr. Speaker, I will take back the balance of my time.

The President of the United States is not asking for this legislation.

Mr. TAYLOR of Mississippi. So what do we have? Let us just really lay it on the line.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin [Mr. ROTH] has expired.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the rule just so I can vote against the bill.

I have heard a lot of these arguments, and when I look at this thing, I find that people are mad as hell about what is going on here in Congress, and they say they are not going to take it any more. We remember that network show that had those words in it.

The people are worried about the economy, they are worried about jobs, they are worried about our industries, they are worried about farms, and they are worried about the savings and loans and the banks and everything else going bankrupt. And they are just plain sick and tired of seeing their tax dollars going overseas while they are back here hurting.

I do not mind giving foreign aid to other countries of the world, but if we are sick, how are we going to do it? A doctor will treat a sick patient, but if that doctor is sick himself, how is that doctor going to take care of him? You figure it out.

People in many of these nations, the hungry children, the pregnant women, the unemployed and the sick, never get to see a single dollar of these tax dollars that we send over, and in many instances, because they do not always ask for an accounting, the money goes into Swiss banks. But a lot of this money does not go back, just like it does not get back to the people who made it in America. I think this is wrong.

This administration and other administrations have been mesmerized by foreign countries. Whenever there is a problem here and they cannot face the music, they run overseas and try to make good book with the people over there and get good headlines. Then they come back and say, "We are going to send them more money, we are going to send them more business, and we are going to send them more jobs," while we have 9 million people in this country unemployed, with 3 million who are out of benefits. They are looking for help from us, and the President has the guts to veto an extension bill to give them unemployment benefits. What kind of sense does this make? How do we think the people perceive us?

In my district, I have the highest unemployment area in the State of Ohio, I believe. We are losing steel jobs, coal jobs, and manufacturing jobs. What do they end up with? They say, "Oh, yes, we have all these people working." But they are working at minimum wage jobs, and what do they get? They get minimum wage. That is all they get, and they do not get any benefits. They do not get any pensions, and they do not get any health care. They want to know who is going to take care of them when they are sick. Then they see the money going overseas to other countries of the world.

Mr. Speaker, the American people are demanding of their elected officials that they give them better treatment.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise in opposition to this bill, and I thank the gentleman from New York [Mr. SOLOMON] for giving me this time.

The main reason for my opposition is the fact that we have a national debt in this country that amounts to over $4 trillion. This has been mentioned many times on this floor in the last several years. On top of that, or added to that will be losses of over $1 billion a day during this fiscal year that we are in which started on October 1. We are spending money that we do not have, and if we do not stop it, it is going to cause an economic collapse or, at the very least, severe economic problems for this country.

I have great sympathy for all those people overseas who are having problems, but we can be their friends without having to buy their friendship. The American people, as several speakers have mentioned today, are strongly opposed to this bill.

In addition, one of the worst parts of this bill is a $12 billion increase for the International Monetary Fund, the U.S. share of the International Monetary Fund.

B.J. Cutler, the foreign affairs columnist for Scripps-Howard, said in a column about a month ago that most of this $12 billion would go as loans for Russia. In his column he said this:

> The plan, which won't be spelled out to the public, goes like this: For "humanitarian reasons" the Soviet people must be aided. So the International Monetary Fund and the World Bank will make massive loans to Moscow. But most of the money will be recycled to repay banks in London, Paris, Frankfurt, Tokyo, etc.

This is B.J. Cutler, the foreign affairs columnist for Scripps-Howard, and he is no right-wing conservative. He says further in this column: "To be blunt, the scheme consists of shifting the cost of bankers' blunders to American and foreign taxpayers, which they wouldn't tolerate if they knew about it."

Mr. Speaker, my people do not want to help bail out big banks in London, Paris, Frankfurt, and Tokyo.

The proponents of this bill say that it has no budgetary impact. This is true only if you believe in accounting gimmicks and smoke-and-mirrors-type arguments.

For our $12 billion investment, we will get preferred drawing rights [PDR's] in the IMF and world banks. But these assets are backed up by the shakiest loans in the world—loans to severely depressed, underdeveloped, Third World nations. No other country in the world would buy these assets from us if times get tough for the United States and we needed to sell them.

Pat Buchanan, the syndicated columnist and TV commentator, said in a recent column:

Someday, an American Congress will say to the IMF and World Banks: We are not guaranteeing any higher loan levels than present. On that day, the game will be over. One Third World nation after another will default. The IMF will come to the U.S. Treasury for payment. The Treasury will have to borrow to pay, and pile that borrowing on top of the U.S. national debt. And our children will work decades to pay it off.

Mr. Speaker, the people do not want us to pass this bill. We cannot afford it. We should defeat this foreign aid authorization today.

The SPEAKER pro tempore. The time of the gentleman from Tennessee [Mr. DUNCAN] has expired.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I appreciate the gentleman's yielding this time to me.

Mr. Speaker, I was sitting in my office attempting to enlighten myself about the banking legislation which we will be confronted with later on this week, when I began to listen to the debate preceding this foreign aid authorization bill, and I could not sit still any longer. I would like to associate myself with the remarks made by the distinguished gentleman who spoke one or two speakers back, in which he stated again that the American people are sick and tired of this type of antics on the part of the U.S. Congress.

It is not the pay raise that sticks in their craw, it is not the checks, the problems with the Sergeant at Arms, it is not the problem with the dining room and these other things; it is the audacity, the ridiculousness of the intelligent men and women in this body who continually, year in and year out, ignore the wishes of the hard-pressed taxpayers in the United States of America by sending their dollars overseas by the bales and the billions when there are needs that exist here at home that cannot be met. I have spoken on this subject before. One time I was in the well recently and a distinguished leader from this side of the aisle, high up in the leadership, stood up and said in effect, "The gentleman from North Carolina hasn't been here long enough to understand. As you stay around here, you will understand the need for this."

□ 1400

That is ridiculous. Those Members who are watching me in your offices, come on up, and let us finally do something about this. Humanitarian aid, OK. Communism is on the wane. This bill includes billions of dollars more than was authorized by this body or the other body.

Mr. Speaker, I rise in opposition to H.R. 2508, the foreign operations authorization conference report. I do not believe that we can continue to spend taxpayer dollars on programs for which we have little or no concrete information.

Every year, we are asked to spend billions on foreign programs in far-flung areas of the globe. Mr. Speaker, if we are going to continue to spend these huge sums, let us at least know more about where our money goes.

Earlier this month, I introduced the Foreign Aid Reporting Reform Act. This legislation requires the President to submit to the Congress, a single, integrated report containing detailed information on what we spend our money on, how much of it we spend, and why we will spend it on particular programs. In addition, the report would have to include proposed termination dates for each foreign aid program.

We can no longer afford to consider foreign aid as an entitlement program that grows ever larger even as our ability to afford it shrinks. Mr. Speaker, it is long past time for accountability and responsibility in our foreign aid program.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, according to an article in Policy Review magazine that is out for this fall, if you take $1 billion in Federal spending, what you can do with that $1 billion is provide $3,000 of tax relief to 333,000 American households.

This bill spends over the next year both in money for foreign aid and in money to the World Bank or the IMF $25 billion. That means that there are 8.3 million American households that are not going to receive $3,000 in tax relief as a result of the money that is being spent in the bill.

Well, maybe that means that what we have to do is sort out the priorities here. Is the spending in this bill more important than giving 8.3 million American households a $3,000 tax break? My guess is that if you ask the American people whether or not tax breaks for American households are more important than foreign aid, every one of them would say that tax breaks are more important.

Then when we heard what the money was being spent for, my guess is that the view would be overwhelming. For example, do they really believe that we ought to spend $2.76 billion for the construction of projects in other countries? If we are going to spend money for projects, at least it ought to be here. My guess is what they would prefer is a tax break for themselves.

Do Americans really want to spend $600 million to do family planning and another $40 million for contraceptives in other countries? My guess is that if they had their choice, they would rather have the money in their own pockets.

Do Americans really want to spend $170 million for microenterprises in Africa and Asia? My guess is if they had a choice they would prefer to have the money in their own pockets.

Or how about $30 million for a scholarship program in Cyprus, or how about $20 million to foster pluralism in the Middle East, or $20 million for law enforcement in the Caribbean? Or how about this, $2.5 million to convince Americans of how great foreign aid is.

My guess is that Americans would prefer to have the money in their own pockets, rather than television ads telling them how great foreign aid is. My guess is that Americans, if given the choice, would much rather get the tax breaks, get the tax cuts.

American families are burdened today because they do not have enough money to spend for themselves. Yet what this Congress is going to do is decide there is $25 billion in money over the next few months that we can pour out of this country into foreign countries, instead of giving the American people a tax break.

Mr. Speaker, I would say that what we ought to do is give those 8.3 million American households a tax break, rather than spending the money this way. They would much prefer to have their taxes cut than spent on foreign aid.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I also rise in opposition to the bill. I understand some Members of the other party are getting very sanctimonious about this, but I would remind them that the President of the United States, who is of their party, has recommended that we spent actually $24 million more than this bill provides for.

I would like to say that I appeal to the common sense of the people of America. The $3.1 billion for Israel is three times more money than the State of Mississippi will get from the Federal Government this year. The $2 billion for Egypt is almost twice as much money as the State of Mississippi will get this year.

I think it just gets back to common sense. We will borrow $100 billion from foreign nations to run our Nation this year. Does it make any sense at all to borrow $100 billion, and then give away $25 billion over the next 2 years in foreign aid? The answer is that it does not. By the time we pay that $100 billion back, it will cost us about $250 billion, by the time we pay the interest.

Mr. Speaker, I think the citizens of the Nation, both Republican and Democrat, as well as those who have no party affiliation, will be best served by keeping this money at home.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I do not particularly relish bashing Democrats or trying to tar them all with one feather. I used to be a Democrat. But I become so provoked when I see President Bush being disrespectfully bashed on this floor.

Last Wednesday, the Democrat majority in this House conducted a special order which lasted all night. An all night vigil was held to show solidarity with unemployed people in America, people who do need our genuine help.

One Democrat spokesman after another paraded to the well all night and denounced George Bush for caring more about people in foreign countries than he does about Americans. They said, "Come home, America." They said, "Come home, Mr. President."

Do you know what happened? A few hours later, 232 Democrats turned around and voted for a continuing resolution that contained half of the foreign aid funding for this bill which is on the floor right now.

Now the issue before us is here again, only this time the Democrat majority cannot hide behind the reasoning that at least a continuing resolution had to pass. That is the excuse used the other day.

There is no compelling justification for passing this bill, Mr. Speaker. Even if it does, we all know it is going to be vetoed before the ink is even dry.

The conference report this rule makes in order is an exercise in futility, and every Member of this House knows that. The real question is, are the same Democrats who denounced President Bush for giving too much attention to foreigners willing to turn around and vote for a $37 billion giveaway here, right now?

The American people are waiting for the answer. I will see to it that they get the answer, because I am going to call for a vote, and we are going to let the American people know who is for this mother of all giveaways.

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

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, this bill, if you lay it side by side with the President's request, agrees with what the President asks for about 90 percent. This is essentially the administration's foreign policy proposal for the next fiscal year, except that it is $25 million below the administration's request. President Bush wanted $25 million more for foreign aid.

In addition, the total comprises less than 1 percent of the total budget of the United States.

Mr. Speaker, I want to commend the gentleman from Florida [Mr. FASCELL], who is not looking for votes here, but is looking to do the right thing, which is why he enjoys, I think, so much respect.

Mr. Speaker, let me speak about two provisions of the bill. The UNFPA gets $20 million. That is the United Nations Population Fund. That is less than half of what they got in 1985, when they got $46 million for family planning.

There are five conditions on those funds: No money for abortion, no money to China, all United States aid into a separate account, the money can be used for contraceptives only, no training, no clinics, no counseling, and finally our Ambassador at the United Nations gets a veto over each of those projects. It is important that we restore the voluntary family planning funds.

Second, the bill repeals the Mexico City policy. The Mexico City policy is the policy that says we will not give any family planning funds to any organization which uses its own funds, not our funds, for abortion. It repeals that, and retains, of course, the restrictions on abortion.

Mr. Speaker, let me finally say that these funds, these very modest funds for voluntary family planning, are especially important. The world's population is growing by about 90 million people per year. That is another country the size of Mexico every year.

□ 1410

Almost all of those people are born on the poorest parts of the planet: In Asia, Africa, and Latin America. This will help to relieve the tremendous population growth in the world for a very modest amount of money.

John XXIII once said, "In a world of want, there can be no peace." So long as we have this kind of suffering and deprivation and poverty we are not going to be able to stabilize unstable regions of the world. We are not going to be able to build strong economic democratic systems in the world.

Mr. Speaker, I rise in support of the rule, in support of the bill and in especially strong support of those provisions which restore voluntary family planning.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

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

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 227, nays 191, answered "present" 1, not voting 14, as follows:

[Roll No. 353]

YEAS—227

Abercrombie	Gilman	Ortiz
Ackerman	Gonzalez	Orton
Alexander	Gordon	Owens (UT)
Anderson	Green	Pallone
Andrews (ME)	Guarini	Panetta
Andrews (NJ)	Hall (OH)	Parker
Andrews (TX)	Hamilton	Pastor
Annunzio	Hatcher	Patterson
Applegate	Hayes (IL)	Payne (NJ)
Aspin	Hayes (LA)	Payne (VA)
Atkins	Hertel	Pease
AuCoin	Hoagland	Pelosi
Bacchus	Hochbrueckner	Penny
Beilenson	Horn	Perkins
Bennett	Horton	Peterson (FL)
Berman	Houghton	Peterson (MN)
Bevill	Hoyer	Pickle
Bilbray	Johnson (SD)	Price
Boehlert	Johnston	Rangel
Bonior	Jones (GA)	Ravenel
Borski	Kanjorski	Reed
Boucher	Kennedy	Richardson
Brewster	Kennelly	Roe
Brooks	Kildee	Roemer
Browder	Kleczka	Rose
Brown	Kolter	Rostenkowski
Bustamante	Kopetski	Roybal
Byron	Kostmayer	Russo
Campbell (CO)	LaFalce	Sabo
Cardin	Lancaster	Sangmeister
Carper	Lantos	Sarpalius
Chapman	LaRocco	Sawyer
Clay	Laughlin	Saxton
Clement	Lehman (CA)	Scheuer
Coleman (TX)	Lehman (FL)	Schroeder
Collins (IL)	Levin (MI)	Schumer
Collins (MI)	Levine (CA)	Serrano
Conyers	Lewis (GA)	Sharp
Cox (IL)	Lipinski	Sikorski
Coyne	Long	Sisisky
Cramer	Lowey (NY)	Skaggs
Darden	Luken	Slaughter (NY)
de la Garza	Manton	Smith (FL)
DeFazio	Markey	Smith (IA)
DeLauro	Martinez	Snowe
Dellums	Mavroules	Solarz
Derrick	Mazzoli	Spratt
Dicks	McCloskey	Staggers
Dixon	McCurdy	Stallings
Dooley	McDermott	Stark
Dorgan (ND)	McHugh	Studds
Downey	McMillen (MD)	Swett
Durbin	McNulty	Swift
Dwyer	Meyers	Synar
Dymally	Mfume	Thomas (GA)
Eckart	Miller (CA)	Thornton
Edwards (CA)	Mineta	Torres
Edwards (TX)	Mink	Torricelli
Engel	Moakley	Towns
Espy	Mollohan	Traxler
Evans	Montgomery	Unsoeld
Ewing	Moody	Vento
Fascell	Moran	Visclosky
Fazio	Morella	Washington
Feighan	Mrazek	Waters
Flake	Murphy	Waxman
Foglietta	Murtha	Weiss
Ford (TN)	Nagle	Wheat
Frank (MA)	Natcher	Whitten
Frost	Neal (MA)	Williams
Gallo	Nowak	Wise
Gaydos	Oakar	Wolpe
Gejdenson	Oberstar	Wyden
Gephardt	Obey	Yates
Geren	Olin	Yatron
Gibbons	Olver	

NAYS—191

Allard	Baker	Barton
Anthony	Ballenger	Bateman
Archer	Barnard	Bentley
Armey	Barrett	Bereuter

Bilirakis	Hobson	Rahall
Bliley	Holloway	Ramstad
Boehner	Hubbard	Ray
Broomfield	Huckaby	Regula
Bruce	Hughes	Rhodes
Bryant	Hunter	Ridge
Bunning	Hutto	Riggs
Burton	Hyde	Rinaldo
Callahan	Inhofe	Ritter
Camp	Ireland	Roberts
Campbell (CA)	Jacobs	Rogers
Carr	James	Rohrabacher
Chandler	Jenkins	Ros-Lehtinen
Clinger	Johnson (CT)	Roth
Coble	Johnson (TX)	Roukema
Coleman (MO)	Jones (NC)	Sanders
Combest	Jontz	Santorum
Condit	Kaptur	Savage
Cooper	Kasich	Schaefer
Costello	Klug	Schiff
Coughlin	Kolbe	Schulze
Cox (CA)	Kyl	Sensenbrenner
Crane	Lagomarsino	Shaw
Cunningham	Leach	Shays
Dannemeyer	Lent	Shuster
Davis	Lewis (CA)	Skeen
DeLay	Lewis (FL)	Skelton
Dickinson	Lightfoot	Slattery
Donnelly	Livingston	Smith (NJ)
Doolittle	Lloyd	Smith (OR)
Dornan (CA)	Lowery (CA)	Smith (TX)
Dreier	Machtley	Solomon
Duncan	Marlenee	Spence
Early	Martin	Stearns
Emerson	McCandless	Stenholm
English	McCollum	Stump
Erdreich	McCrery	Sundquist
Fawell	McDade	Tallon
Fields	McEwen	Tauzin
Fish	McGrath	Taylor (MS)
Ford (MI)	McMillan (NC)	Taylor (NC)
Franks (CT)	Michel	Thomas (CA)
Gallegly	Miller (OH)	Thomas (WY)
Gekas	Miller (WA)	Traficant
Gilchrest	Molinari	Upton
Gillmor	Moorhead	Valentine
Gingrich	Morrison	Vander Jagt
Goodling	Myers	Volkmer
Goss	Neal (NC)	Vucanovich
Gradison	Nichols	Walker
Grandy	Nussle	Walsh
Gunderson	Owens (NY)	Weber
Hammerschmidt	Oxley	Weldon
Hancock	Packard	Wilson
Hansen	Paxon	Wolf
Harris	Petri	Wylie
Hastert	Pickett	Young (FL)
Hefley	Poshard	Zeliff
Hefner	Pursell	Zimmer
Henry	Quillen	

ANSWERED "PRESENT"—1

Porter

NOT VOTING—14

Boxer	Herger	Slaughter (VA)
Dingell	Hopkins	Stokes
Edwards (OK)	Jefferson	Tanner
Glickman	Matsui	Young (AK)
Hall (TX)	Rowland	

□ 1431

Mr. BRYANT changed his vote from "yea" to "nay."

Ms. OAKAR and Ms. WATERS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 371

Mr. CLEMENT. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 371.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

CONFERENCE REPORT ON H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 232, I call up the conference report on the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, September 27, 1991, page 24488.)

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

Mr. Speaker, I rise in support of the conference report on H.R. 2508, the International Cooperation Act of 1991. This conference report before the House today is virtually the same as when it passed the House, except for further revisions on the availability of military assistance, and, of course, the IMF section which was added on in the other body and which our colleague, the gentlewoman from Ohio [Ms. OAKAR], will take time to explain to the members on the conference.

The question that is before the Members is whether the administration supports foreign aid. I have heard a lot of rhetoric here today, but let us make it clear that while the administration may not support this particular bill, they certainly support the request for foreign aid assistance, to support the bilateral and multilateral efforts of this Government to do some things around this world which we all believe have a high priority.

Let me express my appreciation to my colleagues, on both sides of the aisle, in the committee who served on the conference and who served in the committee originally when the bill came out last June 20 and was adopted by the House on a vote of 274 to 138. As far as the President's request is concerned, we are slightly below the President's request, and the conference report is also below last year's foreign aid appropriations.

In a general conceptual sense, I will tell my colleagues we are trying to make the transition from military assistance to economic assistance, and we have been doing this for some time now.

How fast we can make that transition, frankly, depends on the kind of position that the administration can take with respect to the request for military assistance which they continue to make in this legislation.

I express my appreciation to the members of the conference committee from other committees—from Agriculture; the Committee on Banking, Finance and Urban Affairs; the Committee on Energy and Commerce; the Committee on the Judiciary; the Committee on Merchant Marine and Fisheries; the Committee on Public Works and Transportation; and the Committee on Ways and Means. I take this time to express my appreciation to those Members from other committees, on both sides of the aisle, who helped us put together a conference report which comes to you not that substantially different from the House-passed bill.

We did not get everything we wanted but we did what a conference committee is supposed to do, and that is to bring back the best we could get. We worked very diligently with the other body, and the administration, to try to bring a bill back that would be acceptable.

Whether or not in the final analysis the bill is ultimately acceptable, of course, is up to the President. I have heard all kinds of discussions about why he is going to veto this bill, and I would just simply say to my colleagues that the quickest way to clear that matter up is to send it to the President and let us find out exactly what it is that is objectionable, and then maybe the House and the Congress can address these issues.

□ 1440

I want to tell my colleagues we are within the ceilings established by the Budget Enforcement Act, and that we are making some very important changes and clarifications in the foreign aid legislation. When we started this job, we tried to rewrite the entire Foreign Assistance Act in order to modernize it. The other body was not prepared to deal with a complete rewrite, but we made a good start. For the first time in 5 years, we had the kind of cooperation in the other body that made it possible to bring the conference report back to my colleagues.

Now, for those who are so dead set against supporting anything with regard to foreign assistance, let me point

out that the continuing resolutions has already passed; so if you are against the concept of spending the money for foreign aid, voting against this bill is like locking the door after the horse is gone.

Let me just say if we are going to do anything by way of authorization and policy decisions in the Congress, unless you want to leave everything up to the appropriators and the administration, you had better take a good look at the authorizing process. This bill represents a genuine effort on our part to give all of us an opportunity, not only to express our opinions for or against, but to have some impact on the policy determinations.

I wish the world were different. It is changing very fast, but the facts are that foreign aid remains very important, and the President would not be supporting foreign assistance and neither would this Congress if we all did not realize that it is very important to the American people to have the ability to have some impact with other nations and to do the things that are important to us:

One. The peace process. The President of the United States now is in Madrid with Gorbachev, in order to do what? To see if we cannot help bring about a peaceful settlement and resolution to the Middle East situation that has defied everybody for the last 40 years.

Now, is that worth some money to the American people? I say yes. Our security is tied up in this bill, the security of the people of the United States, not the people on the moon. When we enter as a country into bilateral relations with the people of another country for common security, I want you to know that the decision is made because in the judgment of the executive branch and the Congress, it is important to enter into those arrangements with other people for the security of the United States.

Now, you can take issue with that judgment if you like. It is a free country, but that is the principle behind it.

Now, there is one more principle I want to expound upon briefly. Yes, we have needs in this country, here at home, and they need to be taken care of. I have supported legislation, as many of us have, to do those things that are required; but do not think that the rest of the world does not have an economic impact on the United States. Over 600,000 jobs in this country come from our ability to export. Our companies are doing everything they know how to be competitive. In order to help open markets for our products, we are trying to help other people to help themselves so that we can increase our capability to export. What we are doing, is fundamentally to help our own people to have the jobs and to be able to produce so that we can sell and we can exist and we can do it in safety.

Make no mistakes about the fact that this program costs less than 1 percent of the entire Federal budget. It is 0.0085725 of the entire GNP of the United States. Furthermore, virtually all of the military aid in this bill, and 70 percent of the economic assistance, is used to purchase U.S. goods and services. I do not think that is a bad deal.

We are not buying friends. We are insuring our own security. We are insuring our own economic capability and in the process we are helping other peoples to achieve and be part of the democratic process.

The whole world has changed and part of it is because the people of the United States have never taken themselves out of this world.

Yes, we have priorities here at home, and yes, we need to take care of them, but we have sense enough to know that we can take 1 percent of that budget dollar and help ourselves and our friends get the security and the economic base that will make a better life for all of us.

When you consider that two-thirds of the people of the world tonight go hungry, uneducated, unclothed, without proper medical attention, our problems dwarf in the process. What we do to help other people comes back to us many-fold. We are not wasting the taxpayer's money. We are helping the taxpayers of this country by trying to make other people productive, stable, and peaceful, so that they can deal with us in a sensible and reasonable way. That is true whether it is in Latin America, whether it is in Africa, whether it is in Europe, the Middle East, or wherever it is.

It is only shortsightedness that would say to the American people that the course of wisdom would be to take this tiny part of the budget and put it someplace else, if you could.

The truth of the matter is, that under the budget agreement you cannot take the money and put it anyplace else. So I would hope my friends would support this conference report.

We have had a good effort here on both sides of the aisle, and in both Houses of the Congress. We have worked with the administration. We have not solved all the differences.

That is what the democratic process is all about. There are 535 of us here, 435 in this body. I wish I could wave a magic wand and get everybody to vote the way I wanted them to vote. We are doing our best under the democratic process to formulate something that the President says would be a useful tool, if we can resolve it in a form that is acceptable to him, while we try to represent our constituents in the process.

So Mr. Speaker, I hope my colleagues will support this conference report and get it to the President's desk.

The major provisions of this conference report are:

PROVISIONS OF THE CONFERENCE REPORT

ECONOMIC ASSISTANCE

Updates foreign assistance purposes to focus on four basic objectives: poverty alleviation, broad-based economic growth, sustainable resource management, and promotion of democracy and human rights.

Revises Foreign Assistance Act to remove outdated and unnecessary conditions and restrictions.

Reverses the Mexico City policy to permit nongovernmental and international organizations to receive AID funding to carry out family planning programs, as long as they use no AID funds to support abortion.

Authorizes up to $20 million for the UN Population Fund, if U.S. funds are kept in a separate account and are not used for any activities in the People's Republic of China.

Authorizes $4.6 billion for development assistance and $7.7 billion for security assistance.

Requires AID to devoted greater resources to evolution of programs and policies.

Creates a PVO Center and a University Center to focus AID's programs that involve U.S. private voluntary groups and universities.

Requires greater resources to support microenterprise and poverty lending in developing countries.

Applies cargo preference to 75% of ESF cash transfers, phased in over a four year period.

MILITARY ASSISTANCE

Requires the President to: establish standards for financed commercial sales as stringent as those currently applied to financed government-to-government sales; include additional information on coproduction agreements into existing quarterly reporting requirements on arms transfers; and include an analysis of the economic costs and benefits of arms sales in the annual report to Congress on such sales and transfers.

Establishes the policy guidelines for U.S. military assistance programs and foreign military sales programs; the continuation of the International Military Education and Training program; and the provision of U.S. contributions and participation in Peacekeeping Operations.

Restricts loan authority to no more than 60% of financing credits per each country.

Eliminates redundant purposes and policies and updates statute consistent with post-Cold War world objectives.

Establishes an important new initiative calling for the implementation of a multinational arms transfer and control regime toward the Middle East and Persian Gulf regions.

NARCOTICS ASSISTANCE

Streamlines current law, provides increased flexibility, and fully funds President's request.

EUROPE

Expands the SEED authorities and assistance from just Poland and Hungary to all the countries of Eastern Europe, including Lithuania, Estonia, and Latvia.

Authorizes $415 million in assistance for Eastern Europe and the Baltic states.

Authorizes $500 million in FMF (Foreign Military Financing) assistance and $190 million in ESF (Economic Support Funds) for Turkey, and $350 million in FMF assistance to Greece.

Authorizes $22.5 million in ESF for the International Fund for Ireland.

MIDDLE EAST

Authorizes $1.2 billion in ESF and $1.8 billion in FMF assistance for Israel.

Authorizes $815 million in ESF and $1.3 billion in FMF assistance for Egypt.

Authorizes up to $10 million for democratic initiatives in the Middle East, up to $16 million for economic assistance for the West Bank and Gaza, $10 million for cooperative development projects and research between the United States and Israel in Eastern Europe and developing countries, $10 million for Lebanon, and $7 million for scientific and technological cooperation between Israel and Arab states.

Requires an annual report on steps Arab states are taking to promote peace and stability in the Middle East and to settle the Arab-Israeli conflict.

LATIN AMERICA

Prohibits lethal assistance to Guatemala and conditions economic assistance on human rights improvements.

Authorizes $25 million for assistance to refugees and displaced persons in Central America.

Authorizes $25 million for assistance to combat cholera in Latin America.

Authorizes $275 million in ESF and $118 million in FMF for the Andean countries as part of the effort to stemming narcotics trafficking.

Extends the U.S. economic embargo of Cuba to the foreign subsidiaries of U.S. companies.

ENTERPRISE FOR THE AMERICAS

Provides authority for the President's Enterprise for the Americas Initiative to reduce the foreign assistance debt of countries in Latin America and to use the remaining annual interest payments for activities to protect the environment and promote child survival.

ASIA AND THE PACIFIC

Maintains the requirement permitting assistance for Pakistan only if the President certifies that Pakistan does not possess a nuclear explosive device.

Authorizes $20 million in economic assistance through international relief agencies and U.S.. PVOs for humanitarian and development assistance for Cambodian civilians and provides that additional funds may be made available if there is a settlement of the Cambodian conflict acceptable to the United States.

Contains an expression of congressional concern about human rights abuses in India.

AFRICA

Authorizes $1 billion for the Development Fund for Africa for each of the fiscal years 1992 and 1993.

Provides for increased assistance to disadvantaged South Africans.

Provides for assistance for recovery and food security in the Horn of Africa.

PEACE CORPS

Authorizes $200 million for the Peace Corps, of which up to $6 million may be used for business development programs in the Soviet Union or successor entities.

MULTILATERAL DEVELOPMENT BANKS

Authorizes a U.S. quota increase for the IMF.

Sets forth criteria and conditions for Soviet access to IMF resources.

EXPORT-IMPORT BANK

Provides the President a national interest waiver for restrictions on financing of U.S. exports to the Soviet Union.

Mr. Speaker, as I have previously stated, H.R. 2508 represents the second serious attempt by the House of Representatives to rewrite the basic authorities and policy guidelines of both the Foreign Assistance Act of 1961 and the Arms Export Control Act of 1968. Title II of this conference report governs the conduct and provision of U.S. security assistance, and which includes many of the provisions that were contained in H.R. 2655, as well as certain provisions requested by the administration and the private sector, and new initiatives that were undertaken by the Committee on Foreign Affairs, specifically, a new initiative for the implementation of a U.S. policy of restraint on arms sales and transfers to the nations of the Middle East and Persian Gulf region.

It is on this last provision that I intend to focus my remarks. At the outset, let me say that this provision represents a basic consensus among the members of the Committee on Foreign Affairs and the Committee on Foreign Relations in consultation with representatives from the administration to develop a realistic arms transfer restraint policy toward the Middle East and the Persian Gulf regions. One of the many lessons of Operations Desert Shield and Desert Storm must be that the business as usual approach of the 1980's toward arms sales and transfers to the Middle East and the Persian Gulf must not be repeated in the 1990's.

In this regard, chapter 5 of title II of the conference report addresses United States and global arms transfers to the Middle East and Persian Gulf region by calling for the negotiated establishment of a multilateral arms transfer and control regime toward the Middle East and Persian Gulf by the five permanent members of the United Nations Security Council.

In so doing, the conference report cites a number of findings which demonstrate the urgent need for the establishment of such a regime and mandates that the President continue those negotiations that were initiated under his direction with the other permanent members of the United Nations Security Council in the President's May 29 announcement. The conference report also specifies that in the process of these continuing negotiations, the President should propose to the other permanent members of the Security Council the adoption of a temporary moratorium on the transfer of major military equipment to the Middle East and Persian Gulf until such time that a multilateral arms transfer and control regime is concluded.

The conference report also incorporates the provisions of the House bill which describe the purpose of such a regime and further clarifies that particular provision in calling for the achievement of greater transparency among arms suppliers through advanced notification of both agreement to transfer and actual transfer of conventional major military equipment through the adoption of common and comprehensive control guidelines on the transfer of conventional major military equipment.

The conference report notes that the committee of conference's belief that the President has undertaken good faith efforts to convene multilateral negotiations among the permanent five members of the United Nations in seeking to establish the arms supplier regime described in section 282 of the conference report. In this regard, the conference report commends the President for his efforts and specifies that the requirements of chapter 5 of title II are consistent with the practices of preconsultation, consultation and advanced notification requirements that are currently associated with U.S. arms sales worldwide.

Clearly, no more pressing issue in international affairs exists than that of the current situation in the Middle East and the Persian Gulf. The conference report addresses that pressing problem in calling for the adoption of higher and more rigorous standards on United States and multinational arms transfers to the Middle East and Persian Gulf region. The conference report is aimed at winning the peace and stimulating a climate for greater arms control in the Middle East and Persian Gulf region through arms restraint now versus the business of arms sales as usual.

The conference report has forged a consensus that stipulates that it is high time to stop the business as usual approach to solving the problem of peace in the Middle East and Persian Gulf regions. We have decided that the business as usual approach in selling arms to everyone serves no one's interests. That is why the conference report clearly states that future conventional arms transfers to the Middle East and the Persian Gulf should be controlled by a multilateral restraint policy.

While some in the executive branch may argue that the committee is tinkering at the edges of Presidential prerogative, and that current law is sufficient to bring arms control and peace to the Middle East and the Persian Gulf, the committee of conference would respond that Congress does have the responsibility to help set policy guidelines and pass laws, and to seek the President's support for them. The committee of conference recognizes that arms transfers are an important tool and element of our foreign policy apparatus and reiterates its belief in higher and more rigorous standards on U.S. transfers to the Middle East and the Persian Gulf.

The conference report reasserts the necessity of continued U.S. leadership in seeking to bring about peace in the Middle East and the Persian Gulf in the years ahead. It is a congressional response to a daunting problem, that if given the chance, might work in bringing greater arms control and as such enhance the prospects for peace in the Middle East and Persian Gulf. I would also like to point out that this exact provision was adopted in its entirety by the House when it approved the conference report on H.R. 1415, the foreign Relations Authorization Act, fiscal year 1992 and 1993 on October 8.

Mr. Speaker, I would also like to include at this point in the record additional language regarding the enterprise for the Americas initiative that was omitted from the joint statement of managers accompanying the conference report:

EXPORT-IMPORT BANK DEBT REDUCTION

The Senate amendment (sec. 771) authorizes the President to sell to any eligible purchaser any loan or portion of a loan of an eligible country that was made pursuant to the Export-Import Bank Act of 1945. After the payment for the loan has been received, the President may sell, reduce or cancel the Export-Import Bank debt involved in the transaction. The President is authorized to establish the terms and conditions of the trans-

action. Instructions regarding the notification of the Export-Import Bank of the transaction are specified.

The Senate amendment (sec. 772) directs that proceeds from the transaction authorized in section 771 be deposited in an account created for the repayment of such loans. Section 773 of the Senate amendment defines an eligible purchaser as an entity who presents plans to the Agency for International Development for using the loan only for purposes of a debt-for-child development swap, a debt-for-development swap, debt-for-education swap, debt-for-environment swap or debt-for-nature swap. Section 774 of the Senate amendment instructs that the Administrator of the Agency for International Development, in consultation with interested non-governmental organizations, shall identify activities that use natural resources on a sustainable basis and promulgate environmental standards in review of proposed activities. The standards must identify and prohibit the sale of credits in support of activities which involve substantial threats to the environment.

Section 775 of the Senate amendment instructs that prior to an Export-Import Bank debt reduction transaction, the Agency for International Development shall consult with debtor countries which will receive the benefit of the debt reduction regarding, among other things, the amount of the loan to be reduced.

The House bill has no comparable provisions.

The conference substitute (sec. 821) contains provisions substantially similar to the Senate amendment. However, references to the Agency for International Development were not included in the substitute. In addition, the requirement to identify eligible activities for Export-Import Bank debt reduction has not been included in the substitute. In addition, the conference substitute combines the terms "debt-for-development" into a single term—"debt-for development." This was done because the term "debt-for-development" was earlier defined to include debt-for-child development" and "debt-for-education."

Finally, the conference substitute contains a set of eligibility criteria for nations to attain before they can qualify for Export-Import Bank debt reduction benefits under the Enterprise for the Americas Initiative. These criteria are to be applied separately from the criteria nations must meet in order to qualify for benefits under the Multilateral Investment Fund.

The committee of conference believes the reduction of Export-Import Bank debt reduction can be of substantial benefit for qualifying nations of the Western Hemisphere mired in official debt payments. In an effort to provide relief for qualifying nations, the reduction of Export-Import Bank debt should be undertaken as quickly as possible. In addition, to provide further relief for qualifying nations, the committee of conferees urges the Administration to urge other creditor nations to reduce the amount of their official debt held by Latin American and Caribbean nations.

The committee of conferees is concerned about potential adverse environmental impacts resulting from equity investments funded by Export-Import Bank credits used in debt-for-equity swaps. To ensure the environmental integrity of such projects, the process by which the Treasury Department consults with interested non-governmental organizations to formulate standards for review of proposed World Bank projects that may have adverse impacts on wetlands, tropical moist forests and savannah regions should serve as a model for the development of guidelines for review of projects to be funded by debt-for-equity swaps of Export-Import Bank debt.

PARTICIPATION OF THE INTER-AMERICAN DEVELOPMENT BANK

The Senate amendment (sec. 722) mandates that the Secretary of Treasury, in consultation with other U.S. agencies, work closely with the Inter-American Development Bank (IDB) in the implementation of the IDB's investment sector reform programs and to coordinate U.S. bilateral assistance programs with IDB investment reform programs. The Senate amendment also requires that the Secretary of Treasury prepare and transmit a report to the Speaker of the House and the Chairman of the Committee on Foreign relations, within six months of the date of enactment, providing details of the specific investment sector reform programs undertaken by the IDB and of ways in which U.S. bilateral programs have complemented those reform efforts.

The House bill contains no comparable provision.

The conference substitute (sec. 831) is similar to the Senate amendment, except that it drops references to consultation with other agencies and provides for the report to be transmitted to the Chairman of the House Banking, Finance and Urban Affairs Committee.

ENTERPRISE FOR THE AMERICAS INVESTMENT FUND

The Senate Amendment (sec. 723) amended Chapter 4 of part II of the Foreign Assistance Act of 1961 to add a new section to that Act (sec. 539) establishing the Enterprise for the Americas Investment Fund.

This amendment (sec. 539(a)) authorizes $100 million annually in appropriations for fiscal years 1992-96 as the U.S. contributions to the new fund.

It (sec. 539(b)) also authorizes the Secretary of Treasury to contribute $500 million to the Enterprise for the Americas Fund subject to the following conditions: that an agreement has been negotiated establishing the terms and conditions under which the Fund will operate, that two additional donors have agreed to contribute at least $500 million to the Fund, that the agreement has been transmitted to the Congress under procedures established pursuant to sec. 634A of the Foreign Assistance Act of 1961, and that a biannual report of the activities of the Fund be prepared and submitted to the Congress by the IDB.

Further, it (sec. 539(c)) sets forth the principal purposes for which U.S. assistance will be provided to the Fund for disbursement to eligible countries. Assistance from the Fund is to be provided for technical assistance in connection with domestic constraints to investment, for human capital development, and for private enterprise development.

In addition, the Senate amendment (sec. 539(d)) gives the Secretary of the Treasury one year to meet the conditions set forth in this section.

The House bill contains no comparable provision.

The conference substitute (sec. 832) deletes reference to the Foreign Assistance Act and instead amends the Inter-American Development Bank Act to add a new section (sec. 37) to that Act establishing the Enterprise for the Americas Investment Fund.

Sec. 37(a) of the conference substitute is identical to the Senate amendment (sec. 539(a)).

Sec. 37(b) of the conference substitute is similar to sec. 539(b) of the Senate amendment but deletes reference to Sec. 634A of the Foreign Assistance Act of 1961 as it pertains to the submission of the agreement establishing the IDB Fund to the Congress for review. It provides for the agreement to be transmitted to the Chairman of the House Banking, Finance and Urban Affairs Committee rather than the Speaker of the House. It also provides for the IDB to prepare and make public an annual report on the operations of the IDB Fund.

Sec. 37(c) of the conference substitute is similar to sec. 539(c) of the Senate amendment. In addition, the conference substitute adds a fourth purpose for the IDB Fund: to support the development and strengthening of host country capabilities for ensuring the environmental soundness of investment activities. It also requires that no more than 40 percent of the annual disbursements from the Multilateral Investment Fund can be used for any single use authorized in subsection (d).

While recognizing the need to use disbursements from the Enterprise for the Americans Investment Fund to allow nations to reform their investment regimes, the committee of conference also believes that substantial disbursements from the Fund should be used to address social problems generated in the context of such investment reforms. In particular, the committee of conference wishes to state clearly its belief that, in addition to re-training assistance, substantial disbursements from the Fund should be for the purpose of designing social safety nets, including assistance for food, housing and other social needs which may occur with the implementation of investment reforms.

Sec. 37(d) of the conference substitute is similar to sec. 539(d) of the Senate amendment, with a change in the time period within which the Secretary of the Treasury must meet the conditions set forth in the section from one to two years.

The conference substitute (sec 37(e) mandates that the Secretary of the Treasury instruct the U.S. representative to the Fund to vote against any activities of the Fund that may have a significant adverse impact upon the environment.

The conference substitute (sec. 37(f)) sets forth the eligibility criteria which must be met for a country to receive U.S. monies from the IDB Fund: It must be a Latin American or Caribbean country; have concluded various agreements with the IMF, World Bank, IDB and private creditors, as indicators that appropriate economic policies are being pursued; have a democratically elected government; not have a government which harbors or sponsors international terrorists; be cooperating on narcotics matters; and have a government (including its military and security forces) which respects human rights.

The conference substitute (sec. 37(g)) provides for the President to make eligibility determinations subject to the criteria specified in sec. 37(f).

The committee of conference has agreed to eligibility criteria that determine which countries may receive disbursements of United States assistance from the Enterprise for the Americas Investment Fund. However, concern was voiced by some members of the conference that some of these criteria could adversely affect on-going efforts to obtain contributions and finalize negotiations to establish the Fund on a multilateral basis. If the eligibility criteria agreed to during the conference prove to be an obstacle to the

the successful completion of such negotiations, the committee of conference has agreed to seek to alter expeditiously these criteria, through legislative action by the Senate Committee on Foreign Relations and the House Committee on Banking, Finance and Urban Affairs.

The committee of conference believes, as a general proposition, that nations seeking to use the resources of the Enterprise for the Americas Investment Fund should have reached agreement with their commercial creditors concerning any outstanding issues related to the repayment of commercial debt. However, the committee of conference expects that this requirement be applied in a balanced manner. In particular, the committee of conference believes that, if this requirement is used unfairly as bargaining leverage by commercial creditors against a debtor country, the President should not deny such country access to the Fund solely because an agreement between such country and its commercial creditors has not been concluded.

□ 1450

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

Mr. Speaker, I wish to commend the chairman of the Foreign Affairs Committee, the gentleman from Florida, DANTE FASCELL, for his persistent efforts to move this legislation forward.

Also, I would like to recognize the fine work of Senator PAUL SARBANES and Senator MITCH MCCONNELL on this legislation. It is a credit to their efforts that we reached even this point in the process with the foreign aid bill.

For the first time in years, the House and Senate have moved far down the road toward enacting a Foreign Aid Authorization Act. In fact, a new authorization act is needed to correct the many deficiencies of the current law.

U.S. foreign aid programs often fail to realize their goals due to political obstacles and administrative difficulties. They are plagued by micromanagement, legislative restrictions, and competing objectives imposed by Congress.

The core provisions of this conference report would go a long way toward remedying this situation. If enacted, this bill would provide considerably more flexibility for the executive branch and make possible a more effective U.S. foreign aid program.

Unfortunately, several provisions have been included in the conference report which are considered veto items by the White House. It is clear, therefore, that this bill will not be enacted in its current form.

It is, indeed, disappointing that so many months of effort on this important piece of legislation may ultimately come to naught. Due to a few, controversial issues that probably don't even belong in this legislation, it will certainly be vetoed by the President if passed by the House today.

On the vast majority of issues in this conference report, compromise and cooperation have replaced the partisanship and rancor of the process in previous years. The overall result is a bill that would continue the tradition of American assistance to the world's poor, while promoting U.S. commercial, trade, and strategic interests in an everchanging world.

On the issues which are subject to Presidential veto, however, I recognize that many House Members have strong views. The conference committee worked long and hard in attempting to satisfy all parties, but in the end this simply proved to be impossible.

I hope that, after the President's veto, we can quickly pass a new bill that he can sign. Then we will be able to move ahead to enact legislation which meets the real objectives of U.S. foreign aid—easing human suffering, protecting the environment, promoting economic development, and strengthening democracy overseas.

Mr. Speaker, I would like to submit for the RECORD at this point a copy of a letter that I received from Deputy Secretary of State Lawrence Eagleburger on October 2 explaining why the administration is likely to veto this bill. I would also like to quote a portion of this letter:

As the Conference Report on H.R. 2508, the International Cooperation Act of 1991, comes to the floor, I would like to express the administration's strong opposition to its passage. In its current form, the President's senior advisors will recommend a veto.

The complete text of the letter referred to is as follows:

THE DEPUTY SECRETARY OF STATE,
Washington, DC, October 2, 1991.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives.

DEAR MR. BROOMFIELD: As the Conference Report on H.R. 2508, the International Cooperation Act of 1991, comes to the floor, I would like to express the Administration's strong opposition to its passage. In its current form, the President's senior advisors will recommend a veto.

In response to the dramatic changes in the world and congressional interest in foreign aid reform, the Administration submitted to Congress a major rewrite of the nation's outdated foreign assistance legislation. The importance of this legislation was underscored by the President in his April 12th letter to Congress.

Since submitting the legislation, the failed coup in the Soviet Union has provided an urgent example of the importance of reform. We need, now more than ever, new legislation that provides the flexibility to respond to rapidly changing events and a cooperative consultative process that enables us to face the challenges ahead.

The Conference Report does contain a number of provisions that attempt to restore some of the elements of administrative simplicity, flexibility, accountability and clarity of purpose that the Foreign Assistance Act originally possessed, and that the President asked the Congress to restore. The bill also contains several provisions needed to address particular problems that we have encountered in administering our foreign aid programs, and the authorization of the IMF quota increase is also a very important authority.

However, the Conference Report does not provide for a major reform of foreign assistance. The current bill still retains unnecessary earmarks, functional accounts, micromanagement, and country-specific provisions which would seriously restrict our ability to conduct foreign policy and pursue the national interest, and which more reflect the business-as-usual approach of the past decade than the new direction sought by the President.

I must emphasize the Administration's strong opposition to provisions on Mexico City Policy and the earmarking of funds for the UNFPA that contradict the Administration's anti-abortion policy. The President has made it clear that such provisions will trigger a veto.

Other provisions would also result in our recommending a veto of the bill. These include:

The cargo preference provision. This provision would greatly expand current cargo preference requirements and would establish unacceptable new restrictions on furnishing assistance from the Economic Support Funds account. This would sharply reduce the usefulness of such assistance for achieving important foreign policy objectives and is fundamentally inconsistent with the President's objective of making foreign aid a more useful tool of foreign policy. It would intrude government controls into U.S. commercial exports, and it would adversely affect U.S. exports that must be transported by sea.

The restrictions on Foreign Military Financing. These provisions would unacceptably hinder the President's flexibility to make FMF allocation decisions. Given budgetary restraints, the practical effect of this provision would be to eliminate a great number of small FMF country programs by effectively limiting FMF to just a few large country programs.

Further, the Administration strongly objects to the provision on exports to Cuba. As the President recently made clear, we are committed to placing the strongest appropriate pressure on Cuba to embrace reform. However, this provision would place U.S.-owned, foreign-based corporate subsidiaries in the untenable position of choosing to violate U.S. law or a host country's law. These firms should not be punished because of the "catch 22" in this provision.

A number of other provisions are equally troubling and objectionable to the Administration. In several cases, the bill would, in fact, impose brand new restrictions—for instance, the requirement to terminate assistance to countries that provide military equipment to countries supporting terrorism (section 412, enacting what would become new section 691(a)(7) of the Foreign Assistance Act), the provisions on projects in China and Tibet (section 941, et seq.), and expanded restrictive language on contacts with the PLO (section 612)—that though they may appear benign, could vastly exacerbate difficulties in administering our foreign aid programs and conducting foreign policy.

Additionally, I am particularly disappointed with several of the provisions applicable to our anti-narcotics programs. Nowhere was the need to eliminate micromanagement more important than with respect to the exceedingly cumbersome certification and reporting requirements under these programs. The new bill, however, would make these requirements even more difficult to administer, and would fail to establish procedures on recertification adequate to response quickly and decisively in the event of unanticipated events.

The Administration continues to be opposed to provisions that would micromanage

our efforts to negotiate a regime on Middle East arms sales, and that purport to direct the President how to proceed in diplomatic negotiations. The President has taken the initiative in calling for discussions among major conventional arms suppliers to the Middle East, and progress is being made. While the senior advisors would not recommend a veto over the current language, any significant negative change to the provision would change the senior advisors' position.

In conclusion, the President made clear his strong interest in foreign aid reform in his letter of April 12, 1991, on the International Cooperation Act of 1991 in April. However, the Conference Report, in its current form, is unacceptably flawed. If modifications were made to address the concerns described in this letter, I believe that this legislation would represent a positive step towards foreign assistance legislation that will meet the challenges of the 1990's and beyond. If not, for the reasons outlined above, the President's senior advisors will recommend a veto.

Sincerely,

LAWRENCE S. EAGLEBURGER.

Mr. Speaker, if the modifications were made to address the concerns described in this letter, I believe that this legislation would represent a positive step toward foreign assistance legislation that will meet the challenges of the 1990's and beyond. If not, for the reasons outlined above, the President's senior advisors will recommend a veto.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, having devoted considerable time and effort to this legislation, this Member would ordinarily very much like to see a foreign aid bill enacted. This Member supports the authorization process, a process that through no fault of either the distinguished chairman, Mr. FASCELL, or the distinguished ranking member, Mr. BROOMFIELD, has broken down in the Foreign Affairs Committee in recent years. But we know with absolute certainty that in its current form H.R. 2508 will provoke a veto—and it should be vetoed. I urge my colleagues to vote "no" on the conference report.

The conference report retains one particular provision—section 124—that is fundamentally at odds with the interest of U.S. exporters, other American businesses, and farmers. I refer, of course, to the new, ill-advised, and onerous cargo preference requirements of this bill championed by the gentleman from New Jersey, [Mr. TORRICELLI].

In an atmosphere of increasing global competitiveness, this provision would expand cargo preference requirements to include, for the first time, U.S. commercial exports to countries that already buy significant amounts from the United States, thereby insuring in many cases that our exports are priced out of the export competition because of the high cost of required shipping on U.S. flag ships. Is this the way to help American business compete abroad? Absolutely not. It is another large, indirect subsidy to marine interests that hurts our production and export base and all the people employed in it. It is primarily for this reason that I will vote to oppose this conference report.

As we know, the President's advisers have stated and recommended that the anticompetitive cargo preference provision is a veto item. In a September 13, 1991, letter from Deputy Secretary Eagleburger, the State Department explained its opposition to the cargo preference provisions by saying:

These provisions would greatly expand current cargo preference requirements and would establish drastic new restrictions on furnishing assistance from the ESF account; would sharply reduce the usefulness of such assistance for achieving important foreign policy objectives and are fundamentally inconsistent with the President's objective of making foreign aid a more useful tool of foreign policy.

A veto would be especially regrettable, Mr. Speaker, because there is so much of value in H.R. 2508. The conference report provides much needed flexibility in the U.S. foreign assistance program, and provides important policy guidance in many critical areas of U.S. foreign policy.

In particular, this Member commends the conferees for including in the conference report the House-passed provisions on U.S. assistance policies in the Horn of Africa—sections 1063–1068. This language sets forth a comprehensive relief and humanitarian assistance policy in a region that has seen all too much suffering.

In addition, provisions related to U.S. policies toward the Horn of Africa in multilateral development banks are now also included in the bill. These provisions were not offered earlier in the House, but have been incorporated in the section addressed by conferees from the House Committee on Banking, Finance and Urban Affairs.

There is also important policy language governing U.S. policy toward the emerging democracies of Eastern and Central Europe. This Member would note, for example, the authorization of a new program, to be based in the Czech and Slovak Federal Republic, that will address the public health aspects of environmental degradation.

But none of the valuable parts of this legislation will be enacted so long as a very few veto items—items such as the cargo preference provisions—remain. After the Presidential veto that we know is coming if we approve this conference report, this Member would urge this body to address the few outstanding issues and pass a bill that the President can sign. I urge all of my colleagues to vote "no" on this conference report especially those from agricultural Great Lakes, and industrial States. I urge my colleagues to avoid the wasted effort of sending this authorization bill to the President for the promised and highly appropriate veto.

Mr. BROOMFIELD. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the ranking minority member for yielding time to me.

Mr. Speaker, I wanted to associate myself with the remarks of the gentleman from Nebraska relating to cargo preference so that I would not be redundant and repeat his message. It was a good message. He stated the case well.

Mr. Speaker, if we're going to vote on the Mexico City policy and UNFPA funding, we can at least get the facts straight. Both of these policies have been the subject of a great deal of misinformation, it seems.

For instance, some folks would tell you that the Mexico City policy means that the United States doesn't support family planning. This charge is false. Mexico City has been in effect since 1984, and it has not reduced family planning by one penny. In fact, the United States remains the world leader in family planning assistance.

Some folks would tell you that Mexico City means that the United States is interfering in how other governments run their countries. This, too, is false. The Mexico City policy is based on a voluntary agreement. The contract is simple: In order to accept U.S. taxpayer dollars, the PVO or NGO may not "perform or actively promote abortion as a method of family planning." And do you know, that of the hundreds of PVO's and NGO's that provide family planning assistance, only two have refused to accept U.S. funds because they would rather perform and actively promote abortion as a means of family planning? Only two.

Some folks would tell you that we can give the UNFPA and still oppose China's oppressive policy of forced abortion and forced sterilization; that as long as United States taxpayer dollars are kept in a separate account, we won't be supporting China's reproductive oppression. This statement, my friends, requires a quantum leap in logic. Plainly and simply, money is fungible, and if we give the UNFPA funding for certain approved activities, our money will free up more of the UNFPA's own money to spend in China. China's policy isn't pro choice; China's policy is mandatory abortion.

These are the facts. Overturning Mexico City won't add a dime to the amount of family planning assistance given by the United States. Funding the UNFPA will assist China in its coercive abortion policy. I will vote against this conference report as it now stands, and I urge my colleagues to do the same.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. I thank the chairman for yielding.

Mr. Speaker, I rise in strong support of the conference report to H.R. 2508, the International Cooperation Act of 1991. I particularly would like to commend the conferees for their hard work and often thankless work on this bill, particularly Chairman FASCELL and those conferees who stood up for the poor overseas through the family planning aspects of this bill, for the working people here in the United States, based on the necessity for restriction on military assistance and the ability of this bill to look out for those in the Third World.

I would also like to express appreciation to Chairwoman OAKAR for her hard work on the multilateral development sections.

Mr. Speaker, briefly, I would like to point out three provisions of the multilateral section that I originally introduced in subcommittee and which are now included in this bill. Collectively, these provisions will encourage greater economic and social accountability from nations who are members of the multilateral development banks.

The first provision addresses the burgeoning problem of excessive military spending. It requires that the U.S. Executive Director urge the International Monetary Fund to develop criteria to determine whether a nation seeking a loan is engaged in excessive military spending. The Executive Director must present a report outlining this criteria to the Secretary of the Treasury who, in turn, will report these findings to Congress within 1 year.

At the recent IMF-World Bank Conference in Thailand, the impact of military spending on the national economies was a major topic of discussion. Both the IMF and the World Bank stated that massive military spending has hindered the world's ability to care for its vulnerable citizens. Furthermore, the IMF reports that external financing and weapons expenditures are directly linked.

In order to break this destructive link, the United States, as the largest shareholder in the fund, must take a leadership role in implementing arms reduction criteria as a condition of IMF loan approval.

The second provision imposes further accountability on countries seeking IMF lending by requiring the U.S. Executive Director to oppose any loan to a country engaged in a pattern of gross human rights violations.

In 1990 alone, human rights abuses continued or worsened in over 140 nations. More than 100 governments still condone torture and in some cases employ extrajudicial executions. This amendment, therefore, is both appropriate and necessary as a condition for the U.S. vote on loan approval.

My third amendment adds equity to the programs within the Enterprise for the Americas Initiative's multilateral investment fund. It requires that no more than 40 percent of the total amount allocated for the fund be spent on any one program. In this way, human capital development will not be ignored for private investment projects. Environmental protection will not be overshadowed by investment initiatives.

Mr. Speaker, there has not been a foreign aid authorization bill in 6 years. There has not been an IMF quota bill in 8 years. This is the best opportunity we've had in the last decade to help put the IMF on the right course, so that it may meet the dramatic changes taking place around the globe.

I urge the adoption of this bill.

□ 1500

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise to express my support for the conference report on H.R. 2508, and I commend the distinguished chairman of our Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], as well as the distinguished ranking Republican member of our committee, Mr. BROOMFIELD, for their outstanding work on this measure throughout the conference. While the conferees did not satisfy everyone with our final product, we certainly did the best we possibly could arriving in at a consensus with the other body.

This conference report authorizes a total of $12.5 billion in foreign aid funds for each of fiscal years 1992 and 1993. This authorization was slightly below the administration's request. Overall, the conference report shifts some funds away from security assistance and toward development assistance.

Development assistance accounts are authorized at $4.7 billion, while military assistance accounts are trimmed by $452.5 from the initial request to $7.8 billion.

I believe this conference report goes far in providing increased flexibility for the administration in the execution of our foreign aid program. It eliminates most earmarks in deference to the Senate passed bills which authorized set ceilings for specific terms within the legislation.

Mr. Speaker, this conference report on the International Cooperation Act provides several country and regional specific authorizations for some of our most important programs and important allies, including Eastern Europe, the Baltic States, Greece, Turkey, Egypt, and Israel. These authorizations also include Cyprus, Ireland, the Southern Pacific Region, Nepal, and funds for the Development Fund for Africa. These are some of our most critical foreign assistance programs, and in considering this measure let us bear in mind that, if we do not want to once again relinquish the body's role in the foreign aid process to the appropriators, it is important that we adopt this conference report in support of our Nation's security interests and in the interests of the security of other nations.

Mr. Speaker, I urge my colleagues to fully support this vital measure for economic security and refugee assistance.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, during the course of the next hour or so we are going to hear the arguments for voting in favor of this conference report. I want to confine my remarks to the Africa portion of the bill as chairman of the Subcommittee on Africa.

The bill in the conference report in its present form increases the Development Fund for Africa to $1 billion. It establishes an Africa Center on Conflict Resolution. It increases authorization for the Southern Africa Development Coordinating Conference also known as SADCC to about $75 million. It authorizes disaster relief for the whole of Africa, something which the gentleman from Nebraska [Mr. BEREUTER], my friend, pioneered in the committee. It offered aid to the disadvantaged in South Africa up to the amount of $80 million through PVO's and NGO's. It increases funds for AIDS prevention, a measure pushed by the gentleman from Indiana [Mr. BURTON]. It authorizes emergency assistance to Liberia. It puts restrictions on aid to countries violating human rights and establishes a democracy fund to assist emerging democracies in Africa.

Mr. Speaker, I have heard the argument about foreign aid and high unemployment. I was pleased about 2 Fridays ago with the largest employer in my district who said to a group of community people that DYMALLY's presence on the Committee on Foreign Affairs is important to us because we do a lot of business with foreign countries, and there are a number of jobs, 30,000 jobs, that it provides the district which comes from relationships with foreign countries. So, there is some relationship. We do not live in an isolated community in the United States. There is a direct relationship between the jobs here and our relationships with foreign countries.

As I traveled across the African continent, Mr. Speaker, I was impressed with the gratitude of these nations for the assistance that we render, most of which, most of which, goes to the poor. We give very, very little assistance to those who are building monuments. Most of this money goes to the poor, and I join with the chairman of this committee, the gentleman from Flor-

ida [Mr. FASCELL], in asking for an aye vote even with the threat of a veto because it is the only way to know what the President is going to do if we send the bill to him.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, it is a shame that this good bill gets weighted down with abortion language. There are many things in this bill that ought to be supported. Foreign aid is something that is an essential part of our foreign policy. But injecting into this bill a repeal of the Kemp-Kasten amendment, which says that money should not go to the U.N. Fund for Population Assistance so long as it supports the China coercive abortion policy, means I cannot support it.

I thought that proabortion forces were in love with the word "choice." I thought choice meant something to them. Well, the Chinese program is just the opposite of choice. It is coercion. It forces families to have only one child, and, if they dare get pregnant again, they are coerced into an abortion.

Mr. Speaker, that is a fact. That has been found by our U.S. Court of Appeals. That has been found by the Census Bureau, by the Agency for International Development.

I ask my colleagues, "Why would you want to get in bed with a coercive program like that, especially if you believe in choice, especially if you believe in human rights and human dignity?"

Coerced abortion is barbaric. But they say, "We're going to fence that money off from the United Nations."—Nonsense. That is creative bookkeeping. We heard a lot about that last night on funding for the Presidential elections. Money, as my colleagues know, is fungible, so that is nonsense. I cannot support this bill because it provides money for the U.N. Fund for Population Assistance which holds up the most barbaric program in the world as a role model for other countries.

Please.

So, I reject this bill. It is a shame. I hope all of these inappropriate provisions come out when it is vetoed and we can vote for a decent bill for foreign aid where and as it is needed.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in strong support of this conference report which authorizes $12.5 billion in foreign assistance programs for fiscal year 1992. I commend Chairman FASCELL, Mr. BROOMFIELD, and all the members of the committee for their efforts in bringing this important conference report to the floor.

The conference report before us would overturn the administration's misguided policy of denying international family planning funds to nongovernmental organizations that use their own funds to support abortion or abortion-related services. This Mexico City policy has not achieved its goal of reducing the number of abortions around the world, but rather, has increased the number of health complications facing women in the developing world by preventing health professionals from providing the full range of medical options and information to their patients. We must not allow the administration to endanger effective family planning services with this unrealistic policy.

International family planning organizations, including the International Planned Parenthood Federation, Family Planning International Assistance, and Planned Parenthood Federation of America, which receive Federal funding offer neutral services and information to women about their legal and medical options. These groups do not promote abortion but provide full and accurate health information to women. For the sake of the health and well-being of women around the world, we must allow these groups to do their important work.

Mr. Speaker, as chair of the Congressional Working Group on China, I would also like to alert the body to several important items in the bill regarding the People's Republic of China. Given the level of congressional concern over China's export of sensitive weapons technology to developing countries in volatile regions of the world—a concern that was expressed by Members of this body during the recent debate on most-favored-nation status for China—I am pleased that this conference report prohibits sales of military equipment to China if there is credible evidence that such equipment has been transferred to Algeria, Iran, Iraq, Libya, or Pakistan. This provision, coupled with the weapons proliferation provisions included in the President's veto message of last year's Export Administration Act, will enhance the administration's ability to negotiate an end to transfers of sensitive and unsafeguarded weapons technology by the Chinese Government.

Thanks to the efforts of Congressman JOHN MILLER of Washington, the conference report also contains language that establishes a code of conduct for United States joint ventures in China and Tibet. Principles to be followed by joint venture participants range from prohibitions on the use of forced or convict labor to guarantees of freedom of assembly and expression in the workplace. The provision also directs American companies to raise with Chinese authorities the cases of Chinese prisoners of conscience who have been detained, arrested, or convicted since March 1989 for the nonviolent expression of their beliefs. It is very important that we make every effort to gain the release of prodemocracy demonstrators imprisoned in China. American business investors in China, because of their economic relationship with the Chinese Government, are in a unique position to help gain the release of these prisoners and I am pleased that the committee has encouraged them to do so.

In closing, I would like briefly to return to the contentious issue of family planning. It is important to point out to Members that this conference report prohibits any money authorized for the U.N. Population Fund to be allocated for China because of concern about coercive family planning practices in that country. In addition to a restriction on the use of United States funds, the conference report goes further—it requires the UNPF to return all funds appropriated by the United States if the fund's contribution to China exceeds a specified amount. These provisions make very clear our opposition to coercive family planning in China. Therefore, any effort by the administration to convey an impression that this conference report contains funding for forced abortions in China has no merit whatsoever.

Mr. Speaker, in addition to the provisions that I have mentioned, this conference report contains important language on weapons proliferation in the Middle East, a subject that is central to our current efforts in Madrid to forge a lasting peace in that volatile region of the world. For all of these reasons, I urge my colleagues to vote for passage of the conference report and to send a strong message to the White House that we believe this legislation is essential and should be signed into law.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Speaker, today I rise to point out a few problems I have with the conference agreement on the Foreign Assistance Authorization Act of 1991, H.R. 2508, and the handling of unliquidated obligations by AID.

Under this agreement, the Agency for International Development will receive $483 million per year for 1992 and 1993. Let me tell you a little bit about AID. This is an agency that spends its time promoting centralized government control and government interference in the economic activity of developing countries. In short, this is an agency that spends U.S. money to promote Socialist principles. When are we going to wake up? Socialism is dead and dying everywhere except in the universities and Federal Government agencies of the United States.

Last year Congress passed legislation designed to bring some discipline and accountability to old or expired appropriations. This is now known as section 1405 and 1406 of Public Law 101-510. I sponsored this bill because I found that Federal agencies had M accounts and merged surplus funds, which at one

time had been appropriated for a specific use, which had not been spent for so long they were no longer tied to their original purpose. These funds had been merged into a $100 billion fund—sometimes referred to as "the honey pot." In effect, Government agencies were using these M accounts as their own private pool of money—their own private slush fund beyond the purview of Congress. And AID has been one of the worst abusers of the M accounts.

In fact, an AID employee, William T. Burns, warned his bosses about the lack of controls over M accounts. When they did not respond, he embezzled $1.4 million from these accounts. He is still in prison for this offense.

AID has now received a 1-year exemption from Public Law 101-510, the law holding their spending of public funds accountable. I am concerned about this exemption for several reasons. Reports issued by the GAO show that AID has funds in excess of $8.8 billion, that's $8.8 billion, sitting in its merged account fund that have not been spent. With the exemption they have received, they do not have to account for this money, where it is going, or how it is being used, for another year. And IG reports indicate that the bookkeeping at AID is in total disarray.

Furthermore, AID is now receiving no-year appropriations. This may be a move to try to circumvent laws holding them accountable for the funds they spend. I'm not sure, so I have asked the GAO to investigate this practice.

Mr. Speaker, I include at this point my letter to the Comptroller General of the General Accounting Office, as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 1991.

Hon. CHARLES A. BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR CHARLES: I am writing in further reference to my letter of November 30, 1990, requesting that your office monitor the implementation of Sections 1405 and 1406 of the FY 1991 defense authorization bill—provisions that close and audit the "Merged Surplus" and "M" accounts of the Department of Defense and other agencies.

I would like to broaden the scope of that request to include the Agency for International Development (AID) and special exemptions granted to other agencies as well.

Renewed concern over the handling of these accounts arises for several reasons.

First, reports issued by your office (NSIAD-91-123 and 91-238) indicate that obligated but unspent money in AID's "pipeline" amounted to $8.8 billion as of September 30, 1990—over $420 million of which was obligated in FY 1984 or prior years, and those amounts are continuing to grow. Second, AID was exempted from the requirements of Section 1405 of the defense authorization act for 1991 by Presidential Determination as provided for under 22 USC 2393(a) until September 30, 1992. Third, AID now receives "no-year" appropriations, which are not covered by Section 1405 of the law. And fourth, I understand that other agencies have either been granted or are seeking special exemptions from Section 1405.

I have several questions.

To what extent are AID's "no-year" appropriations being obligated during their initial period of availability? Are those totals included in the $8.8 billion "pipeline" figure noted above? What other agencies receive "no-year" appropriations? Are "no-year" appropriations consistent with sound financial management practices and Section 8 of Article I of the Constitution? Should "no-year" appropriations be abolished altogether, or are they needed under some circumstances? What happens when AID's one-year exemption from Section 1405 expires in September 1992? What is AID doing to prepare for that eventuality? What other agencies have received or are requesting exemptions from the requirements of Section 1405? Are all such exemptions justified and appropriate?

Charles, your office has carefully documented numerous abuses of the "M" accounts in the past, and AID has been the source of some of the most serious ones. For that reason, I think it is particularly important to monitor implementation of Section 1405 at AID. I hope you will help me obtain the kind of information I need to get a clear picture of how that is being done and to determine whether any "fine tuning" of the legislation might be in order to close any remaining loopholes.

Your cooperation and assistance in these matters is always appreciated.

Kind regards.

Sincerely,

———.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, October 25, 1991.

Hon. ANDY IRELAND,
House of Representatives

DEAR MR. IRELAND: We have received your letter dated October 24, 1991, requesting GAO to monitor the implementation of Section 1405 of the FY 1991 defense authorization bill as it pertains to the Agency for International Development.

We have forwarded your request to our National Security and International Affairs Division. Staff from that Division will be in touch with your office if they have any questions.

Sincerely yours,

RICHARD P. ROSCOE,
Legislative Advisor.

Mr. Speaker, can we explain to taxpayers why a government agency should not be held accountable for how it is spending their money? I can't.

The House is being asked to vote for a $25 billion foreign assistance program at a time when we do not have the money to help our own people here at home. What will we get for this money? I am concerned that AID cannot tell us either.

Before we vote on an expensive foreign aid bill, let's make sure we know where the money is going, and how it is being spent.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend, the gentleman from Michigan, for yielding me this time.

Mr. Speaker, I rise to ask Members to vote "no" on the foreign assistance conference report because it reverses two fundamentally sound and extremely important prolife policies.

The conference report guts the Kemp-Kasten anticoercion law and repeals the Mexico City policy.

If passed, this legislation will be vetoed by the President.

Language in the report provides up to $20 million to the U.N. Population Fund—the only organization that the President has determined to be in violation of U.S. law. The Kemp-Kasten anticoercion law prohibits funding to any organization that is found to be supporting or comanaging a coercive population control program.

The clear intent of Kemp-Kasten is to absolutely insist—by putting our money where our mouth is—that population control organizations support only voluntary family planning measures while penalizing those organizations that embrace forced abortion and other forms of coercion.

Each year since the law's enactment in 1985, the U.N. Population Fund has lost its funding because if failed the test and violated U.S. law. The U.S. Agency for International Development has determined that "the kind of quality of assistance provided by UNFPA contributed significantly to China's ability to manage and implement a population program in which coercion was pervasive."

AID further states that:

The quality and substantial amount of UNFPA management assistance in China has a significant impact on the establishment and maintenance of an effective demographic information system and the ability to formulate [these] targets, monitor compliance and enforce China's one-child policy.

Now the proabortionists in Congress who often drone on about the choice to kill a baby by abortion want to abolish the Kemp-Kasten anticoercion law and in the process rig the standard for eligibility for foreign assistance funds.

They want to scrap the most important law on the books against coercion and forced abortion.

They want to rewrite the law in such a way that the U.N. Population Fund can't lose.

The U.N. Population Fund language in this report, Mr. Speaker, is a sham. It is a fraud. Frankly, I am deeply disappointed with the games being played here with the lives of Chinese women and their babies. While we debate this issue here in Washington, the U.N. Population Fund is hard at work in China, working side by side with the population extremists in Beijing.

I respectfully submit that congressional accommodation with an organization that supports and applauds the Chinese Government in its cruel experiment to exterminate a large segment of the next generation by means of forced abortion and forced sterilization is an outrage.

Since 1979, it is estimated that over 120 million babies have been slaugh-

tered by the state—approximately 90 percent of those abortions were the result of coercion. The U.N. response? Scads of praise and support, awards for excellence, and grants totaling over $100 million.

In defending the U.N. Population Fund's odious role in China, Dr. Nafis Sadik, executive director of the fund, said:

* * * the UNFPA firmly believes, and so does the Government of the People's Republic of China, that their program is a totally voluntary program. The implementation of the policy [in China] and the acceptance of the policy is purely voluntary.

This, Mr. Speaker, is a whitewash of crimes against humanity.

And Mr. Speaker, the U.N.'s Director of Population Activities not only defends China's barbaric policies, but she cites it as a model program for other countries. During an exclusive interview with XINHUA—China's official news agency—on April 11, 1991, Sadik went even further in her praise of China's program.

China has every reason to feel proud of and pleased with its remarkable achievements made in its family planning policy and control of its population growth over the past 10 years. Now the country could offer its experiences and special experts to help other countries.

Mr. Speaker, rather than expose China's flagrant violations of human rights and mass murder, Sadik and the U.N. Population Fund want to export China's shame.

Let's not join the chorus of those who regard life as cheap and disposable—especially when it's the lives of Chinese women and their kids living in a faraway land.

As food for thought, I submit to Members that if UNFPA were supporting and comanaging a coercive population control program in another country—and that country just happened to be the United States, not China—and the pain and the humiliation and the loss of life were imposed on American mothers and their infants, the bookkeeping exercises, segregation of funds and lipservice contained in this bill would be regarded with contempt.

Chinese women aren't second class citizens. Chinese babies are worthy of our respect—our love and protection. Not poison shots.

The conference report trivializes the nightmare of forced abortion in China and the U.N. Population Fund's complicity in these heinous crimes.

Mr. Speaker, the conference report also reverses the Mexico City policy—a policy first announced in 1984 to separate abortion from family planning in the award of U.S. funds to population control organizations.

Reversal of Mexico City would be a big mistake and will lead to U.S. taxpayer subsidies to organizations that promote abortion as a method of family planning.

Under the Mexico City policy, Members should be aware that the United States remains the leading donor of population aid—providing approximately 45 percent of all international family planning assistance. The Mexico City policy has not reduced family planning funds by even a penny. According to U.S. A.I.D. the number of NGO's that have agreed to abide by the Mexico City clause has grown from about 300 NGO's to approximately 400. There are more providers than we have the funds to give.

Preservation of the Mexico City policy gives Congress and the President the opportunity to promote family planning worldwide while refusing to blur the distinction between birth control and abortion. Abortion isn't a family planning method—abortion kills children. Abortion methods chemically poison or dismember the helpless child in the womb. Abortion is not a method of family planning.

I strongly urge a "no" vote on the conference report.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, I rise today to explain my decision to vote against the conference report on H.R. 2508, the foreign assistance authorization bill.

When we first considered this bill in June, I voted against the inclusion of funds for the U.N. Population Fund. I also voted against the amendment blocking efforts to keep the Mexico City policy in place. Mr. Speaker, I cast these votes because of my belief in the sanctity of life, and because I do not believe that U.S. taxpayers' money should be spent to provide abortions, either directly or indirectly, whether here at home or abroad.

My position did not carry the day. Nevertheless, I supported final passage of H.R. 2508. I did so because it seemed a good bill that channeled assistance to friends and allies in ways that serve our interests. I was also willing to support the bill because I hoped the objectionable abortion provisions would be removed by the conference committee, which was aware that they would likely prompt a veto.

Mr. Speaker, since the conference committee has not seen fit to remove these provisions, I must oppose the conference report.

The Mexico City policy provides that no United States funds are to be made available to foreign, nongovernmental organizations which perform or promote abortion as a method of family planning. The conference report would eliminate this policy, which has been in effect since 1984. In addition, the report would authorize $20 million for the U.N. Population Fund, despite continuing indications that the UNFPA may be supporting China's coercive population control program. Mr. Speaker, abortion is not an acceptable method of family planning, and United States funds should certainly not be expended to promote it as such.

My belief in the sanctity of life compels me to oppose this bill at this juncture. If it were not for the provisions I have mentioned, I could continue to support H.R. 2508. I am disappointed that the conferees have not seen fit to remove these provisions despite the knowledge that they will prompt a veto. If we reject this report today, and are presented with a bill identical to the one before us except for the absence of these provisions, I will again support it. But until these provisions are removed I am unable to offer it the support which I believe it otherwise deserves.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I rise in support of the conference report for H.R. 2508.

I would especially like to highlight a provision in the conference report, which I proposed in June, to help American workers and companies benefit from the rebuilding of Kuwait.

Section 616 of the conference report expresses the sense of the Congress that: First, United States businesses engaged in rebuilding Kuwait should, to the maximum extent possible, use United States subcontractors and available United States goods and services; and second, the Department of Commerce should monitor and encourage the implementation of this policy.

By supporting the conference report for H.R. 2508—and the use of American subcontractors in the rebuilding of Kuwait—we can send a strong message of support to all American workers and companies.

Indeed, an article in yesterday's Washington Post with the headline "U.S. Firms Angered by Kuwait Contract Award" illustrates only part of the problem. This article details how a wholly owned United States subsidiary of a German conglomerate has won a $134 million contract set aside for American businesses.

Unfortunately, prime contractors—including the U.S. Corps of Engineers—are not required to source their subcontracted products or services from U.S. companies. The subcontracting provision contained in the conference report would send a powerful message to U.S. contractors that they should use American goods and services.

128 of my colleagues in the House have cosponsored an identical resolution—House Resolution 167—I introduced on June 5. This Kuwait subcontracting provision is also supported by the American Iron and Steel Institute, the Steel Service Center Institute, the United Steelworkers of America, Inland Steel Industries, LTV Corp. and Steel Co., and the Committee on Pipe and Tube Imports. Of course, using American subcontractors and United States goods and services to rebuild Kuwait would benefit a wide variety of other American companies and workers.

Without America's help, Kuwait might still be the 19th province of Iraq. We must now work to ensure that the United States gets the lion's share of the rebuilding contracts, and that American contractors use all available United States goods and services in order to help stimulate our stagnant economy and put unemployed Americans back to work.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, as one Member who managed the Popu-

lation Program of AID for several years, let me make a couple of points clear. Those years were from 1977 to 1981.

Coerced abortions are repugnant. American policy is in favor of voluntary family planning. We enforced it to the letter. The UNFPA is not funding abortions of any kind, period.

No. 2, in terms of the Mexico City policy, what it said was that an organization cannot use any of its own moneys even if it is for activities legal in their own country. That does not make sense. We should fence our monies in to make sure they are used for purposes consistent with American law. We have done that, and all this bill does is to say that American money shall be used to carry out purposes that are consistent with our policy.

Mr. Speaker, for this reason and others, I urge that we support this conference report.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I oppose the conference report on H.R. 2508, the International Cooperation Act of 1991, for one major reason. If the U.S. Congress cannot authorize Federal funds for critical, immediate needs of our own people here in the United States, pray tell how can we continue to send more and more billions of tax dollars to dozens of foreign countries?

Why not think about our own homeless, our unemployed, our veterans who don't have proper health care and benefits, our Social Security recipients who are hoping for a decent cost-of-living increase in January, and the needs of our cities and counties? We no longer have revenue sharing for our cities and counties. Congress outlawed that years ago, but we continue to send more and more money to foreign countries.

On behalf of 545,000 people in western Kentucky whom I represent, this Member of Congress urges my colleagues to vote No along with me on final passage and thereby say No as to the continuation of the billions of dollars our Nation, deep in debt, sends to foreign countries.

□ 1520

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, this bill does away with the Mexico City policy, and it is high time. The Mexico City policy is the international gag rule. It says that no money shall flow to any family planning organization that mentions the word "abortion" for any reason. I do not care how sick the woman is. I do not care if she is starving. No matter what the circumstances are, except to save the life of the mother and in case of rape and incest.

But if she is ill, if it is a serious malformed fetus, if there is any medical reason at all why a physician should suggest that the pregnancy be terminated, the physician cannot mention it to that woman.

Now, that is wrong, and there are a number of family planning organizations that simply will not deal under those circumstances. I can understand that. They should not.

This is not an argument about abortion, it is an argument about family planning. We sometimes forget. We talk about abstracts and we talk in rhetoric, but consider Bangladesh, Mr. Speaker. It has a population of 118 million and a growth rate of 3 percent. In 24 years the population will double.

Can you imagine the population of the United States trying to fit into an area the size of Bangladesh? That will be the case if we do not make every effort to curb population growth.

Just in the time since we last debated this issue on the floor of the House, that country's population has increased by more than 1 million people. One million more people living in grinding poverty and utter misery.

In debating these issues, we forget that a woman in Africa has a 1 in 21 chance of dying from a pregnancy-related cause. If that ratio were applied to this House, 21 Members would have died.

Mr. Speaker, this policy withholds needed medical advice from women. Real women are dying because the Mexico City policy deprives them of access to the health care they need. Vote yes.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont [Mr. SANDERS].

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

Mr. Speaker, while I steadfastly support the right of women to abortions and am in strong agreement with the provisions in this bill which reverses the Reagan administration's cruel and misguided policy prohibiting funding to organizations which offer abortion as an alternative, I cannot support this bill.

There are two reasons. We have 5 million children who are hungry in this country, 2 million people sleeping out on the street, and have a problem with appropriating $2 billion to Egypt and $3 billion to Israel. Let us take care of some of the problems that we have at home first.

Second of all, and perhaps more importantly, the IMF. There are millions of people in the Third World who are starving. Unfortunately, the IMF is not the vehicle which effectively deals with those problems.

As Pope John Paul II said so eloquently in his recent visit to Brazil, the foreign debt of a country may not be financed through the hunger and misery of its people. The people, yes, the IMF no.

The SPEAKER pro tempore (Mr. ECKART). The gentleman from Florida [Mr. FASCELL] has 9½ minutes remaining, and the gentleman from Michigan [Mr. BROOMFIELD] has 7½ minutes remaining.

Mr. FASCELL. Mr. Speaker, I yield 5 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise, as a representative of the Committee on Banking, in support of the titles of the conference report—House Report 102-225—on the foreign aid authorization bill—H.R. 2805—that deal with international financial institutions: title VIII, on the enterprise for the Americas initiative, and title XIII, on international financial institutions.

BACKGROUND ON BANKING COMMITTEE PARTICIPATION IN CONFERENCE

House jurisdiction over multilateral banks and other international financial institutions resides in the Banking Committee. On the working level, the relevant Subcommittee on International Development, Trade, Finance and Monetary Policy, which I chair. In the Senate, however, jurisdiction over these institutions is different, because when Senator Fulbright moved from the chairmanship of the Senate Banking Committee to the chairmanship of the Foreign Relations Committee, he took cojurisdiction over these activities with him.

Thus, when the Senate passed its version of foreign aid authorization—S. 1435—on July 26, it contained capital increases for the International Monetary Fund and three other multilateral development institutions—the Asian Development Bank, the African Development Fund, and the multilateral investment fund administered by the Inter-American Development Bank—that are part of the core jurisdiction of the House Banking Committee.

On Thursday afternoon, September 12, our committee was informed that a conference had been scheduled for Monday, September 16 on the two foreign aid authorization bills—H.R. 2508 and S. 1435—and that the House Banking Committee was expected to participate pursuant to this short notice.

My subcommittee had already—in the regular order—scheduled markup for September 25 on a composite international financial institutions bill on which we had been working since January. Nevertheless, to accommodate the Senate, we telescoped the subcommittee's preparations and offered our proposal to the Foreign Aid Conference on September 17.

HOUSE CONTRIBUTIONS ON INTERNATIONAL FINANCE

The results of the subcommittee's effort were as follows: We offered the Senate an 8 title bill, containing 46 sections. The Senate accepted 39 sections as offered, accepted an additional 2 sections as modified, and accepted the remaining 5 on the basis of comparable

provisions in their own bill. The conference did not reject any of the sections of our bill.

A week later, our subcommittee markup was conducted, as scheduled, on September 25. At that time, a dozen amendments were added to our subcommittee print. The resulting bill was introduced the next day—September 26—as H.R. 3428. Of the 12 additional amendments offered in subcommittee, 9 were accepted into the conference bill that was filed on September 27.

For purposes of comparison, the international financial titles of the Senate bill originally contained four capital increases, plus two floor amendments. As supplemented by the House bill, titles VIII and XIII of the conference bill now contain five capital increases—including the International Finance Corporation—and major initiatives for all of the international financial institutions in such areas as: Alleviation of poverty and legal barriers, debt reduction, environmental protection, energy efficiency, export promotion, and important management tools to make multilateral financial institutions more effective and efficient, including the establishment of offices of inspector general.

CONVENIENCE OF CONSIDERING A SINGLE PACKAGE

While we expect that the banking committee will continue to bring forward H.R. 3428 in the regular order, this conference report permits the House to deal expeditiously with bilateral and multilateral international financial matters at one time and in a single package.

Grouping the two pieces of legislation also offers a useful overview. Authorizations for existing international financial institutions, as scored for budget purposes, total $1.130 billion. The administration has also requested $500 million over a 5-year period to launch the Enterprise for the Americas Program, and that sum is included. These sums compare to a total cost for the bill of about $12.5 billion. The President's request for additional funds for the Enterprise for the Americas initiative places the international financial proportion of the bill at about 13 percent. Conventionally, international financial institutions account for about 10 percent of the U.S. foreign assistance effort.

The IMF is treated separately, because it is a liquid, interest-bearing asset—like a checking account—that is not scored for budget purposes. The international financial institutions are thus a modest, but central, element of this Nation's foreign economic strategy.

ROLE OF THE INTERNATIONAL FINANCIAL INSTITUTIONS

The IMF and other international financial institutions supported in this bill have been a bulwark of international stability for the past 4½ decades. As Members know, this has been an era of repeated petroleum shocks, of serious debt crises, of drought and poverty, regional wars, and, in the past two years, the dissolving of empires, and, a hopeful transition toward democratic government and market-oriented economies.

Under these turbulent and unexpected circumstances, the International Monetary Fund, the World Bank and the regional development banks have done a remarkable job in helping to maintain financial stability for both debtor and creditor nations, developing and industrial countries.

These financial institutions specialize in market-opening measures. For example, during a recent 2-year period—1986-88—23 out of the 24 IMF structural adjustment loans contained conditions designed to liberalize trade, such as reductions of tariffs, quotas, and currency controls.

As a direct result, international trade has been one of the outstanding successes of the the post-World War II era. As Stanley Fischer, former chief economist of the IMF, and now a professor at MIT, recently observed:

> Trade has grown more rapidly than output almost every year since (1946). The credit for (this growth) must be shared between the GATT and the steady decline in restrictions on international payments ("A Retrospective on the Bretton Woods System," panel discussion at Bretton Woods, October 1991).

Since the United States is the world's leading exporter, these developments are manifestly in the best interests of American businesses and American workers. Since the end of 1985, U.S. merchandise exports have increased 80 percent to $390 billion. The Commerce Department estimates that those export sales support more than 7 million jobs, and accounted for 40 percent of last year's economic growth. Indeed, without exports, the current recession might be a depression.

SUMMARY

To sum up, Treasury Department witnesses appeared before our subcommittee on several occasions and requested the capital increases as a part of the President's program and foreign economic policy.

For the reasons the administration presented, and, on the basis of our subcommittee's own research, I am pleased to support titles VIII and XIII of the conference report as in the best interests of this country.

I would especially like to commend Chairman FASCELL, and the ranking minority members of the Foreign Affairs Committee, as well as the majority members of our Subcommittee on International Development, Trade, Finance and Monetary Policy, who contributed significantly to our subcommittee bill—H.R. 3428—and to this conference report. I would also like to recognize the leading minority members of the International Subcommittee, Mr. LEACH and Mr. BEREUTER, for their responsible approach to this area, and their concrete suggestions that have been incorporated into this legislation.

REBUTTAL TO REPUBLICAN OPPONENTS OF THE RULE

Mr. Speaker, unfortunately, the words "foreign" and "international" seem to bring out the worse in some of our Members.

As a result, members of the Republican leadership of this body have made some of the most wildly inaccurate and misleading statements that I have ever heard on the floor of the House of Representatives about the capital increases proposed by the Bush administration for international financial institutions.

I was particularly surprised by the gentlemen on the other side of the aisle who misrepresented that the Democratic leadership was proposing these capital increases and that the President did not favor them.

Exactly the opposite is true. The Treasury Department appeared at the public sessions of the Subcommittee on International Development, Trade, and Finance on three occasions to request these capital increases as part of the President's Foreign Policy Program. In fact, the Republican administration negotiated these increases with other nations, and shaped them to the administration's satisfaction before they were ever presented to Congress. I will, by unanimous consent, include at the end of these remarks a letter from Secretary of the Treasury Brady requesting the enactment of this legislation.

I was appalled when several members of the opposition party misrepresented that the budget cost of this bill was two and even three times what it actually is. This kind of knowing misrepresentation of the facts is beneath the dignity of this institution. It debases the quality of public debate. It makes it more difficult to work out honest differences of opinion involved with complex and sensitive legislation.

The facts about the administration's capital increases, as are spelled out more fully in my formal statement, are that the international financial institution provisions of H.R. 2508 would add $1.6 billion to the budget deficit. That is a tiny fraction of the total foreign aid package.

The increase in the IMF quota does not even impact the budget, because our contribution buys a liquid asset, that can be drawn down by the United States at any time, and that earned a return of $628 million annually for the past 11 years. For this reason, the IMF quota increase was specifically exempted from the bipartisan budget summit agreement. I ask unanimous consent that a table, provided by the Treasury Department, which demonstrates those returns on the U.S. investment in the IMF, be included in the record following my statement.

The most valuable benefit of the international financial institutions to American businesses and American workers is that their entire rationale is to open up trade and investment worldwide. This helps both the debtor and the creditor countries; the developing and industrialized worlds.

International trade is one of the outstanding success stories of the post-World War II era. Trade has increased faster than output in nearly every year since 1946.

The primary beneficiary of these developments is the United States of America, which is the world's largest exporter.

Since 1985, U.S. merchandise exports have increased 80 percent, from $215 to $390 billion. The administration informed us that these export sales support 7 million jobs, and in 1990, accounted for 40 percent of all domestic growth. Without these exports, the recession of the past year would be a depression.

To sum up, the Bush administration has requested capital increases for the IMF and other international financial institutions as being in the best interests of the Nation. I hope the members of the President's party do not make it too difficult for this body to advance the President's legislation.

Mr. Speaker, I include for the RECORD a letter from the Secretary of the Treasury, as well as a chart concerning estimated gains and losses associated with U.S. transactions with the International Monetary Fund, and an excerpt from the National Advisory Council Report.

THE SECRETARY OF THE TREASURY,
Washington, DC, October 2, 1991.

Hon. MARY ROSE OAKAR,
Chair, Subcommittee on International Development, Finance, Trade and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MARY ROSE: I want to thank you for supporting legislation that would permit the United States to participate in the increase in resources of the International Monetary Fund (IMF). The Administration strongly supports the IMF quota increase.

At this time of historic global change, the IMF is playing a pivotal role in the movement toward free markets and democracy. The Fund is at the forefront of international efforts to assist East European countries in restructuring their economies. It is promoting reforms in developing countries in support of the U.S.-led international debt strategy. In Africa, Fund concessional resources are supporting growth-oriented adjustment and the alleviation of poverty. We are also asking the Fund and the World Bank to play a critical role in supporting economic reform in the Baltic states, as well as the Soviet Union and the republics.

The United States has encouraged the Fund to take the lead in addressing these developments in the international economy. If the Fund is to meet these challenges over the medium-term, we must ensure it has sufficient resources. Our support for the IMF is extremely cost-effective. The quota increase will not add to the budget deficit since no net budgetary outlays result from use of the U.S. quota. In addition, our resources are leveraged since every dollar provided the Fund is matched by four from others.

Thank you again for your support. Passage of this legislation is crucial to U.S. efforts to maintain the open, growing international economy on which our prosperity increasingly depends.

Sincerely,

NICK BRADY.

ESTIMATED GAINS AND LOSSES ASSOCIATED WITH U.S. TRANSACTIONS UNDER U.S. QUOTA AND U.S. LOANS TO IMF

[Millions of dollars]

IMF fiscal year ending April 30	Cumulative net Treasury Debt (−) or Cash (+) position arising from—			Borrowing cost (−) or reduction (+) from column (3)	Interest received by United States on loans to IMF	Remuneration received by United States from IMF	Valuation gains (+) or losses (−) on U.S. reserve position	Total net gains (+) or losses (−)
	IMF ending April 30	Transactions under U.S. quota	U.S. loans to IMF					
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1980	1,418	0	1,418	189	0	0	(45)	144
1981	1.540	(462)	1,078	125	16	22	(143)	20
1982	(850)	(967)	(1,817)	(246)	88	216	(204)	(146)
1983	(3,960)	(1,568)	(5,528)	(499)	131	345	(234)	(257)
1984	(5,335)	(1,485)	(6,820)	(611)	160	504	(246)	(193)
1985	(5,292)	(1,265)	(6,557)	(597)	171	660	(725)	(491)
1986	(7,306)	(1,229)	(8,535)	(594)	132	614	2,528	2,680
1987	(6,256)	(892)	(7,148)	(399)	86	478	2,653	2,818
1988	(4,989)	(475)	(5,464)	(317)	63	424	600	770
1989	(2,267)	(171)	(2,438)	(185)	33	439	629	916
1990	(2,977)	0	(2,977)	(233)	12	529	57	365
1991	(4,614)	(3)	(4,617)	(334)	1	393	851	911
Total period				(3,701)	893	4,624	5,721	7,537
Annual average	(3,407)	(710)	(4,117)	(308)	74	385	477	628

EXCERPT FROM THE NATIONAL ADVISORY COUNCIL REPORT

Dramatic progress has been made under the U.S.-led international debt strategy. IMF support, in cooperation with debtor countries, commercial banks, the World Bank, and creditor governments, has been critical to successes achieved thus far.

Eight countries—Mexico, Costa Rica, the Philippines, Morocco, Venezuela, Chile, Uruguay, and Nigeria—have reached agreements with commercial banks on packages including debt/debt service reduction. These countries account for almost half of the total commercial bank debt of the major debtors.

Argentina, Brazil, Bolivia, and Poland are at various stages of their discussions with commercial banks.

Many of these countries are key allies and close friends of the United States.

□ 1530

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, there is a grave flaw in this conference report regarding aid to the Soviet Union. A few months ago, this House passed the Kyl amendment by a vote of 374 to 41. In doing so, we set 10 conditions that would have to be fulfilled before direct aid, other than humanitarian or technical assistance, could be given to the Soviet Union. Substantially the same amendment, offered by Senator PRESSLER, was adopted by voice vote in the Senate.

Instead of yielding to the expressed will of both Houses, which is what conferees are supposed to do, the conferees simply decided to substitute their own judgment for that of the overwhelming majority of both Houses, and dropped the entire Kyl-Pressler amendment out of the bill.

Now it is true that since the House initially passed H.R. 2508, that a coup has taken place and failed, the Baltics have been recognized as independent, and that several conditions of the Kyl amendment have been met—but not all of them, and not what may be the most important one.

That condition states that before this country starts sending over wheelbarrows full of money to the Soviet Union, that steps must be taken on their part. They must substantially reduce their military spending. The Kyl amendment provides that before we give this aid, the Soviet Union must adopt a defense budget which brings down their military spending to a proportion of their economy approximating United States levels.

Even today, in spite of the enormous changes that have taken place in the Soviet Union, their military-industrial complex keeps grinding out weapons that are at this very moment aimed at the United States and our allies. The Soviet Union still spends an enormous proportion of their resources to keep their weapons factories open and to maintain their Armed Forces. Mr. Speaker, this has to stop.

What is left of the Central Government of the Soviet Union is perfectly capable of taking immediate steps to

stop wasting their resources in this way. Both Houses of Congress have overwhelmingly voted to insist that such a step be taken before we provide aid to that country. Since our conferees haven't listened, we must insist once again, send this bill back to conference, and insist our conferees comply with the expressed will of the overwhelming majority of both Houses.

I would also like to note another key feature of the Kyl amendment which must be maintained. Whatever aid the Kyl amendment keeps from the central Soviet Government can, and will, be provided to democratically elected governments of the republics. This is also consistent with an amendment I offered to this bill, which the House also adopted. The Kyl amendment does not prevent us from lending a helping hand to the people of Russia and other democracies emerging from Soviet tyranny. It merely insists that the central Soviet Government, if it wants our aid, no longer waste its resources on weapons and military equipment aimed at the United States.

Mr. Speaker, let's tell the conferees that we haven't changed our minds, that we were right when we voted 374–41 for the Kyl amendment, and that our conferees are not allowed to disregard with impunity the expressed will of this House. I ask my colleagues to vote down this conference report and make the conferees go back and do it right.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguish gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, first I would like to say that we need to focus on where the money from our budget gets spent. We are spending about $140 billion of our taxpayers' money subsidizing Western Europe and Japan through our commitment to NATO. Those are the wealthiest countries in the world.

It hurts our economy, and that is where we ought to get some cooperation in this House, to join the administration on the issue of reducing our military assistance to countries like West Germany, who now have as their neighbors Poland that just had a reelection. And Latvia, Lithuania, Estonia, and all the republics that are seeking freedom.

In this bill we do some things that are good for American industry, and it is the kind of thing that helps us reach into foreign markets.

One of the things that we have been talking about is that the growth in our economy, the little bit that has occurred, has been in the area of exports. And in this bill under the jurisdiction of the committee that I chair, the Subcommittee on International Economic Policy and Trade, we have several sections that deal with capital projects, which provide funds to help American companies get a piece of the action of what is going on around the world, to help foreign governments start to use American contractors so that American workers can have jobs.

We have OPIC to guarantee American investment as it goes overseas, to bring those American projects in the pipeline. The best way to get American trucks and tractors and parts used across the globe is as American management establishes itself globally.

The one thing we see with the Japanese, when a Honda plant is in the United States, what it really does it brings in Japanese parts and assembles them. We need to make sure that there are American products being made across the globe, going into those countries. We have got that in this bill.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, just a couple of points. First of all, some people have said that this is the administration's bill. Just a little bit of a point here, this is not the administration's foreign aid bill. The administration is going to veto this bill. Anybody that wants to read the administration's statement on this bill will find the President is going to veto this foreign aid bill if it gets to him. This is not the administration's foreign aid bill. This is the congressional foreign aid bill.

This is what Congress wants to spend. This is the choices that we make.

Understand, that is what this is all about, choices. We are choosing to spend money here.

The question is when we choose to spend money, what is the downside of that? The downside of it is that we are lifting the money out of the pockets of American working people in order to spend it for foreign aid. How much are we lifting out? For every billion dollars we spend, 333,000 American families do not get a $3,000 tax cut.

In this particular instance the amount of money in this bill could give 8.3 million American households a $3,000 tax cut. How much is that? That is 40 congressional districts across the country that could get a $3,000 tax cut in every household in those congressional districts. That is all the congressional districts in Pennsylvania and all of the congressional districts in the State of New Jersey combined, could get a $3,000 tax cut, if in fact we did not spend the money in this bill.

My guess is that all of the households in Pennsylvania and all of the households in New Jersey would prefer to have $3,000 in their pocket rather than spend it on the foreign aid bill. My guess is that if you polled America and asked them whether or not they would prefer to spend money for foreign aid or whether or not they would prefer to have $3,000 in their pockets, every one of these people would say, "I think I would probably prefer to have the $3,000 in my pocket."

That is the choice we are making here, $3,000 of tax cut for Americans or spending on foreign aid.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, while I am not in agreement with several significant aspects of this legislation—most particularly the cargo preference provisions—I did want to indicate support for its commonsense changes called for in the Mexico City doctrine and to speak in favor of those provisions in the International Cooperation Act of 1991 conference report which authorize U.S. contributions to the International Monetary Fund [IMF] and certain multilateral development banks [MDB]. These authorizations have been requested by the administration and are the result of long international negotiations where the administration has effectively advanced U.S. interests. Because of U.S. leadership, international financial institutions are becoming more tuned to environmental protection, poverty alleviation, market promotion, and efficiency.

I also want to praise the leadership of the Chair of the Banking Subcommittee on International Development, Trade, Finance and Monetary Policy, Ms. OAKAR, whose leadership was instrumental in getting these complex and sometimes controversial programs to the House floor. This is her first year as chair of the International Development Subcommittee which has jurisdiction over the international financial institutions. If she is successful in shepherding these provisions into law, it will be a remarkable legislative performance plus a great international service.

At a time when the United States is looking for ways to maximize scarce resources, we need to look to multilateral institutions as vehicles for increased export opportunities for American companies as well as stabilizing forces in the international economy. In States like Iowa, exports have become the mainstay of our economic existence. Roughly one in every four new jobs created between 1987 and 1989 were export generated. This statistic makes the United States participation in organizations like the IMF increasingly vital. The fund's presence and influence in market reform in Mexico alone has contributed to the doubling of United States exports to that country between 1986 and 1989.

We witnessed during the last 2 years the remarkable work of the IMF and its quick and effective response to the gulf crisis helping countries offset higher oil import costs. Furthermore, the IMF committed $12 billion to certain less developed countries which had completed agreements under the auspices of the U.S. Brady debt plan. Fi-

nally, the IMF is virtually the only financial institution capable of entering into Eastern Europe and initiating economic restructuring efforts. Debt reduction negotiations with official creditors, like the Polish model, are predicated on there being an IMF arrangement in place.

Today we have word of the 12 remaining Soviet Republics agreeing to pay off the $68 billion in external debt owed by the Soviet Government. this news, coupled with the recent creation of a $30 million technical assistance trust fund for the Soviets, will shore up that country's creditworthiness in the international marketplace. The IMF and World Bank will soon begin to send technical advisors into the U.S.S.R. to help and train Soviets in the design of macroeconomic policy. Without an international organization like the IMF, global cooperation and response to financial crises would be arduous and less effective.

The United States holds a 19-percent voting share in the IMF, making us the largest and most influential shareholder. Japan, soon to be in the No. 2 position, will only hold a 6-percent share. At modest budget cost to the United States, our participation in the IMF is a cost-effective way of ensuring our voice in the global marketplace. For every $1 the United States contributes to the fund, it is matched by $4 contributed from other countries.

Another important international initiative is a capital increase for the International Finance Corporation [IFC]. In June 1991, the negotiations for a $1 billion capital increase for the corporation were completed. A provision in the conference report would have the U.S. share of the capital increase be $250 million. The IFC has become an increasingly important member of the World Bank group, especially in terms of U.S. foreign interests. The IFC's expertise lies in foreign investment, capital market development, and privatization. By financing sound private sector projects without government guarantees, the IFC successfully lends and invests on a long-term basis. The Congress should support this institution and its promotion of private-sector led growth.

Another key initiative included in the conference report authorization package is the Enterprise for the Americas Initiative [EAI]. Perhaps the most comprehensive and thoughtful approach to Latin America this century surpassing even the widely heralded Alliance for Progress, it has been heartily welcomed by Latin American and Caribbean leaders. The provision of EAI under the Banking Committee's jurisdiction deals with a special investment fund to be managed by the Inter-American Development Bank [IDB].

This investment fund will be multilateral in nature and capitalized at $1.5 billion. The United States and Japan together will contribute $1 billion with other countries' resources to be committed soon after. Attesting to Latin confidence in the EAI, Argentina, Brazil, Mexico, and Venezuela have agreed to contribute to the fund as well. France, Italy, Spain, and Canada have agreed to participate in unspecified amounts.

The fund will act as a financing mechanism for training programs and technical assistance in the area of investment reform. Because lack of private investment in Latin America is the single most critical barrier to sustained economic growth, we need this multilateral fund to repatriate capital and restore investor confidence.

The EAI language included in this conference report also allows for the reduction, sale, and/or cancellation of Export-Import Bank loans owed to the United States by EAI-eligible countries. This debt reduction will facilitate debt-for-equity and debt-for-development swaps which are creative financing tools for keeping resources in-country. This debt reduction will result in a very modest budget cost yet will produce great benefits to the recipient countries.

Finally, this legislation authorizes the United States continued participation in various multilateral development institutions. We are authorizing the United States contribution to the Asian Development Bank's special capital increase to achieve voting parity with Japan. The United States will pay in $51 million to purchase additional shares, and will hold $374 million in callable shares—for a total of $425 million over 2 years. Also included is the United States contribution to the African development fund replenishment. The conference report agrees that the United States will pay in $135 million annually for 3 years. We hold an 11.8 percent share in the institution and have a great interest in ensuring that the fund becomes a more effective and productive development institution.

These authorizations are critical components of U.S. foreign economic policy. In order to create market opportunities and leverage our foreign aid dollars, we must increasingly rely on these global financial organizations. We have a strong voice in each one of these bodies and we need to maintain all the means at our disposal to encourage the development of economic conditions that will be favorable to U.S. interests.

In short, Mr. Speaker, the international development features of this bill have the strong support of the administration. Cargo preference, on the other hand, is a very different matter.

Section 124 of this conference report—the cargo preference provision—is a veto item because it would be bad law—bad for U.S. exports, bad for U.S. workers who are not employed in the maritime industry, and bad for National Security which depends in large part on the President having the flexibility he needs to respond to events in a rapidly changing world.

Section 124 is special interest legislation in its most cynical form. It will help a few at the expense of many.

Mr. Speaker, cargo preference pits farmers and manufacturers against transporters. In the short term it appears good for American seafarers, but if the past is a guide, U.S. subsidies have weakened rather than strengthened the U.S. Merchant Marine. To the degree subsidies may be justified, they ought to be paid directly out of general revenues, not indirectly and disproportionately by the American farmer. It's time this Congress stops putting one American worker against another.

Finally, from the perspective of a member of the conference committee representing both the Foreign Affairs and Banking Committees, I must register the deepest dismay at a process which resulted in a formal conference where definitive compromises were arrived at and then learning that outside public purview, without minority participation, the majority leadership had changed directions. Without reconvening the conference, without notifying the minority, the majority chose to play political games with the legislative process as well as profoundly serious legislation. In one instance—Mexico City—I might well have supported changes if a proper vote had been taken in conference, but in all instances I object strenuously to the arrogance of power reflected in the process. Accordingly, as much as I support the brunt of this legislation, I cannot vote for it. In America, after all, process is our most important product.

Mr. BROOMFIELD. Mr. Speaker, I yield 1½ minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, Congress borrowed last year $60 billion from Social Security. This year Congress will borrow $100 billion from Social Security. In addition to that, Congress will borrow a total of $300 billion next year to finance our debt.

That money will come from overseas. Then we take that $300 billion and we provide $170 billion to NATO and other countries for the defense of Japan and Germany. Then we provide $25 billion in the form of foreign aid in development funds for people overseas.

Is there any wonder why we are bankrupt?

The bottom line is, we give the aid to countries overseas. They turn around and buy the products from Japan and Germany. We are paying interest to Japan and Germany on the money we borrowed and we have given away in foreign aid.

If this all makes any sense, someone try and explain it to me. I do not understand it. And this is not an easy vote. A "no" vote is a hand vote here.

If one votes "no," one might have a lot of people trying to beat them the next time out of the chute in that election.

Mr. BROOMFIELD. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from California [Mr. LAGOMARSINO], a member of the Committee on Foreign Affairs.

Mr. LAGOMARSINO. Mr. Speaker, as a senior member of the Foreign Affairs Committee and one of the House conferees on this foreign aid measure, I rise in opposition to this flawed legislation which, if passed in its current form, will be vetoed by the President. I would strongly support such a veto.

First, I object to the very unorthodox procedure used to craft this conference report. The House and Senate conferees formally agreed to a number of key provisions—like dropping the Mexico City policy repeal. Yet, after the conference, the House and Senate chairmen unilaterally changed this and other provisions without the consent or notification of the other conferees. This is wrong and is a very bad precedent to set.

Second, while I know that the committee worked very hard in crafting an acceptable foreign aid bill, there are a couple of key items that would trigger a Presidential veto. Unlike other measures, the foreign aid bill is never popular here in Congress. While there are very serious national security reasons for foreign aid, we all know it is difficult to effectively explain these to constituents focused on their own domestic concerns. Therefore, more so than with other legislation, Congress must work closely with the administration if we are to enact a foreign aid bill. Congress, particularly the conference committee on this bill, has not done that. It's almost as if Congress has chosen specifically to pick a fight with the President—a fight Congress cannot win. I fear that all of our other hard and, in many cases, productive work has been turned into a waste of time.

This conference report can be easily fixed. The contentious items are few: UNFPA and Mexico City, cargo preference, military aid financing, Middle East arms sales, and Cuba sanctions. Congress, rather than getting a good compromise and many good provisions like Middle East funds, American enterprise program will get nothing. More importantly, during these very unstable times around the globe when the United States needs to play a strong leadership role to ensure future stability and our own national security, we are ignoring that responsibility and putting partisan politics above good national policy.

While I have these serious objections to the conference report, I do want to point out that some positive changes have taken place. For the first time in over a decade, the Western Hemisphere portion of the bill is not mired in controversy. In fact, we did not even have any amendments on this title in the House. A great deal of credit for this new spirit of cooperation goes to the chairman of the subcommittee, BOB TORRICELLI of New Jersey. It has been a very refreshing experience to work with Mr. TORRICELLI and I look forward to continuing our cooperative relationship.

I urge my colleagues to reject this flawed conference report, which will be vetoed anyway, and instead urge its modification into a more acceptable form that can be enacted into law.

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Mr. FASCELL. Mr. Speaker, I yield the remaining amount of my time to the gentleman from Florida [Mr. SMITH].

The SPEAKER pro tempore. The gentleman from Florida [Mr. SMITH] is recognized for 2½ minutes.

Mr. SMITH of Florida. I thank the gentleman for yielding. I would have to say after 8 years on the Committee on Foreign Affairs before I went to the Committee on Appropriations I was proud to be a member of the Committee on Foreign Affairs because of the chairman, and also because of the other members who worked very hard on one of the most difficult issues in this Congress. Foreign aid has never been popular. Foreign aid has never been easy. Once again, this bill has been caught up in a maelstrom of other political and domestic political issues. That is the problem. This bill always winds up to be somebody's bad tarbaby, and it is wrong, because the President, as everybody knows, is interested in foreign aid.

It is wrong because if those Members who have any institutional memory at all reach back, and those of you out there listening to us reach back, you will remember that the biggest amount of foreign aid we ever gave, almost, up until now was the Marshall plan. The Marshall plan was foreign aid. It rebuilt the whole continent of Europe, but it also enabled this country to become the greatest power on Earth; to ship our goods, to find new markets, to raise the standard of living in other places so that ultimately they could buy from us, trade with us, and make this country's economy even stronger. That is what foreign aid does. That is why the President wants this built.

Oh, yes, they will say that the President is going to veto it. He is only going to veto it because it is a good threat to turn a domestic political turn on this bill. This House has already voted for foreign aid. A CR passed this House a short time ago giving foreign aid until the end of March of next year. This is an authorization bill. I am a member of the Committee on Appropriations. I plead with the gentleman to vote for this authorization bill. The chairman of this committee and the others on this committee have worked hard to craft a good bill to put restrictions and other items in place that are currently not in the CR.

Why would the Members of this body want unfettered, unbridled spending of money without this authorization bill? This chairman has worked for 36 years in this House to do right by the policy of this country overseas. He is one of the finest men I know, and it is a disgrace that the gentleman would reject him and Mr. HAMILTON and Mr. BERMAN and all the others in this place who labor on authorization committees because of domestic politics.

And this business about tax cuts is so absurd. The gentleman from Pennsylvania is fast and loose with that money, but you see, the difference is he will tell you that the rich deserve a tax cut because he has on this floor a capital gains tax cut that comes out of the middle class. It is only a middle-class tax cut that is somehow supposed to come out of foreign aid.

Vote for this bill. It is the right thing to do. It is the best thing for America.

Mr. RAMSTAD. Mr. Speaker, today I rise in opposition to the conference report and in favor of restricting aid to Jordan. As it stands now, the Foreign Aid Authorization Act, H.R. 2508, would allow Jordan to receive direct United States economic assistance.

Despite our resounding victory over Iraq in late February, no one can forget the Scud missiles raining down upon innocent civilians in Israel. Jordan allowed this terror to pass through its skies and did not condemn it.

Jordan also continued its unconditional support of Saddam Hussein and violated the United Nations' trade embargo against Iraq.

I cosponsored a House resolution expressing the sense of Congress that the United States suspend all assistance to Jordan. I am surprised and extremely disappointed that in spite of Jordan's reckless and lawless behavior during the gulf war, the House and Senate conferees dropped the Housed-passed provision restricting aid to Jordan.

Mr. Speaker, the families and loved-ones of the 254 young Americans who perished during the Persian Gulf war will not forget that Jordan actively supported the terror of Saddam Hussein.

Mr. Speaker, the innocent survivors of Scud missile attacks in Israel will not forget that Jordan failed to condemn or stop the brutal attacks on civilians in Tel Aviv.

Mr. Speaker, the Congress of the United States should not forget that Jordan was a party to the naked and brutal aggression that cost the lives of many thousands of people. Providing Jordan with economic assistance is an assault upon the ideals that made the gulf war victory possible.

Today, the House of Representatives should reject the conference report that would allow Jordan to continue to receive United States aid. Then, I truly hope the conferees will once again reconsider denying Jordan direct economic assistance.

Mr. Speaker, I strongly urge my colleagues to defeat this conference report so that the re-

strictions on Jordan can be put back into the bill.

Mr. LIGHTFOOT. Mr. Speaker, I rise today in opposition to this conference report. Although foreign assistance is an essential tool for promoting U.S. foreign policy and furthering our own domestic priorities, this legislation contains provisions which I believe undermine our Nation's best interests.

Last summer, when the House passed this bill I supported it because it promotes economic growth, assists United States allies such as Israel and the Baltic States, and advances United States ideals and values in the international community. I had hoped the controversial family planning and cargo preference requirements would be removed in conference but they weren't. If they had been removed, we would have a bill that would not only gather the support of the House, but the President as well. Now we are faced with a bill certain to be vetoed.

Many of the provisions in this bill bother me. One of them is the cargo preference language which I cannot support. If enacted, this provision would require countries receiving economic support funds [ESF] from the United States to ship goods under U.S. vessels which, on average, cost nearly $30 more per ton than foreign ships. If cargo preference laws are extended, it would adversely affect the competitiveness of U.S. agriculture, which is one segment of our economy that is extremely competitive and contributes significantly to reducing our trade deficit.

Mr. Speaker, the farmers in my home State of Iowa take a great deal of pride in their work. They work hard for their income, and extending cargo preference to commercial agricultural exports is a mistake that will make the Iowa farmer uncompetitive. It will have a tremendously negative impact on the entire U.S. agricultural industry and our balance of trade.

I also have concerns about the provisions in this bill that provide as much as $20 million to the United Nations Population Fund [UNFPA] and the repeal of the Mexico City policy. It is widely known the UNFPA supports the horrendous family planning policies of the People's Republic of China. China's population control program often utilizes family planning practices such as coercive abortion and involuntary sterilization. This is offensive and morally wrong, and the United States should not support such policies which run contrary to fundamental human rights.

Furthermore, the repeal of the Mexico City policy will allow U.S. assistance funds to go to countries that promote abortion as a viable family planning practice. I do not believe the United States should reduce its commitment to family planning assistance, but we must not support programs that lead to abortion on demand.

Mr. Speaker, I cannot support this legislation for it shows a blatant disregard for American farmers' competitiveness and perpetuates human rights abuses in countries around the world.

Mr. MOODY. Mr. Speaker, I rise in support of the foreign aid authorization bill and I urge my colleagues to join me in voting for this bill.

Let me just say first that this bill contains two provisions that I strongly oppose.

First, the bill would require an increase in the requirements for cargo preference and, thereby, decrease the portion of international trade for which the Great Lakes can compete. Despite our repeated efforts, the Lakes still are not served by U.S. bottoms. The more trade we set aside for U.S. bottoms, the more we unfairly exclude the Great Lakes.

Second, the bill takes a pass on one of the most important issues pending in Congress: United States military aid to El Salvador. Last year, strong majorities in both the House and Senate approved a 50-percent cut in U.S. military aid. The President restored 100 percent of the aid, however, by selectively applying the provisions of the law. We need to revise those provisions and, at a minimum, ensure that Congress must ratify any Presidential certification. Majorities in both houses clearly support this step and yet we have taken no action.

But, despite these two concerns, I am voting for this conference report because I strongly support the provisions in this bill that would restore the United States commitment to family planning. This is the first foreign aid authorization bill Congress has passed that includes languages to overturn the Mexico City policy which has resulted in U.S. defunding of International Planned Parenthood Federation [IPPF], and to restore funding to the United Nations Population Fund [UNFPA].

The world's population will exceed 6 billion by the year 2000, the majority of this growth will be in developing countries that are already struggling to provide desperately needed resources. More importantly, research has revealed that one-half of the women of reproduction age in the developing world want to control the spacing and the size of their families but lack the means or ability to gain access to family planning. Voluntary family planning saves lives, promotes the well-being of women and children, and it prevents abortions.

Providing quality population assistance requires more than just funding. It also requires a commitment to helping those countries most in need. The U.S. AID has a good population program that does provide family planning assistance to many countries in the develoing world. However, there are many countries that AID does not serve which are served by either UNFPA or IPPF or both. If we would like more impact for our U.S. dollars we need to restore our funding to UNFPA and IPPF.

It is important to emphasize that if this legislation is enacted that U.S. dollars will still not be used for abortions. The bill does not alter existing statutory prohibitions against funding abortions abroad. It does not even allow U.S. funds to provide information about abortion. Overturning the Mexico City policy would merely allow private family planning programs in the world's poorest countries to comply with their own law, using their own funds, while accepting desperately needed U.S. support for family planning. I consider this an extension of the effort to make sure women in this Nation are guaranteed the right to be fully informed of their rights. Overturning the Mexico City policy is the equivalent of our fight against the gag rule here in the United States.

The concern that funding UNFPA will have an effect on China's population program is completely unnecessary. No money will go to China if we fund UNFPA and there has never been any evidence that UNFPA provides support for coercive activities in China or anywhere in the world. UNFPA only promotes maternal and child health, contraception production and availability, women's income generating projects, education, and research, and training in China and elsewhere.

Passing this legislation means that the United States will improve its leadership role in family planning by providing quality comprehensive voluntary family planning assistance to many more countries than we are currently serving. Please vote for the foreign aid authorization bill because of the crucial population assistance that it provides.

Mr. KLECZKA. Mr. Speaker, many of the provisions in H.R. 2508 have my support, including those extending aid to the Baltic nations and financing the international population programs. However, I must reluctantly oppose the Foreign Aid Authorization Act of Fiscal Year 1992 because of section 124, which expands cargo preference.

Section 124 imposes cargo preference on U.S. exports to nations receiving cash transfer assistance, up to 75 percent of the cash transfer amount. Although supporters insist this buy American provisions is good for our businesses, don't be fooled. Cash transfer countries already import eight times as much from the United States, approximately $16 billion in 1990, as the proposed fiscal year 1992 cash transfer $2 billion.

Much worse, though, is the requirement that 50 percent of all cash transfer purchases be shipped on U.S. flag vessels. If enacted, this requirement would place the Great Lakes maritime industry at a tremendous competitive disadvantage, because few ocean-going U.S. flag vessels use Great Lakes ports. No new maritime jobs in the Great Lakes region would be created by this bill. The bill, for the first time, expands cargo preference to commercial exports.

For an idea of how tremendously harmful expanded cargo preference would be in the Great Lakes, it is useful to examine the consequences in our region of cargo preference and the Public Law 480 Food for Peace Program.

For years, a significant amount of food aid products was shipped from the Port of Milwaukee, under awards won from the U.S. Department of Agriculture [USDA] through competitive bidding. Milwaukee had a particularly good year in Public Law 480 shipments in 1985, exporting nearly 175,000 tons of food aid destined for developing countries. However, over the strong objections of myself and other Representatives from the Midwest, Congress raised cargo preference on these shipments from 50 to 75 percent that year. This single action effectively shut out the Port of Milwaukee from the food aid program. On the 75 percent, where Milwaukee was a low bidder, the law forced cargoes to be diverted to non-Lakes ports, at great cost to the taxpayers, to meet the U.S. flag requirement. Of the 25 percent remaining, the cargoes were too small in most cases to be economical in our Great Lakes-St. Lawrence Seaway system.

The Port of Milwaukee gained back some of the food aid trade under terms of a 4-year

Great Lakes set-aside approved by Congress in 1985. Milwaukee won 71,200 tons of food aid shipments competitively in 1989 because of this provision. But Great Lakes food aid shipments plummeted to zero in 1990 after the set-aside expired, because the 75 percent cargo preference requirement was still in effect.

In 1990, Congress again amended cargo preference to give the Great Lakes a fair break in Public Law 480 competition. I am pleased the Port of Milwaukee is beginning to win back some of this valuable business, with about 20,000 tons this year. This is, however, only a faint shadow of the once-thriving food aid business in our port.

Ironically, Great Lakes ports are situated in America's heartland, where the fields and factories producing many of the goods shipped overseas are located. Yet, these ports are virtually locked out of the business of transporting these goods because of cargo preference laws. In fact, many of the goods produced in Great Lakes States are sent across the Nation and shipped from other ports, simply to comply with cargo preference requirements. This makes no sense, economically or otherwise, and must be stopped.

Experience shows the Great Lakes have been hurt under cargo preference. The losses will only increase if the proposed expansion of cargo preference to commercial goods is enacted. Accordingly, I cannot support legislation which includes this provision.

Mr. RAHALL. Mr. Speaker, I am in strong opposition to the foreign aid authorization bill. This bill authorizes the sending of $25 billion in aid to foreign countries while people all over America are suffering. I feel that it is time someone stood up for Americans and opposed giving money away until the needs of our own people are met.

Today, as we consider allowing this tremendous amount of money to be sent overseas, I feel the need to reiterate how Americans, especially those in my district in southern West Virginia, have needs that are not being addressed by this body. Needs such as health care, education, jobs, extended unemployment benefits, infrastructure, clean water, safety, and a healthy environment. These are basic needs. We cannot even begin to address the more far-reaching problems of this country until these basic needs are met.

Mr. Speaker, we are about to try for the third time to get the President to approve an extension of jobless benefits for desperate families. He has already vetoed it twice because he says it busts the budget. I would rather bust the budget over unemployment benefits than over foreign aid any day.

Furthermore, as we are all aware, the health care system in this country is not meeting the needs of our constituents. The infant mortality rate in some rural and urban areas rivals that of third world nations, the same third world nations to which we are proposing to send billions of dollars in aid. Childhood diseases such as the measles, which can be easily controlled through immunization, are reaching near epidemic proportions. The reason for this is that parents cannot afford to take their children for routine doctor visits. Honest, hard-working Americans, your constituents and mine, cannot afford basic health insurance. This is a tragedy. We should not stand for it while their tax dollars are sent to help other countries.

The American education system is also falling apart. We are constantly hearing how the standardized test scores of U.S. students are at an all time low. The adult literacy rate is similarly floundering. What serious steps are being taken to reverse these trends? Sending tremendous sums of money overseas is going to do nothing to improve the competitiveness of this country. It won't raise SAT scores nor will it help those who have been pushed through the system without learning to read, to improve their lives.

Jobs are another precious commodity in this country. How long can we expect the American people to sit idly by while we give away their jobs to Mexico. We also expect them to watch as we send to foreign lands funds which could be spent on much needed job retraining programs. There are needs which are not being met in this country,

Why are we ignoring them?

We ignore these needs as our country literally falls apart around us. Our roads and bridges are crumbling. Yet last week, many of us were fighting for so-called pork projects to improve the highway systems in our areas. Building roads to transport food stuffs or to meet the energy and commerce needs of different areas of the country are not pork projects. These are things which benefit all of us. We wouldn't have to fight so hard to improve the infrastructure of this country if we weren't spending so much on other countries.

Another aspect of our failing infrastructure is the difficulty many communities have in getting water projects completed. Smaller communities can't afford to meet all the water quality standards which have been laid out for them. This doesn't mean that we should pull back on the standards, but we should find ways to help communities meet these standards.

Phasing out the grant programs for much needed water projects was a goal set by this administration and which Congress allowed to happen last fiscal year. Desperately needed flood control or waste water treatment projects are not being completed or even started because towns don't have the tax base available to pay interest and principal on loans they must obtain in order to meet what has been designated as their share. These communities are forced to suffer without these projects. At the same time, here we are considering sending $25 billion to other countries so that they can have their water or food needs met. What about the needs of Americans?

Not only is infrastructure suffering, but the basic safety needs of Americans are suffering too. Crime is at an alltime high. The United States has the highest incarceration rate of the developed world. What are we doing to meet this need? While we just passed one of the toughest crime bills in years, there is so much more which needs to be done. Local law enforcement agencies need better training and better equipment. Drug treatment programs, which help people out of their addictions which perpetuate this terrible problem and also lead to more crime, need more support. We need to understand why people turn to crime and spend more of our money on preventing it. It is not enough to simply load up our jails and prisons. This does not solve the problem. Yet, while we are not able to adequately address the problem of crime in this country, we propose to send $25 billion to foreign lands.

Finally, we must address the needs of our environment. The air we breathe and the water we drink is precious and we must treat it so. We shouldn't waste our natural resources. We should research ways to conserve them. Sending money away will not help preserve our resources, it will do nothing to answer this need.

To sum up, let me say, crime is up, test scores are down. Unemployment is up, the country's infrastructure is crumbling. The health care system is falling apart and the environment is suffering.

Mr. Speaker, are we going to choose to answer the basic needs of our citizens by sending $25 billion to other countries? Not I. I will vote for the people of West Virginia and against this foreign aid authorization.

Mrs. LOWEY of New York. Mr. Speaker, I rise today in support of the foreign aid authorization conference report. This bill includes a number of important provisions, but I want to commend the conference committee for two provisions that will have a profound impact on women's lives.

The first would reverse the Mexico City policy. That policy is, in effect, an international gag rule, which bans U.S. aid to family planning agencies which use funds from other sources for abortion counseling and services. The second would provide $20 million for the U.N. fund for population assistance, which provides contraceptives and contraceptive counseling to women in developing countries. It has been 5 years since the United States has contributed to this important work, and it is well past time to resume our support.

Why is access to family planning so important? Family planning helps couples choose when to start a family and allows women at risk of health problems to delay childbirth. This reduces infant mortality and helps bring exponential population growth under control which threatens the ability of developing nations to move forward. In spite of their importance, family planning programs have not been able to fulfill their potential for dramatic improvements in women's reproductive health. Surveys show that more than 500 million married women worldwide want contraceptive methods but cannot obtain them. The Worldwatch Institute reports that a mere $1.50 invested per woman per year would enable most nations to reduce maternal deaths by more than 60 percent. Considering the payback—saving women's lives, this is a minuscule investment.

As a world leader we can and should be part of international efforts to improve health and curb population growth by sharing our resources with those in need and by enacting policies which do not put unfair strings on what international agencies can do with their own funds.

Yet our President has chosen to ignore this important opportunity and the will of Congress on this point. He has vowed to veto this bill due in part to the family planning provisions. Despite the efforts of the conferees to achieve a compromise on these issues, the administration continues to threaten a veto.

Our best chance of persuading him not to veto this bill is to show strong support for the

conference report. If he sees that his veto will not be sustained, I would hope the President would face reality and sign the bill. I urge all of my colleagues to vote yes on this conference report.

Mr. DORGAN of North Dakota. Mr. Speaker, the world has witnessed breathtaking changes in world politics in the past few years. The dismantling of the Berlin Wall has foreshadowed the collapse of the Warsaw Pact and the emergence of democratic forces in the Soviet Union. The strength of these new realities was sufficient to prevent a rightist coup from returning the Soviet Union to totalitarian rule by the Communist Party and the Soviet military intelligence establishment. The breakdown of the cold war order also permitted an unprecedented degree of cooperation between the United States and the Soviet Union at the United Nations during the Persian Gulf war.

Less evident from network news reports, is the stirring of grassroots movements and the establishment of democratic governments in nations across the Third World. From Central America and the cone of South America to the Horn of Africa and South Africa the voice of the people is being heard in remarkable ways. People are demanding and getting an end to authoritarian rule. They have been less successful in reversing pressure from the outside to fight poverty with structural adjustment and the drug trade with military aid.

Yet I fear that our Government has not yet recognized the importance of these profound changes. Our military budget is hovering near $300 billion, despite a radical reduction in the Soviet threat and sharp increase in our own federal deficit—another kind of threat to national security. Our foreign aid program remains the captive of security assistance, which is often mistakenly provided as an antidote to drug trafficking. And our Government supports the harsh structural adjustment campaigns of international financial organizations even though they often wreak havoc on the poor without actually improving a nation's economic performance.

I am also troubled that some of these same failures seem to have surfaced in the conference report on the International Cooperation Act of 1991—the foreign aid bill. I regret this because I voted for the bill in the House last summer.

POSITIVE FEATURES

The House adopted a Bereuter-Dorgan-Wheat amendment to incorporate the essential provisions of our bill, the Horn of Africa Recovery and Food Security Act. This legislation provided a comprehensive approach to relief, conflict resolution, and development for this troubled region of Africa.

The Horn chapter broke new ground by emphasizing the role of grassroots organizations in bringing about relief, reconciliation, and recovery. It barred security aid to the region and set stringent tests which Horn governments must meet in order to qualify for bilateral U.S. economic aid. Instead, it funneled development aid through private and international organizations with solid track records of working with the poor and the powerless.

The bill also includes my amendment to prohibit bilateral military aid in cases where it might impede the achievement of critical development goals such as poverty alleviation, economic growth, and democracy. A related amendment required coordination to ensure that economic assistance provided to countries took account of our security program in the same nation. The thrust of this amendment was to stop the pernicious trend of disrupting and further inproverishing developing nations with misguided and excessive amounts of military aid.

As the chairman of the International Task Force of the Hunger Committee, I deeply appreciate the cooperation of Chairman DANTE FASCELL and ranking minority member BILL BROOMFIELD and others in agreeing to these amendments. I would also note the committee's assistance in accepting Hunger Committee Chairman TONY HALL'S amendment on the right to food.

Overall, the bill contained some very positive measures. It set forth an innovative and progressive framework for aid which explicitly targeted poverty reduction and food security. It marshalled resources to carry out these goals in the form of programs to promote agriculture, nutrition, health, education, and women in development—to name but a few. It provided critical aid for Israel and Egypt, who both played instrumental roles in winning the Persian Gulf war. At the same time, it contained a needed ban on arms sales and transfers to the Middle East.

TROUBLING CHANGES

Consequently, I was disconcerted to see some of the changes which emerged from the conference—just after the summer's events which put the nail in the coffin of the cold war.

First, the conference reverted to its old way of boosting military aid above the House level. I simply can't understand or justify a $74 million increase in military aid at a time when security threats to ourselves and our allies are diminishing in the wake of the Warsaw pact collapse, dramatic progress on arms control, and the failure of the military coup in the Soviet Union.

Indeed, the overall spending in the bill is nearly $100 million over the House level. In the face of a $400 billion deficit, I must oppose this change.

If an increase were in order, it should be for food aid—which is authorized in another bill. Despite the strides we have made in fighting hunger, the World Bank estimates that the world now has 950 million chronically malnourished people—or twice as many as 10 years ago. Even then, I would only advocate an increase if offset by security aid cuts.

Some will argue that the cold war is not the issue, but the drug war is. In other words, we need military aid to help recipient governments put the screws to drug lords. In rebuttal, I call to my colleagues' attention a rivetting article. "Unholy Alliance: Latin American Militaries and the War on Drugs."

Author Tina Rosenberg, a fellow with the Overseas Development Council, argues persuasively that military aid does not advance the war on drugs but does create the unwanted side effects of militarization, reduced democracy, and human rights abuses. She points out that Andean governments have resisted the military strategy of fighting the drug war. Unfortunately, they have been forced to accept military aid as a precondition for receiving economic aid. Moreover, Rosenberg contends that military aid is "* * * often does not go to fight drugs, but into what for most Latin America militaries is a much higher priority: fighting guerrillas. So we are back full circle to focusing on leftist threats to established governments—whatever the record the human rights record of either side. Even worse, we have a strategy that curtails instead of promoting economic development.

I might point out my amendment to ban military aid wherever it would undercut development goals was weakened in the conference. The bill language was dropped in favor of report language, which has less punch in bringing the administration into line with congressional intent. I believe the stronger message would have helped to advance development and curb such practices as the militarization of the drug war, which has not manacled the drug lords, but which has fostered human rights abuses.

I also believe it unwise to drop the House ban on arms sales and transfers to the Middle East. We have been learning to our chagrin and alarm how close Iraq came to producing nuclear weapons with the active collaboration of western firms. Just having put American lives and treasure on the line in the Persian Gulf war, we of all nations ought to lead the charge to curb weapons proliferation in the tinder box of the Persian Gulf. That's certainly a key way to help the Madrid Peace Conference bear some tangible fruit.

My other major misgiving about the conference report is the inclusion of a $12 billion quota increase for the International Monetary Fund, which the House did not have in its bill. The provision has not been the subject of hearings, let alone consideration on the House floor. This doubles the size of our foreign aid bill at a time when we should be doing more with less. Instead, we may be doing less with more. Here's why.

For one thing, we can expect defaults in the billions. The Soviet Union, now an associate member of the IMF, has a foreign debt of $60 billion. It may become a full member and qualify for IMF and World Bank aid. It's not clear whether the Soviets, now nearly bereft of gold holdings, will be able to meet debt service requirements of $10 billion coming due by year's end.

This raises the specter that IMF funds will be used to pay off these bad debts to commercial banks as the precondition for the banks to advance new loans. Richard Feinberg, vice president of the Overseas Development Council, has properly criticized this house of cards aid program. He is quoted in a Hobart Rowen column in the Washington Post as asking:

"Why should United States taxpayers pump money into the Soviet Union"—via United States contributions to the IMF and World Bank—"simply to recycle that money to German banks?"

It is a timely and very expensive question. And I am worried that the conference report may provide exactly the wrong answer.

There's another reason to oppose this enormous quota increase without the benefit of hearings, debate, and amendments. Call it structural adjustment. This is the wrenching process by which developing nations are obliged to cut essential social programs, to

eliminate trade barriers, and devalue currencies in order to obtain IMF and World Bank assistance in creating growth-through-export economies.

A recent foreign policy article, "Development: the Market is Not Enough," shows why this IMF/World Bank strategy is domed to failure. It is impractical due to growing protectionism and increased substitution for raw material exports on the part of developed nations. It also creates adverse ecological impacts and hurts the poorest in developing nations. Even worse, it doesn't work. The authors document that the World Bank's own findings showed that, after structural adjustment programs, 15 African countries were worse off in a number of economic categories.

Reform is not the issue. Many developing nations must reform their economic policies and many have done so without the strictures of the IMF. But there are no shortcuts to development, as the authors point out. Ecological sustainability, local participation, and poverty alleviation must be part of the process.

My final concern is the expansion of cargo preference which requires that 50 percent of goods purchased with U.S. aid be shipped on U.S.-flag vessels. I have no objection to the goal of this provision, which is to protect the American maritime industry. But the practical result of the requirement is perverse: it does not help the maritime industry but it does hurt American farmers, exporters, and the poorest of the poor.

This result occurs because cargo preference has proven totally ineffective in stimulating the American maritime industry. After years of this shipping requirement our commercial fleet is in worse shape than it's ever been. Instead of this unwieldy subsidy via foreign aid, we should provide direct incentives through the transportation budget. As it is, we end up forcing poor nations to double their shipping costs for U.S. goods, which means they get fewer of the resources they need from our aid programs. It also means fewer farm products and other commodities are exported because shipping costs eat into the amounts left for product purchases. So this measure is a killer for farmers and other exporters of American goods. In a word, it is anticompetitive and self-defeating.

THE RIGHT KIND OF AID

So I again say that we should do more with less and not the reverse. We should focus our efforts on aid that works. On food for the hungry in creative "food for work," "food for health," and "food for work" programs. On development programs which involve local people in the causes of universal immunization, literacy, and food security. On security aid to a well-defined list of key allies who can demonstrate compliance with the tests of human rights and democracy.

I understand that many of the problems which I have alluded to result from the old order thinking of an administration that portends to want a new world order. Without leadership from the President, Congress itself cannot be expected to rewrite the foreign aid bill.

Nevertheless, I want to see this country fashion the right kind of foreign aid. This conference report contains many provisions which meet that test. However, it has slipped away from the House position on key issues which compel me to oppose it in its present form.

Mr. CONDIT. Mr. Speaker, I rise today to explain why I will be voting against the conference report on foreign assistance authorization for fiscal year 1992 and fiscal year 1993.

Mr. Speaker, the United States is in the midst of a serious recession. The Federal deficit has reached an all-time high. Millions of Americans cannot afford health insurance. Our school system is underfunded to the point that we have fallen far behind other countries in scholastic achievement. We rely on foreign technology instead of supporting American businesses. The unemployment rate continues to rise while drugs and crime continue to run rampant in our cities. It is absolutely imperative that we begin to rebuild America by reinvesting in America.

While certain foreign aid requests seem reasonable, it has become increasingly evident that domestic economic realities force Congress to base further foreign military aid upon well thought out criteria which recognizes American interests in a specific region. Financial obligations must only be pledged with American international economic constraints.

Clearly, these factors were not considered when drafting this conference report. For example, the agreement authorizes $2.1 billion in aid to Egypt for fiscal year 1992 and the same amount for fiscal year 1993, which includes $1.3 billion in military aid and $815 million in economic aid. This enormous financial commitment cannot be made when children in the United States are growing up undernourished and undereducated, when families are forced to endure inadequate housing and health care, and when this body has to debate for weeks, a simple extension of unemployment benefits.

It is our responsibility, as elected representatives of the people, to carefully scrutinize where and how American tax dollars are spent. I am convinced that the people of this Nation want their hard-earned money to stay right here in the United States, rather than be given away to governments in the Middle East, Latin America, or Eastern Europe.

We simply can no longer afford to grant extended funds to foreign countries. Americans are facing tough economic challenges. Let us ease their burden by voting against this foreign assistance authorization. America's future depends on it.

Mrs. MORELLA. Mr. Speaker, I rise in support of the conference report on the foreign aid authorization bill. Unfortunately, some Members are arguing that the conference report should be defeated because of several international family planning provisions that could lead to a Presidential veto. I urge my colleagues to again demonstrate their support for these critical provisions, and to urge the President to sign the bill.

Overpopulation is one of the most critical environmental problems facing the world today. Voluntary family planning assistance is absolutely critical to population control. What we do in this decade will determine the population growth for the next century.

I urge all of my colleagues who are concerned about the quality of life of future generations to vote for the conference report. It is a vote that will go a long way toward determining the condition of the world that our children and grandchildren will inherit from us.

Mr. ALEXANDER. Mr. Speaker, I rise in opposition to H.R. 2508.

I do not argue with the validity of the programs contained in the bill.

My argument is with priorities. America should come first!

America has so many unmet needs. Middle-class families all across this country are scrimping to send their children to college, in fact, just to make ends meet.

Our roads and bridges are crumbling.

School districts are just getting by or even closing down early because they have reached the end of their fiscal rope.

People are going without health care because they can't afford it.

Why can't the Federal Government adequately address these issues?

A lack of funds, we are told. If that is the problem, I cannot vote to send almost $25 billion overseas.

I fully realize that we are members of the global community and that we must participate with our partners in that community.

But, I see needs unmet in this Nation, and, for me, America and her people take top priority.

I do not apologize for that position.

If our Government was able to meet its obligations to our own citizens, things would be different.

But, those obligation aren't being met.

Until the Federal Government begins to keep its promise to Americans, I cannot vote to continue this level of foreign aid.

I am not an isolationist, but I am a realist.

The people in my district need help in improving the economy and the overall quality of life. But, they are being told they must do without.

There isn't enough money.

For me, it is a matter of priorities—either address the needs at home or those abroad.

And, Mr. Speaker, the whole question of writing off debt owed to America by foreign countries is an issue which is troubling to the extreme.

Time and again, I have read that the administration has written off millions and millions of dollars in debt, only to be replaced by new loans which, I am sure, will be written off when they come due.

It is intolerable, in my view, to write off this foreign debt while telling American taxpayers that the cupboard is bare and that their needs can't be met.

The administration tells Arkansas farmers who lost their wheat crop that we can't afford disaster assistance for floods, but, at the same time, it forgives millions in foreign debt.

That is wrong.

America pays a big share of the defense costs for some of our most formidable foreign competitors—Germany and Japan—providing them free security so that they can beat our socks off in the world market.

They take the money and better educate and train their people, provide more assistance to business and industry, maintain a quality infrastructure and do more research and development.

Their standard of living improves.

Ours deteriorates.

It is, Mr. Speaker, a matter of priorities.

I was one of the authors of the Brooke-Alexander amendment which required a cutoff of aid when a foreign country defaulted in its debt to America.

But, the Reagan administration and now the Bush administration restructured many of these loans to circumvent the time requirement and the intent of Congress.

Again, Mr. Speaker, I am well aware that a good case can be made for each and every item in this bill.

I do not argue with their validity.

I do argue with the priorities.

And, with tight budgets and unmet needs at home, my priorities are here in America.

Mr. POSHARD. Mr. Speaker, I rise in opposition to the conference report on H.R. 2508, the foreign assistance authorization for fiscal years 1992 and 1993.

I do so not out of any hostility toward our friends and allies in foreign lands. I am perfectly aware of the role the United States plays as a leader on human rights, economic development and democracy.

But I am seriously concerned with our ability to maintain that position if we fail to address very serious needs here at home. I simply believe we must invest in our domestic resources and more aggressively and effectively meet our domestic challenges, before we can entertain any notion of further foreign assistance.

This bill authorizes $12.5 billion in each fiscal year to address a host of concerns around the world. In times of plenty, if our budget were in order, if 37 million Americans had health care, and without double-digit unemployment in southern Illinois, I might be inclined to view this bill more favorably. But not today. Not when communities in my district go without loans and grants to build sewer systems or make basic improvements to other public facilities. Not when our prisons are operating at twice the safe population level. And not when the opportunity for the next generation of Americans to find meaningful work and support their families is seriously endangered by our budget deficits and trade policies.

I urge my colleagues to turn their eyes toward the men, women and children of this country, and urge them to invest here in America first. Only when we are secure in our own homes and communities can we honestly influence events in the rest of the world.

Mr. PORTER. Mr. Speaker, I would like to commend Mr. FASCELL and Mr. BROOMFIELD and members of the committee for their fine work in shepherding this bill, which contains an incredible number of very difficult and complex issues, through the House and conference.

Several provisions in this bill are worthy of special mention. The authorizers have again included $15 million for bicommunal projects and programs to bring the people of Cyprus together. This August, during his visit to Greece, the President indicated his renewed commitment to rectifying the abominable division of the island which has existed since the Turkish invasion of 1974. Bicommunal projects are an important way to get the necessary dialog going between the two sides who have been separated for 17 years and, I believe these projects are an important part of the solution to the division of the island.

I am also very pleased that the conference has been sensitive to the complex situation in the Eastern Mediterranean and maintained the 7:10 ratio in funding between Greece and Turkey, both of which were stalwart allies during the gulf war.

The committee has again fully funded the economic and military assistance accounts for our strongest and most dependable ally in the Middle East, Israel. In the face of the immigration of hundreds of thousands of immigrants from the Soviet Union, Ethiopia, and elsewhere to Israel this funding is increasingly important and I commend the committee for supplying these much needed funds to help the Israelis meet their economic and defense needs.

I also want to thank the committee for breaking new ground on population issues in this bill. The committee included three provisions that are a strong indication that Congress recognizes the horrible consequences, both environmentally and in human terms, of population growth that is out of control.

First, the committee authorized $300 million for population-related programs. This is a substantial increase over last year and will go far in providing family planning services and commodities to women who want to have control over the size of their families and the spacing of their pregnancies, but who never had the capability to do that before.

The bill also provides $20 million to the U.N. Fund for Population Activities [UNFPA]. After years of debate between the administration and those of us here in the Congress who support family planning, we have finally reached an agreement on how the United States can participate in the world's most comprehensive family planning effort, UNFPA, while ensuring that no funds, in any way, could possibly be used for any activity even remotely associated with abortion related services. I am very pleased that this issue has been worked out and I commend all of the members of the committee for willingness to persevere and find a compromise.

Finally, I strongly support inclusion of the provision overturning the Mexico City policy, which has hampered United States family planning efforts around the world since 1984. There is a crying need for family planning services in developing nations that is going unmet because this policy has been in place. Removing Mexico City, sometimes known as the international gag rule policy, simply allows nongovernmental organizations operating abroad to explain to women all of the options that are available to them, including abortion, without forfeiting United States support. Removing this roadblock will allow the United States to give family planning the attention it demands in the nations with the greatest need.

Mr. Speaker, I thank the gentleman for giving me time and again I commend Messrs. FASCELL and BROOMFIELD for their fine work.

Mr. GRADISON. Mr. Speaker, I rise in opposition to H.R. 2508, the International Cooperation Act of 1991.

In 1985, after 4 years of wrangling, the Congress finally enacted a foreign aid authorization bill that the President could sign. There was considerable discussion then that passage of that bill might auger a new period in which the Congress and the President would be able to examine and adjust, perhaps even reform, the U.S. foreign assistance program on a normal legislative schedule.

Unfortunately, that has not been the case. The 1985 legislation has proven to be an aberration. Over the past 6 years, Congress has resumed a pattern of burdensome micromanagement and excessive earmarks that have largely been responsible for the eventual defeat of foreign assistance authorization bills. There was a time, a mere 2 years ago, when the debate on the foreign assistance program centered on the issue of reform. While some progress has been made in revising the U.S. foreign assistance program, much more needs to be done. The President made that case clearly in his letter of April 12, 1991.

Although the House version of H.R. 2508 did not squarely address the reform issue and contained provisions with which I disagreed, I voted to send the bill to conference in the hope that it could be salvaged. My hope was misplaced.

The conference report on H.R. 2508 retains provisions effectively overturning the Mexico City policy as well as earmarking funds for the U.N. Population Fund [UNFPA] that are unacceptable to the President. The conferees were well aware that these provisions would cause the President to veto the bill.

Of added concern, the conferees adopted provisions on cargo preference that are worse, in my view, than those contained in the House version of H.R. 2508. The expansion of cargo preference requirements will reduce the beneficial effects of foreign assistance by requiring recipient countries to spend more on shipping costs by using U.S. bottoms. Extending cargo preference to commercial sales would further harm the competitiveness of American exports, particularly in the agricultural sector. In addition, the cargo preference provisions of H.R. 2508 violate the long-standing compromise on this issue that was reached in the 1985 farm bill. The conferees were also aware that these provisions would cause the President to veto the bill.

Beyond these two significant policy issues, I concur with many of the observations made by Under Secretary Lawrence Eagleburger in his letter of October 2, 1991. In several areas, particularly the provisions in the bill on our antinarcotics programs, the micromanagement of policy is excessive.

I also concur with Secretary Eagleburger's expression of concern about title II, chapter 5—specifically section 282—which attempts to establish the parameters for American policy in pursuing an arms control regime in the Middle East. The President has taken the initiative in this area and the administration reports that progress is being made. The proper response of Congress for now, in my view, should be to be supportive of the administration's efforts and not attempt to micromanage the early stages of our diplomatic initiatives.

From a budgetary perspective, although the bill is within the cap established under the Budget Enforcement Act, I am disappointed that the Roth amendment, adopted by the House, concerning the cancellation of authority to obligate funds that have remained unused after 3 years, except in the cases of long-term construction projects or in the event

of unforeseen delays in the completion of projects, was dropped in conference. In my view, we should empty the pipeline of old funding in an effort to reduce the deficit.

I am also disappointed and concerned with the attempt in H.R. 2508 to undercut the credit reform provisions of the budget agreement. In 1990, Congress made substantial progress in addressing the proper budgetary treatment of Federal credit programs thereby putting Federal credit programs on an equal footing with noncredit activities. The Federal Credit Reform Act of 1990, a part of the budget agreement, provided that budget authority for the subsidy value of credit programs would have to be provided for through the appropriations process. It was expected that this would mean direct appropriations.

Section 117 of H.R. 2508 violates the spirit, if not the letter, of the Federal Credit Reform Act. Section 117 permits the Overseas Private Investment Corporation [OPIC] to transfer up to $18.3 million from its noncredit revolving fund to pay for certain estimated subsidy costs and for other purposes—$1.5 million for the subsidy cost of OPIC's loan guarantee program; $4.8 million for its direct loan program; and $12 million to pay for credit-related administrative expenses. By subjecting the authority to spending authority provided in advance in appropriations acts, the provision is worded very cleverly. The language technically avoids violating the Budget Enforcement Act, and permits OPIC to carry out its activities in a manner which was not intended by the Federal Credit Reform Act.

There are two effects of section 117. First, H.R. 2508 would effectively authorize OPIC to defund its reserves against expected losses in its noncredit programs. Admittedly, OPIC's noncredit revolving fund traditionally has had a positive balance, but it is poor program management to allow reserves against losses to be drained for this purpose.

The second effect of section 117 is that it saves the Committee on Foreign Affairs $18.3 million in budget authority that could then be used elsewhere under the international affairs discretionary spending cap. The OPIC provisions remind me of the budgetary legerdemain that all too often has passed for fiscal policy around here. The zenith of the use of "blue smoke and mirrors" was under Gramm-Rudman-Hollings, but I see many signs of efforts to game the new budget agreement.

These provisions are bad public policy which, in their own limited way, further undermine the budget agreement and continue the erosion of fiscal discipline necessary if we are ever to get out from under the deficit problem.

Mr. Speaker, in conclusion, I would also like to express my exasperation with a comparatively minor, yet important, provision of the bill. Section 713 concerns Haitian sugar cane harvesters in the Dominican Republic. I agree completely with the forceful statement of American policy in section 713(a) to encourage the Government of the Dominican Republic to improve repect for internationally recognized standards of human rights in the treatment of Haitian laborers employed in the sugar industry in the Dominican Republic.

I also agree strongly with the provisions of section 713(b) which withholds a portion of the economic support assistance provided to the Dominican Republic in fiscal year 1992 and fiscal year 1993 until the President reports to the Congress on the steps taken by the Dominican Republic to comply with the human rights, labor, and other standards listed in section 713(a).

However, section 713(c), which holds out the prospect that the United States might increase the sugar quota of the Dominican Republic in fiscal year 1992 and fiscal year 1993, if significant progress on the treatment of Haitian harvesters is made, is another example of the general misunderstanding of the operation of the United States sugar program. No one in this House should be confused about this issue.

This subsection of the bill is an empty promise. Any increase in the allocation of the sugar quota to the Dominican Republic for this purpose would be discriminatory and a clear violation of our obligations under the General Agreement on Tariffs and Trade [GATT]. We have enough problems with other parties to the GATT already as a result of our sugar policy. This subsection adds to those problems by creating the impression that the United States is not prepared to fulfill its obligations under the agreement. I agree with the intent of section 713 and I am prepared to support efforts to improve conditions for Haitian harvesters in the Dominican Republic, but this option simply is not available.

For all of these reasons, both major and minor, I urge my colleagues to defeat this conference report.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in strong support for the House and Senate conference report which increases our foreign assistance program to the South Pacific from $9.25 million to $19.25 million.

Mr. Speaker, the United States over the past 3 years has exported over $1 billion in goods to the South Pacific region. But in return, the United States is making no effort to assist a region that has been a strong supporter of the United States since the end of World War II.

As world populations increase and food supplies continue to diminish, the South Pacific region whose oceans contain over 25 percent of the world's food resources, will become one of the most strategic areas in the world.

It is definitely in our interests to be a little more sensitive to the modest needs of a region which contains some of the least developed countries on the face of this earth.

Is it unreasonable to ask for an extra $10 million to provide for the needs of all the women and children of 13 separate island countries?

Mr. Speaker, I say it is not unreasonable for us to ask the United States to stand by our friends who have stood with us since World War II, and despite their poverty, continue to conduct some of the most democratic governments ever known to man.

Mr. Speaker, let me conclude by saying that the goodwill that the United States has always enjoyed with residents of the South Pacific region is quickly diminishing. When compared to what we are giving to some of the countries who have constantly undermined the interests of the United States, this request is indeed modest.

I am sure that many of my colleagues will agree with me that it is time to take care of our friends while we can still call them friends.

Mr. HORTON. Mr. Speaker, for what I believe is the first during my long tenure in Congress, today I voted against the annual foreign aid authorization bill. I voted in opposition to H.R. 2508, the conference report to accompany the Foreign Assistance Authorization Act for Fiscal Years 1992 and 1993, which failed to pass the House of Representatives this evening by a vote of 159 to 262.

My vote against H.R. 2508 was cast in protest to the delay in final action of H.R. 3543, the dire emergency supplemental appropriations bill passed by the House yesterday. The dire emergency supplemental would provide much needed Federal funds for the areas of my congressional district which suffered a devastating ice storm earlier this year.

H.R. 3543 could also provide assistance to farmers in my district who suffered crop loss as a result of natural phenomenon. Without the funds in this bill, some of these farmers may not be able to continue to operate through the next growing season.

Some of my colleagues in the House have criticized the President, commenting that he is more interested in foreign policy than what is occurring to Americans right here at home. I do not believe this is true. I know that President Bush is very concerned about the welfare of our ice storm victims because I spoke with him personally about the situation. I called upon the Congress to expedite final action of the dire emergency supplemental appropriations for fiscal year 1991 and for the President to sign the measure into law at the earliest possible date.

Mr. LEVIN of Michigan. Mr. Speaker, I want to applaud Chairman FASCELL and the Foreign Affairs Committee for recognizing the importance of the export promotion programs of the International Trade Administration.

I understand that concerns have been raised about the bill's allocation of funds for these programs, and I would hope that these matters are resolved in a manner that allows the most efficient use of these limited resources.

The end of the cold war has focused many American companies on new business opportunities abroad. But while exports could mean the difference between success and failure for a wide range of U.S. industries, many small- and medium-sized businesses lack the contacts, language skills and resources to venture into new foreign markets. That's where strong export-promotion programs can make the difference.

The ITA this year announced a series of new programs for Eastern Europe in which the U.S. Government acts as a facilitator for American businesses seeking export opportunities. The American Business Center in Warsaw provides technical business services and temporary office space to the U.S. business community. The ITA also funds private sector consortia of American businesses that provide promotional, marketing, and trade services to members doing business in Eastern Europe.

I introduced legislation last year to create pilot programs—called U.S. Commercial Centers—that were similar to the ITA initiatives. I will soon introduce similar legislation, with a focus on the Baltic Republics.

We must continue to bolster and expand the export-promotion programs of the ITA. Any such funding is an investment in our future.

Mr. SKAGGS. Mr. Speaker, I'd like to express my strong support for two provisions in the foreign aid reauthorization bill that will restore the United States role as a responsible world partner in international family planning efforts.

The conference report before us today prohibits the administration from continuing to implement the so-called Mexico City policy, which has had the effect of blocking funding U.S. funding for major international family planning organizations. It also provides $20 million for the U.N. Population Fund.

Addressing the effects of rapid world population growth on the global environment and resource supply is one of the greatest challenges facing the world community. The Earth's population, now approximately 5.2 billion, rose in 1989 an estimated 87.5 million, maintaining a growth rate that could double the number of human beings on the planet by the year 2025.

As the world's population increases, so, too, does the strain on the world's already diminishing natural resources. As a world leader, the United States has a responsibility to lead the world in addressing one of the most serious threats to decent human subsistence on this planet.

For those of my colleagues who may see this vote as a proabortion vote, let me make one thing very, very clear.

These provisions are intended to reduce the numbers of abortions worldwide. The only way to prevent abortions is to reduce unwanted pregnancies. And to do that, we need to dramatically increase funding for family planning information and services both here and abroad. The conference report takes an important first step in that direction.

I urge my colleagues to support the conference report's provisions on international family planning. Let's bring the United States back to the international table.

If you oppose abortions you must support universal access to voluntary family planning. Anything less is just plain hypocritical.

Ms. SLAUGHTER of New York. Mr. Speaker, I will vote no on the conference report on H.R. 2508, the foreign assistance authorization for fiscal year 1992 and 1993.

I do so because I cannot support additional foreign aid when the Federal Government is not meeting its domestic emergency needs. Virtually every community in my district is still desperately waiting for disaster assistance promised to them in March to help them cope with the ravages of a devastating ice storm.

Mr. HUTTO. Mr. Chairman, I rise to voice my strong opposition to H.R. 2508, the foreign assistance authorization for the fiscal years of 1992 and 1993.

As you know, included in H.R. 2508 are provisions which prohibit the further implementation of the Mexico City policy. The Mexico City policy, which prohibits international family planning funds from going to private organizations which support abortion, has stood as a representation of the American value for life in international activities. Prior to the adoption of this policy, U.S. money had been used by a number of groups to promote abortion as a means of family planning throughout the world. Recipients of this money were free to use U.S. money to promote any method of family planning with virtually no regulation.

I believe that through the Mexico City policy the United States exhibits a great deal of strength in terms of leading the world to accountable and moral family planning programs. Furthermore, by not permitting U.S. funding for abortions, we have the opportunity to encourage foreign nations and family planning organizations to utilize alternatives to abortions or other forms of birth control.

Although opponents argue that international family planning assistance is reduced by the Mexico City policy, only a few organizations have been denied assistance. The remaining funds are then provided to other eligible organizations. Thus, the funding has not been reduced. It is also interesting to note that opponents of the policy assert that eliminating the Mexico City policy will decrease the need for abortions. I disagree. In fact, the United States experienced a dramatic increase in abortions after abortion was legalized.

In the past, there have been a number of attempts to overturn the Mexico City policy. However, the Congress and the President have justifiably rejected these efforts. At a time when Americans are increasingly disturbed by United States dollars being provided to foreign countries, I do not believe it is proper to discontinue the Mexico City policy. Specifically, taxpayer dollars should not be used to subsidize abortions in other nations. In addition, our current budget deficit and national economic conditions demand that we maintain accountability of our foreign expenditures. Therefore, Mr. Speaker, I will oppose H.R. 2508 and urge my colleagues to do so as well.

Mr. LENT. Mr. Speaker, I rise to express my reluctant opposition to the conference report on the fiscal years 1992 and 1993 Foreign Assistance Authorization bill, H.R. 2508. In considering my vote today, I had to weigh my longstanding support for the foreign aid programs contained in this bill, particularly with respect to the State of Israel, and my opposition to its endorsement of coercive abortion policies and the use of abortion as a means of birth control.

This has been a difficult dilemma for me to resolve. I have long believed that the United States should aggressively provide assistance to the nations with whom we have maintained special ties. I also recognize that with the collapse of communism now all but complete, we have entirely new obligations to nurture democracy in the countries where it is struggling to take hold.

Furthermore, Mr. Speaker, I am particularly aware of our special responsibility to Israel as it absorbs hundreds of thousands of refugees from repression and intolerance in the Soviet Union, Ethiopia, and other countries. As my colleagues know, I worked for years to win the freedom of persecuted refuseniks and their families in the hope that one day all Soviet Jews would have the right to emigrate. With this goal largely realized, the final phase of our efforts on this issue should be to assist the immigrants in their transition to a new and better life in the Jewish State.

Israel remains our true friend and ally in the Middle East, the region's bastion of democracy. I want to make it clear that I will continue to vigorously support prompt passage of economic and military assistance for the State of Israel, including the Israeli Government's recent request for loan guarantees.

Mr. Speaker, I would also like to take a moment to express my support for section 124 of this legislation. This section retains the cash transfer reform provision—previously passed by both Houses—that is intended to encourage foreign governments that receive cash aid to buy American goods and services.

I have always believed that the American people are entitled to see that the tax dollars that go to foreign countries return in the form of purchases of U.S. goods and services. Not only will the U.S. merchant marine be helped from the implementation of this provision, but countless American manufacturers and farmers will also reap the benefits. No longer will aid recipients take American cash aid and go to Argentina to buy grain, or Germany to buy trucks, or France to buy tractors. Under this provision, these countries will buy American.

Mr. Speaker, that is my dilemma today. As strongly as I value our friendship with Israel and the need for cash transfer reform, I cannot vote in favor of legislation that places little value on the sanctity of human life. By lending legitimacy to organizations and groups promoting, performing, and coercing abortions, this measure would betray the trust of American taxpayers and irreparably tarnish all of the worthy goals of our foreign aid programs.

I am compelled to express my unalterable opposition to two provisions of the conference agreement intended to change U.S. policy concerning abortion. First, the measure would allow up to $20 million from American taxpayers to go to the United Nations Population Fund which continues to operate in the People's Republic of China, the home of the most heinous and most widespread coercive abortion policy ever devised. Second, it would repeal the Mexico City policy which for years has safeguarded U.S. taxpayer's from subsidizing those organizations around the world that seek to promote abortion as a family planning tool.

Mr. Speaker, President Bush has indicated that he will veto this bill in order to prevent the pro-abortion provisions from being implemented. Consequently, I hope that we will not waste valuable time and effort in a meaningless political exercise. Let's send the President a foreign aid bill that protects America's interests and the sanctity of human life.

Mr. FASCELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

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

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 159, nays 262, not voting 12, as follows:

[Roll No. 354]

YEAS—159

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Berman
Boehlert
Bonior
Borski
Brewster
Brown
Bustamante
Campbell (CA)
Cardin
Carper
Carr
Chandler
Cox (IL)
Coyne
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Downey
Dwyer
Dymally
Eckart
Edwards (CA)
Engel
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Hertel
Hoagland
Hochbrueckner
Houghton
Hoyer
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Kennedy
Kennelly
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Machtley
Markey
Martinez
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Miller (WA)
Mineta
Mink
Molinari
Moody
Moran
Morella
Mrazek
Nagle
Oakar
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Porter
Price
Rangel
Ravenel
Reed
Richardson
Riggs
Rose
Rostenkowski
Roukema
Roybal
Sabo
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Shays
Sikorski
Sisisky
Skaggs
Skeen
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Stokes
Studds
Swett
Swift
Synar
Torres
Torricelli
Towns
Unsoeld
Vento
Visclosky
Waxman
Weiss
Wheat
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zimmer

NAYS—262

Alexander
Allard
Anderson
Annunzio
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Boucher
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CO)
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLay
Derrick
Dickinson
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Early
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Fawell
Fields
Ford (MI)
Ford (TN)
Franks (CT)
Gallegly
Gaydos
Gekas
Geren
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Guarini
Gunderson
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Horn
Horton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kildee
Kleczka
Klug
Kolter
Kyl
LaFalce
Lagomarsino
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Luken
Manton
Marlenee
Martin
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Mfume
Michel
Miller (CA)
Miller (OH)
Moakley
Mollohan
Montgomery
Moorhead
Morrison
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Patterson
Paxon
Pease
Perkins
Peterson (MN)
Petri
Pickett
Poshard
Pursell
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Russo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Schaefer
Schulze
Sensenbrenner
Sharp
Shaw
Shuster
Skelton
Slattery
Slaughter (NY)
Smith (NJ)
Smith (OR)
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Weber
Weldon
Whitten
Williams
Wilson
Wolf
Wylie
Young (FL)
Zeliff

NOT VOTING—12

Boxer
Edwards (OK)
Glickman
Hall (TX)
Hopkins
Jefferson
Lloyd
Matsui
McGrath
Rowland
Slaughter (VA)
Tanner

□ 1607

The Clerk announced the following pairs:

On this vote:

Mr. Glickman for, with Mr. Tanner against.

Mr. Jefferson for, with Mrs. Lloyd against.

Messrs. REGULA, HORTON, ESPY, ANNUNZIO, HAYES of Illinois, and MANTON, Mrs. COLLINS of Illinois, and Mr. SPRATT changed their vote from "yea" to "nay."

Mr. DIXON changed his vote from "nay" to "yea."

So the conference report was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OMNIBUS EXPORT AMENDMENTS ACT OF 1991

The SPEAKER pro tempore (Mr. ECKART). Pursuant to House Resolution 259 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3489.

The Chair requests the gentleman from Missouri [Mr. VOLKMER] to assume the chair temporarily.

□ 1609

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3489) to reauthorize the Export Administration Act of 1979, and for other purposes, with Mr. VOLKMER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, October 29, 1991, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment and each title is considered as read.

Consideration of all amendments to said substitute, including amendments en bloc made in order by House Resolution 259, shall not exceed 5½ hours.

It shall be in order to consider amendments en bloc offered by the gentleman from Wisconsin [Mr. ASPIN], or his designee printed in the CONGRESSIONAL RECORD prior to their consideration. Said amendments en bloc shall not be subject to a demand for a division of the question. Debate on said amendments en bloc and all amendments thereto shall not exceed 30 minutes.

□ 1610

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. VOLKMER). The Chair announces that consistent with the Speaker's announced policy of January 3, 1991, and due to the fact that House Resolution 259 adopted by the House governing consideration of the pending bill permits only 5½ hours of overall consideration of amendments—including time consumed by record votes—the Chair will insist that Members respond on record votes within the 15-minute minimum time period permitted by the rule.

There will only be 15 minutes on a vote.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Export Amendments Act of 1991".

(b) TABLE OF CONTENTS.—

TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

Sec. 101. Short title; reference.
Sec. 102. Types of licenses; control list.
Sec. 103. Exports to COCOM.

Sec. 104. Reexports and supercomputer exports.
Sec. 105. Statement of policy toward countries representing a lesser strategic threat.
Sec. 106. East-West decontrol.
Sec. 107. Commodity jurisdiction.
Sec. 108. Controls on telecommunications.
Sec. 109. Exports subject to national discretion and favorable consideration.
Sec. 110. Statement of policy for general exception cases.
Sec. 111. Control list review.
Sec. 112. Unilateral controls.
Sec. 113. Trade shows.
Sec. 114. Exports of related technical data.
Sec. 115. Indexing procedures.
Sec. 116. Negotiations with other countries; Department of Commerce representative.
Sec. 117. Removal of section 5(k) designation.
Sec. 118. Notification of COCOM actions.
Sec. 119. Terrorist countries.
Sec. 120. Criminal and civil penalties.
Sec. 121. Policy toward countries receiving licensing benefits.
Sec. 122. Enforcement authority.
Sec. 123. Judicial and administrative review.
Sec. 124. Policy toward the People's Republic of China.
Sec. 125. Export of satellites for launch by People's Republic of China.
Sec. 126. Exports to the Soviet Union.
Sec. 127. Authorization of appropriations.
Sec. 128. Extension of the Act.
Sec. 129. Technical amendments.

TITLE II—EXPORT PROMOTION

Sec. 201. United States and Foreign Commercial Service.
Sec. 202. Qualifications for market development cooperative program.
Sec. 203. Country reports on trade practices.
Sec. 204. Report on export policy.
Sec. 205. Trade Policy Coordinating Committee.
Sec. 206. Report on export promotion.
Sec. 207. Export promotion authorization.

TITLE III—NUCLEAR NONPROLIFERATION

Sec. 301. Short title.
Sec. 302. Purpose.
Sec. 303. Restrictions on nuclear exports.
Sec. 304. Negotiations.
Sec. 305. Reports to Congress.

TITLE IV—ECONOMIC COOPERATION PROJECTS IN CHINA AND TIBET

Sec. 401. Statement of principles.
Sec. 402. Registration requirement.
Sec. 403. Reporting requirement.
Sec. 404. Definitions.
Sec. 405. Enforcement of current law.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Soviet military assistance to Cuba.
Sec. 502. Attacks against Israelis and illegal activities in the United States.

The CHAIRMAN pro tempore. Are there any amendments to section 1?

PARLIAMENTARY INQUIRY

Mr. GEJDENSON. Mr. Speaker, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. GEJDENSON. Mr. Chairman, I think the House was not in order at the time, and I am afraid some of my colleagues will miss an opportunity to have a chance to vote on these amendments.

What the Chair stated, if I am correct, is that the 15 minutes will not be extended and that every Member is expected to be here within that 15 minutes. Because of the way the rule was fashioned, there will not be the normal courtesy of giving Members a few additional minutes to come to the floor.

So I would hope the Members in the Chamber and the Members in their offices would give us some assistance, make sure they get here on time, or they will lose the opportunity to vote.

The CHAIRMAN pro tempore. The Chair would state that while he is in the chair when the 15 minutes runs out, it will not matter if a Member has made a phone call to the cloakroom and is only 1 minute away, the Chair is going to announce the vote at the end of the 15 minutes.

Are there any amendments to section 1? If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

SEC. 101. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Export Administration Act Amendments of 1991".

(b) REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.—Except as otherwise specifically provided, whenever in this title a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following).

SEC. 102. TYPES OF LICENSES; CONTROL LIST.

(a) TYPES OF LICENSES.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence by striking "in countries" and all that follows through "China"; and

(B) in the second sentence by striking "controlled countries" and inserting "an unauthorized use or consignee"; and

(2) in subparagraph (B) in the first sentence by striking "are located in countries other than controlled countries (except the People's Republic of China),".

(b) CONTROL LIST.—Section 4(b) (50 U.S.C. App. 2403(b)) is amended by adding at the end the following: "Not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1991, the Secretary shall modify each item on the control list as necessary to specify with particularity the performance and other identifying characteristics of any technical data that is subject to export controls under section 5, export controls under section 6, or export controls pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.".

SEC. 103. EXPORTS TO COCOM.

Section 5(a)(4) (50 U.S.C. App. 2404(a)(4)) is amended—

(1) in subparagraph (A) by striking "No" and inserting "Subject to subparagraphs (C) and (D), no"; and

(2) by adding at the end the following:

"(C) Notwithstanding any other provision of law (except for section 6(l) of this Act), but subject to subparagraph (D), no authority or permission may, effective not later than December 31, 1991, be required under this Act for the export or reexport of goods or technology to or from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement with the Coordinating Committee or pursuant to an agreement described in subsection (k)(1).

"(D)(i) Notwithstanding subparagraph (C), the Secretary, in consultation with the Secretary of Defense, the Secretary of State, and the Secretary of Energy, may require authority or permission to export or reexport goods or technology, which are otherwise eligible for export or re-export under subparagraph (C), in the case of—

"(I) exports to such unreliable end users as the Secretary may specify by regulation; or

"(II) any reexport to a country other than a country described in subparagraph (A) of goods or technology identified under subparagraph (B).

"(ii) Notwithstanding subparagraph (C), the Secretary may require authority or permission to export or reexport goods or technology pursuant to special multilateral control arrangements agreed to unanimously by the Coordinating Committee, if all countries in which the goods or technology are produced agree to equivalent measurement parameters, performance capabilities, and licensing and other requirements. The Secretary shall notify the Congress at least 30 days before the United States proposes such control arrangements to the Coordinating Committee, and not more than 30 days after such control arrangements are agreed to by the Coordinating Committee.

"(iii) If the Secretary, in consultation with the Secretary of State, determines that a country referred to in subparagraph (A) is engaging in a pattern and practice of noncompliance with the agreement of the Coordinating Committee or other applicable agreement, the Secretary shall, during the period in which that determination is in effect, and to the extent determined by the Secretary, require authority or permission to export or reexport goods or technology to that country, and to reexport goods or technology from that country. Any such determination shall not take effect until 30 days after the Secretary of State notifies the Coordinating Committee of the determination and requests the cooperation of the Coordinating Committee in imposing comparable export controls. The Secretary shall review each determination made under this clause at least once in each 1-year period for the purpose of determining whether the country involved continues to engage in a pattern and practice of noncompliance with the applicable agreement. In making a determination under this clause, the Secretary shall consider whether the country involved has adopted the following measures:

"(I) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

"(II) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end users;

"(III) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

"(IV) a system of export control documentation to verify the movement of goods and technology; and

"(V) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee or other applicable agreement.

The provisions of section 10(o) apply to exports for which licenses are required under this section.".

SEC. 104. REEXPORTS AND SUPERCOMPUTER EXPORTS.

(a) REEXPORTS OF TECHNOLOGY.—Section 5(a)(5) is amended—

(1) in subparagraph (A) by striking "(B)" and inserting "(C)";

(2) in subparagraph (B)—

(A) by redesignating such subparagraph as subparagraph (C); and

(B) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(3) by inserting after subparagraph (A) the following:

"(B) Except as provided in subparagraph (C), no authority or permission may be required under this section to reexport technology subject to the jurisdiction of the United States from any country when the technology to be reexported is incorporated in other technology and—

"(i) the value of the technology subject to the jurisdiction of the United States that is incorporated in that other technology and, at the time of the reexport, would, if exported from the United States, require a validated license, is 25 percent or less of the total value of that other technology; or

"(ii) the export to a controlled country of the technology subject to the jurisdiction of the United States would require only notification of the participating governments of the Coordinating Committee.".

(b) SUPERCOMPUTER EXPORTS AND REEXPORTS.—Section 5(a) (50 U.S.C. 2404(a)) is amended by adding at the end the following:

"(7)(A) With respect to the definition of 'supercomputer' under paragraph (6)(A), the Secretary shall, not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1991, publish in the Federal Register a performance-based indexing system in order to ensure that such definition and all controls and security safeguard procedures on supercomputer exports and reexports are commensurate with technological advances in the supercomputer industry. Such indexing system shall be based upon a provision that for destinations in any country (other than a controlled country) that is a party to and, as determined by the President, is adhering to, the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (done at Mexico on February 14, 1967), no security safeguard procedures may be required in connection with any export or reexport of a supercomputer with a theoretical peak performance at or below approximately 25 percent of the theoretical peak performance of the average of the two most powerful supercomputers currently available commercially in the United States or elsewhere.

"(B) Before publishing the performance-based indexing system under subparagraph (A), the Secretary shall seek the views of the appropriate technical advisory committees appointed under subsection (h) and other interested parties. Not later than 2 weeks after publication of such system in the Federal Register, the Secretary shall submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, that includes—

"(i) the text of the Federal Register notice,

"(ii) a summary of the views expressed by the technical advisory committees and other interested parties with respect to the performance-based indexing system, and

"(iii) a description of how the performance-based indexing system addresses the views of the technical advisory committees and other interested parties.

"(C) For purposes of this paragraph, the term 'security safeguard procedures' means procedures that are required by the Department of Commerce, as a condition of an authorization to export or reexport a supercomputer, primarily to restrict access to and resale of such supercomputer.".

SEC. 105. STATEMENT OF POLICY TOWARD COUNTRIES REPRESENTING A LESSER STRATEGIC THREAT.

(a) IN GENERAL.—Section 5(b)(2) (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) It is the policy of the United States that licensing treatment of a country on the list of controlled countries maintained by the President pursuant to paragraph (1) should be revised in any case in which that country—

"(i) represents a lesser strategic threat; and

"(ii) accomplishes the following:

"(I) implements an effective export control system, including enactment of legislation controlling shipment to controlled countries of goods and technology subject to controls under agreement of the group known as the Coordinating Committee to such countries and imposing effective penalties to deter violation of its export controls;

"(II) adopts technology security arrangements, including end-use assurances and on-site inspection and verification; and

"(III) terminates governmental policies and intelligence cooperation with other controlled countries relating to illegal acquisition and diversion of controlled technology.

"(B) The revision of controls necessary to implement the policy set forth in subparagraph (A) shall include the following:

"(i) When the Secretary, in consultation with the Secretary of State and the Secretary of Defense, determines that any country agreed to in the Coordinating Committee High Level Meeting of June 6 and 7, 1990, any other country that the Coordinating Committee may designate, or any other country, has taken the necessary steps to implement the criteria set forth in subparagraph (A), the Secretary of State should propose the adoption by the Coordinating Committee of the special procedure for favorable consideration of exports to such country.

"(ii) The Secretary, in consultation with the Secretary of State and the Secretary of Defense, shall annually review the performance of any country proposed for favorable consideration under clause (i) in implementing the criteria set forth in subparagraph (A) and, to the extent that such performance indicates appropriate use and protection from diversion of controlled technology, the Secretary of State should propose the adoption by the Coordinating Committee of more favorable licensing treatment of such country or, if security concerns increase, more restrictive controls on technology exports to such country.

"(iii) When, in addition to progress on the criteria set forth in subparagraph (A), a country takes steps to reduce its offensive military capabilities and end its military and intelligence cooperation with the Soviet Union or any successor confederation or entity, including withdrawal of Soviet military forces, the President should seek agreement of the Coordinating Committee to remove the country from the list of controlled countries and propose licensing treatment of such country by the Coordinating Committee as a free world or cooperating country destination.

"(C) The Secretary should provide the greatest possible technical assistance to countries undertaking the measures described in subparagraph (A).

"(D) The Secretary of State shall, within 30 days after the date of the enactment of this subparagraph, seek agreement of the Coordinating Committee to immediately remove Poland, Hungary, and Czechoslovakia from the list of controlled countries for purposes of exports of items on the Industrial List of the Coordinating Committee, and propose licensing treatment of such countries by the Coordinating Committee as free world destinations for purposes of such exports.

"(E) The Secretary of State shall—

"(i) within 30 days after the date of the enactment of this subparagraph, seek agreement of the Coordinating Committee to immediately provide to Latvia, Lithuania, and Estonia the same licensing treatment, for exports of telecommunications equipment and telecommunications technology, that was provided for such exports to Poland, Hungary, and Czechoslovakia as of September 1, 1990; and

"(ii) seek agreement of the Coordinating Committee, as soon as Latvia, Lithuania, or Estonia satisfies the conditions set forth in subparagraph (A), to immediately provide to such country the same licensing treatment, for exports of goods or technology on the control list, that was provided for such exports to Poland, Hungary, and Czechoslovakia as of September 2, 1991.

"(F)(i) The President shall, within 120 days after the date of the enactment of this subparagraph, determine whether Latvia, Lithuania, and Estonia should be removed from the list of controlled countries. At the time of making this determination, the President shall issue a report to the Congress providing a complete rationale for the determination and identifying what conditions, if any, should be met before any such country should be removed from the list of controlled countries.

"(ii) Should the President determine that Latvia, Lithuania, or Estonia should be removed from the list of controlled countries, the Secretary of State shall propose to the Coordinating Committee, within 30 days after the President's determination, that such country immediately be removed from the list of controlled countries.

"(G)(i) Within 9 months after the date of the enactment of this subparagraph, the President shall determine whether the Soviet Union or any successor confederation or entity should be removed from the list of controlled countries. At the time of making such determination, the President shall issue a report to the Congress providing a complete rationale for the determination.

"(ii) Should the President determine that the Soviet Union or any successor confederation or entity should be removed from the list of controlled countries, the Secretary of State shall propose to the Coordinating Committee, within 30 days after the President's determination, that the Soviet Union, or such confederation or entity, immediately be removed from the list of controlled countries.

"(H) Nothing in this Act shall prohibit the President from—

"(i) providing to the independent state of Armenia, formerly known as a republic of the Soviet Union, the same licensing treatment, for the export of telecommunications equipment and telecommunications technology, that was provided for such exports to Poland, Hungary, and Czechoslovakia as of September 1, 1990; or

"(ii) seeking agreement of the Coordinating Committee, as soon as Armenia satisfies the conditions set forth in subparagraph (A), to provide to such country the same licensing treatment for exports of goods and technology on the control list, that is provided to Latvia, Lithuania, and Estonia under subparagraph (E)(ii).

The President shall submit to the Congress, not later than 90 days after the date of the enactment of this subparagraph, a report on whether Armenia has effectively achieved political independence from the Soviet Union, whether Armenia has been provided the licensing treatment referred to in clause (i), whether the agreement of the Coordinating Committee referred to in clause (ii) has been sought, and any other matters that the President considers appropriate. Such report shall contain a complete rationale for the matters addressed in the report.".

(b) EXPORTS FOR CIVIL END USE.—Section 5(b) is amended by adding at the end the following:

"(4)(A) All license applications under this section for the export of goods or technology shall be given a presumption of approval if such exports are intended for a civil end use.

"(B) A determination under subparagraph (A) of whether goods or technology are intended for a civil end use shall be based on the following criteria:

"(i) Whether the stated end use is civil.

"(ii) Whether the civil application of the goods or technology is well established in countries other than controlled countries.

"(iii) Whether the goods or technology proposed for export are reasonable in quantity and quality for the proposed end use.

"(iv) Whether there is a significant risk of diversion to an unauthorized use or consignee.

"(v) Whether the government of the country in which the end use will occur has provided to the United States Government assurances that the proposed export will be used only for the stated end use.

"(C) Requirements for the redesign, reengineering, or substantial modification of standard product models or configurations, and similar requirements shall not be imposed under this Act before any license application is approved for the export of goods or technology subject to control by the Coordinating Committee that is intended for civil end uses, unless the Coordinating Committee agrees to such requirements.".

SEC. 106. EAST-WEST DECONTROL.

Section 5(c)(5) (50 U.S.C. App. 2401(c)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "Not later than 6 months after the date of the enactment of this paragraph" and inserting "Not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1991"; and

(B) in clause (i) by striking all that follows "technology" the first place it appears and inserting "the licensing of which under this section has been eliminated by regulations promulgated to implement the agreements reached in the Coordinating Committee High Level Meetings of June 6 and 7, 1990, and May 23, 1991."; and

(2) by striking subparagraph (B) and inserting the following:

"(B) The Secretary shall issue regulations implementing fully the agreements reached in the Coordinating Committee High Level Meetings of June 6 and 7, 1990, and May 23, 1991, relating to removal of controls, national discretion, and favorable consideration of export licenses, and shall provide the licensing treatment prescribed in those agreements for goods and technology in accordance with the levels of technology specified in those agreements.

"(C) Not later than 90 days after the date of the enactment of this subparagraph, the Secretary of State shall seek the approval of the Coordinating Committee for the following: that no authority or permission may be required to export to any country computers at a level of technology the export of which to the People's Republic of China on the 60th day after the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee, or at a higher level of technology.

"(D) Not later than April 1, 1992, the Secretary, in consultation with the Secretary of Defense and the Secretary of State, shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives describing the implementation of the agreements reached in the Coordinating Committee High Level Meetings of June 6 and 7, 1990, and May 23, 1991. Such report shall include descriptions of—

"(i) the status of implementing the 'Core List' provided for in the agreements and a description of the criteria used in developing the Core List,

"(ii) the status of implementing the special procedure for countries representing a lesser strategic threat provided for in the agreements,

"(iii) the status of implementing the national discretion and favorable consideration procedures contained in the agreements,

"(iv) the status of implementing a license-free zone among the governments participating in the Coordinating Committee, including a common standard of enforcement, and

"(v) the strategic justification for and impact of the agreements as they relate to the military capabilities and technology acquisition efforts of controlled countries, including the Soviet Union or any successor confederation or entity.

"(E) In the case of goods and technology from which export controls have been removed under subparagraph (A), export controls under this section may thereafter be imposed on such goods or technology only if such controls are agreed to by the participating governments of the Coordinating Committee.".

SEC. 107. COMMODITY JURISDICTION.

(a) IN GENERAL.—Section 17 (50 U.S.C. App. 2416) is amended by adding at the end the following new subsection:

"(g) COMMODITY JURISDICTION.—(1) Notwithstanding any other provision of law, no item may be included on both the control list and the United States Munitions List, after the publication of the lists required under paragraph (6) and the resolution of any dispute with respect to such lists under paragraph (7).

"(2) Notwithstanding any other provision of law—

"(A) an item agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under the Arms Export Control Act and not under this Act; and

"(B) except as provided in paragraphs (3) and (4), an item not agreed for control on the International Munitions List of the Coordinating Committee shall be subject to control under this Act and not under the Arms Export Control Act.

"(3) An item described in paragraph (5) that is not on the International Munitions List may be subject to control under the Arms Export Control Act—

"(A)(i) for a period of 9 months after the date on which the United States proposes to the Coordinating Committee that the item be added to the International Munitions List, and

"(ii) for an additional 9-month period, but only if negotiations in the Coordinating Committee to add the item to the International Munitions List are continuing; or

"(B) if the Secretary of State, in consultation with the Secretary, so determines, except that if the Secretary disagrees with the Secretary of State with respect to such item, the item may be subject to control under the Arms Export Control Act only if the disagreement is resolved by the 2 Secretaries or by the President pursuant to the procedures set forth in subparagraphs (B) and (C) of paragraph (7).

"(4) An item that is not on the International Munitions List may be subject to control under the Arms Export Control Act if the President—

"(A) determines that extraordinary circumstances exist affecting the national security of the United States, which require that the item be controlled under the Arms Export Control Act;

"(B) proposes to the Coordinating Committee that the item be added to the International Munitions List, and

"(C) within 10 days after making the determination under subparagraph (A), submits a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, describing in detail the reasons for the determination, in appropriate classified form, as necessary.

"(5) An item referred to in paragraph (3) is an item that—

"(A) is specially designed, developed, configured, adapted, or modified for military or intelligence application;

"(B) does not have significant civil applications; and

"(C) is not a component the performance capacity and function of which are essentially equivalent to those used for civil applications.

"(6)(A)(i) Within 3 months after the date of the enactment of this subsection, the Secretary shall publish the control list and the Secretary of State shall publish the United States Munitions List, with all revisions that have been made in accordance with this subsection.

"(ii) Within 3 months after the date of the enactment of this subsection, the Secretary of State shall publish in a separate list those items remaining subject to control under the Arms Export Control Act under paragraph (3).

"(B) If either the Secretary or the Secretary of State fails to publish a revised list in accordance with subparagraph (A)(i), there shall be excluded from the list of the Secretary that did not so publish a revised list, any item included on the list of the Secretary that did so publish a revised list.

"(7)(A) Whenever—

"(i) the Secretary or the Secretary of State receives a request to determine whether an item is subject to control under this Act or the Arms Export Control Act,

"(ii) either Secretary finds that an item is included on both the control list and the United States Munitions List,

"(iii) an item appearing on the list of one Secretary under paragraph (6)(A)(i) is considered by the other Secretary to be under the jurisdiction of that other Secretary, or

"(iv) the Secretary disagrees with the inclusion of an item on the list published under paragraph (6)(A)(ii),

the Secretary or the Secretary of State (as the case may be) shall refer the matter and any relevant information to the other Secretary.

"(B) The 2 Secretaries shall have a period of 15 days following the referral of a matter under subparagraph (A) to resolve any differences with respect to the matter involved.

"(C) If the 2 Secretaries fail to resolve such differences within that 15-day period, either Secretary may refer the matter to the President who, within 15 days after receiving the referral, shall notify the Secretaries of his determination on the matter in dispute.

"(D) In the event that either the Secretary or the Secretary of State does not respond to a referral under subparagraph (A) by the other Secretary, the Secretary that did not so respond shall be deemed to concur with the other Secretary on the matter involved.

"(8)(A) Notwithstanding any other provision of this subsection, all mass market computer software (including software with encryption capabilities) shall be subject to control under this Act and not under the Arms Export Control Act.

"(B) As used in this paragraph, the term 'mass market computer software' means computer software that is generally available to the public by being—

"(i) sold from stock at retail selling points by means of—

"(I) over the counter transactions,

"(II) mail order transactions, or

"(III) telephone transactions; and

"(ii) designed for installation by the user without further substantial support by the supplier.".

(b) TREATMENT OF MUNITIONS LIST FOR PURPOSES OF CERTAIN STATUTES.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), references in the following provisions of law to the United States Munitions List or items on the United States Munitions List, or to the Arms Export Control Act shall, after the enactment of this Act, be deemed to refer to the United States Munitions List, or the Arms Export Control Act, as in effect on May 1, 1990:

(A) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(B) Section 902(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

(C) Section 317 of the Comprehensive Anti-Apartheid Act of 1986.

(2) SUNSET PROVISION.—The provisions of this subsection shall terminate on June 30, 1993.

SEC. 108. CONTROLS ON TELECOMMUNICATIONS.

(a) IN GENERAL.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended by adding at the end the following:

"(8)(A) The Secretary of State shall, within 30 days after the date of the enactment of this paragraph, propose to the Coordinating Committee that exports of telecommunications equipment and telecommunications technology for civil end use to the Soviet Union, or any successor confederation or entity, immediately be given the following treatment: that such exports require not more than notification of the Coordinating Committee if the export of such equipment and technology to the People's Republic of China on the 60th day after the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee.

"(B) For purposes of this paragraph and subparagraphs (E) and (H) of subsection (b)(2)—

"(i) the term 'telecommunications equipment' means all equipment used in the transmission or receipt of either voice or data information, including equipment used in the transmission of analog or digital information; and

"(ii) the term 'telecommunications technology' means technology related to telecommunications equipment.".

(b) REPORT.—The President shall study the national security implications of the transfer of telecommunications equipment and telecommunications technology to controlled countries under the Export Administration Act of 1979 and, not later than 1 year after the date of the enactment of this Act, shall submit to the Speaker of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the study, in classified form, as appropriate.

SEC. 109. EXPORTS SUBJECT TO NATIONAL DISCRETION AND FAVORABLE CONSIDERATION.

(a) LICENSING.—Section 5(e) (50 U.S.C. App. 2404(e)) is amended by adding at the end the following:

"(7) In implementing the national discretion and favorable consideration procedures agreed to by the Coordinating Committee, the Secretary shall consider the actions of other participating governments in the Coordinating Committee in approving or denying export licenses that are subject to such procedures and shall seek to ensure that United States exports are not placed at a competitive disadvantage.".

(b) IN GENERAL.—Section 10 (50 U.S.C. App. 2409) is amended by adding at the end the following:

"(p) EXPORTS SUBJECT TO NATIONAL DISCRETION.—In each instance in which an export license application is submitted to the Secretary for the export of goods or technology subject to the national discretion procedures of the Coordinating Committee, the Secretary shall formally issue or deny a license within 15 days after a properly completed application has been submitted under this section.

"(q) EXPORTS SUBJECT TO FAVORABLE CONSIDERATION.—In each instance in which an export license application is submitted to the Secretary for the export of goods or technology subject to the favorable consideration procedures of the Coordinating Committee or subject to special national discretion procedures requiring 30 days advance notification to the Coordinating Committee, the Secretary shall formally deny the license or it shall be forwarded for review to the Coordinating Committee within 15 days after a properly completed application has been submitted under this section, unless the Secretary notifies the applicant that additional time will be required to conduct a prelicense investigation. In any case the Secretary shall deny the license or forward the application to the Coordinating Committee within 45 days after a properly completed application has been submitted.".

(c) CONFORMING AMENDMENT.—Section 10(e)(2)(A) (50 U.S.C. App. 2409(e)(2)(A)) is amended by striking "Except" and inserting the following: "For general exception cases controlled under section 5 of this Act and except".

SEC. 110. STATEMENT OF POLICY FOR GENERAL EXCEPTION CASES.

Section 3 (50 U.S.C. App. 2402) is amended by striking paragraph (15) and inserting the following:

"(15) It is the policy of the United States—

"(A) in considering the submission of cases to the group known as the Coordinating Committee on behalf of United States exporters, including general exception cases, to ensure consistency in the treatment of exporters from the United States and from other countries participating in the Coordinating Committee, and to support democracy, free enterprise, and economic development in Eastern Europe and the Soviet Union or any successor confederation or entity; and

"(B) to provide specific guidelines to United States exporters, through the publication of regulations, public notices, and advisory opinions, with respect to goods, sectors, and end users eligible for general exceptions referred to in subparagraph (A), and to fully and promptly notify United States exporters of all agreements and decisions adopted by the Coordinating Committee with respect to such exceptions.".

SEC. 111. CONTROL LIST REVIEW.

(a) IN GENERAL.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence the following: "and shall reflect multilateral control agreements reached by the group known as the Coordinating Committee"; and

(2) by striking paragraph (3) and inserting the following:

"(3) The Secretary shall review all goods and technology on the control list at least once each year in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section. This review shall consider proposals for removing controls on exports and other changes in policy arising from applying the indexing procedures set forth in subsection (g), and shall serve as a basis for United States proposals for revision of the International Industrial List maintained by the Coordinating Committee. To this end, the United States shall seek to ensure that the Coordinating Committee reviews each item on its list at least once every 2 years and the Secretary shall conduct a periodic review of each item on the control list for national security reasons so as to achieve the same 2-year review cycle. In any case in which the Coordinating Committee has failed to review an entry on the International Industrial List within 2 years, the Secretary of State shall, based upon United States review of its comparable entry, propose a review by the Coordinating Committee of that entry. Before beginning each periodic review, which may not exceed 180 days in length, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected parties. The Secretary shall further assess, as part of each review, the availability from sources outside the United States, of goods and technology comparable to those subject to export controls imposed under this section. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list within 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. In the case of national security controls implemented in cooperation with the Coordinating Committee, such revisions in the list shall be made consistent with the scope of controls agreed to in the Coordinating Committee and shall be made effective no later than the effective date agreed to by the Coordinating Committee. The provisions of this paragraph apply to revisions in the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.".

(b) SUNSET OF CONTROL LIST.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended by adding at the end the following new paragraph:

"(9)(A) Notwithstanding any other provision of this section, as of September 30, 1992, and as of the end of each 2-year period occurring thereafter—

"(i) all controls on the export of goods and technology to any country other than a controlled country shall terminate, after consultation with the Coordinating Committee, as appropriate, and

"(ii) there shall be included in a United States proposal to the Coordinating Committee the termination of all controls on the export of goods and technology to any controlled country,

unless a determination is made with respect to such controls under subparagraph (B).

"(B) Clause (i) or (ii) of subparagraph (A) shall not apply to a good or technology only if the Secretary determines that the good or technology shall be subject to export controls under this section on the basis of the policy set forth in section 3(2)(A). In determining whether a good or technology would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States, the Secretary shall consult with the Secretary of Defense.

"(C) The form of a determination by the Secretary under subparagraph (B) with respect to goods or technology may be either—

"(i) a separate determination with respect to a particular good or technology, or

"(ii) a determination with respect to the technological parameters descriptive of categories of goods or technology.

The Secretary shall publish each such determination in the Federal Register.

"(D) Not later than November 1, 1992, and not later than the end of each 2-year period occurring thereafter, the Secretary of State shall submit a proposal to the Coordinating Committee to terminate controls applicable to the export of all goods or technology to which subparagraph (A)(ii) applies.

"(E) Not later than 30 days after the date on which the Coordinating Committee makes a decision concerning a proposal made by the United States under subparagraph (D), the Secretary shall publish in the Federal Register those changes in export controls resulting from such decision.

"(F) Before the effective date established by the Coordinating Committee for implementing a decision described in subparagraph (E), the Secretary shall publish those changes in the regulations issued under this Act that are necessary to implement such decision.

"(G) Not later than the effective date established by the Coordinating Committee for imple-

menting a decision described in subparagraph (E), the Secretary shall cease to require authority or permission to export any goods or technology for which the Coordinating Committee has ceased to require authority or permission to export under such decision, and shall implement any other changes in export controls that are necessary to carry out such decision.".

SEC. 112. UNILATERAL CONTROLS.

Section 5(c)(6) (50 U.S.C. App. 2404(e)(6)) is amended by adding at the end the following:

"(C) For purposes of this paragraph, an export control shall be considered to be unilaterally maintained by the United States if it is a restriction, condition, or interpretation imposed by the Secretary upon any goods or technology, or upon any license application for the export of any goods or technology, that is not imposed or implemented in similar circumstances by other participating governments of the Coordinating Committee, or that is not otherwise specifically permitted by this Act.

"(D) The Secretary shall seek to ensure that no new unilateral controls are created.".

SEC. 113. TRADE SHOWS.

Section 5(e)(6) (50 U.S.C. App. 2404(e)) is amended to read as follows:

"(6) Consistent with multilateral control arrangements, an application for a license for the export to a controlled country of any good on which export controls are in effect under this section, without regard to the technical specifications of the good, for the purpose of demonstration or exhibition at a trade show, shall carry a presumption of approval if—

"(A) the United States exporter retains title to the good, and complies with any safeguard requirement imposed by the Secretary, during the entire period in which the good is in the controlled country; and

"(B) the exporter removes the good from the controlled country within a reasonable period of time after the conclusion of the trade show or demonstration, as defined in regulations issued by the Secretary.".

SEC. 114. EXPORTS OF RELATED TECHNICAL DATA.

Section 5(e) (50 U.S.C. App. 2404(e)) is amended by adding at the end the following new paragraph:

"(8) Any general or validated license authorizing the export of any goods or technology shall also authorize the export of operation technical data related to such goods or technology, whether or not such data is specifically referenced in the license or license application, if the technical level of the data does not exceed the minimum level necessary to install, repair, maintain, inspect, operate, or use the goods or technology.".

SEC. 115. INDEXING PROCEDURES.

Section 5(g) (50 U.S.C. App. 2404(g)) is amended to read as follows:

"(g) INDEXING.—(1) In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, the Secretary shall, not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1991, establish, in response to recommendations of technical advisory committees under paragraph (2), indexing procedures which provide for increases in the performance levels of goods or technology described in paragraph (2)(A) that are subject to any such licensing requirements. Such indexing procedures shall emphasize the technical specifications of goods or technology below which no authority or permission to export is required as compared to the most technologically advanced commercially available version of the same or equivalent goods or technology. With respect to goods or technology referred to in the preceding sentence which no longer meet the performance levels increased pursuant to such procedures—

"(A) the removal of controls on exports of such goods or technology to controlled countries shall be incorporated into United States proposals to the Coordinating Committee, and

"(B) controls under this section on exports of such goods or technology to countries other than controlled countries shall be removed, after consultations with the Coordinating Committee, as appropriate,

unless—

"(i) the Secretary, after consultation with the Secretary of Defense and the heads of other appropriate executive departments (as defined in section 101 of title 5, United States Code), issues a determination that removal of controls on the goods or technology will permit exports that will be detrimental to the national security of the United States; and

"(ii) the Secretary reports that determination in writing, together with a description of the specific anticipated impact on the national security of the United States, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

The Secretary shall also consider, where appropriate, eliminating site visitation requirements for goods and technology from which export controls have been removed under this subsection.

"(2)(A) In carrying out this subsection, the Secretary shall direct the technical advisory committees appointed under subsection (h) to recommend indexing procedures for goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) which are eligible for favorable consideration under the rules of the Coordinating Committee,

"(iii) below which exports require only notification of the governments participating in the Coordinating Committee, and

"(iv) below which no authority or permission to export may be required under this section.

The technical advisory committees shall submit their recommendations for indexing procedures, as they are made, to the Secretary, who shall determine, within 30 days after each submission, or within 45 days after a submission in the event of an objection by the head of any other executive department, whether to accept the procedures or to refer the procedures back to the appropriate technical advisory committee for further consideration.

"(B) The proposals referred to in paragraph (1)(A) shall be made at the next meeting of the Coordinating Committee, at which list review is conducted, that is held after the procedures under this subsection are applied to the goods or technology involved.".

SEC. 116. NEGOTIATIONS WITH OTHER COUNTRIES; DEPARTMENT OF COMMERCE REPRESENTATIVE.

Section 5(k) (50 U.S.C. App. 2404(k)) is amended—

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

(2) in the last sentence by striking "(b)(2)" and inserting "(a)(4)"; and

(3) by adding at the end the following:

"(2) The Secretary shall undertake a review of, and report to the Congress not later than 6 months after the date of the enactment of this paragraph on, the goods and technology available from newly industrialized countries to determine if such goods and technology are of such sophistication that they warrant multilateral export controls. If the Secretary determines that such multilateral controls are warranted, the Secretary of State shall propose to the Coordinating Committee to initiate negotiations with such newly industrialized countries to reach agreements with them under paragraph (1) or to obtain their participation in the Coordinating Committee.

"(3) Whenever—

"(A) the Secretary is authorized to make a decision or determination under this Act that affects exports from the United States to controlled countries,

"(B) the Secretary makes such a determination, and

"(C) such determination is final except that the approval of the Coordinating Committee is required,

the Secretary of State shall, within 7 days after receiving that determination from the Secretary, submit to the Coordinating Committee a United States proposal that would have the effect of applying that determination to exports to controlled countries.

"(4) The Secretary, or an officer or employee of the Department of Commerce designated by the Secretary, shall be a member of the permanent United States delegation to the Coordinating Committee.".

SEC. 117. REMOVAL OF SECTION 5(k) DESIGNATION.

Section 5(k)(1) (as amended by section 116 of this Act) is amended by adding at the end the following: "If any country accorded the treatment authorized by the preceding sentence fails to maintain export restrictions comparable in practice to those maintained by the Coordinating Committee, as determined by the Secretary, in consultation with the Secretary of State and the Secretary of Defense, the Secretary shall restrict or terminate such treatment of that country.".

SEC. 118. NOTIFICATION OF COCOM ACTIONS.

Section 5 (50 U.S.C. App. 2404) is amended by adding at the end the following new subsection:

"(r) PUBLICATION OF COCOM ACTIONS.—(1) Within 90 days after the date of the enactment of this subsection, the Secretary shall publish the full text of the 3 International Lists of the group known as the Coordinating Committee, together with all notes and understandings concerning such lists that are agreed to by the Coordinating Committee. The Secretary shall update the publication under the preceding sentence at least once in each 1-year period occurring thereafter.

"(2) The Secretary shall publish—

"(A) the full text of any agreements of the Coordinating Committee affecting the International Lists, together with all notes, understandings, and other aspects of such agreements, all revisions to such texts, and the proposals of the United States to revise the International Lists that are submitted to the Coordinating Committee before negotiations on these proposals begin (except for classified information contained in the justification for such proposals),

"(B) subject to the limitations set forth in section 12(c), decisions on requests for general exceptions to the Industrial List of the Coordinating Committee, and

"(C) other decisions made by the Coordinating Committee, to the maximum extent possible.

Such publication shall be made within 30 days after the agreements are reached, negotiations on the proposals begin, or the decisions are made, as the case may be. The publication of a particular matter need not be made under subparagraph (A), (B), or (C) to the extent that the Secretary makes a written finding to the Congress that to publish that matter would be contrary to national or international security, would abridge the confidentiality of the decision-making processes of the Coordinating Committee, or would otherwise be inconsistent with the obligations of the United States to the Coordinating Committee.".

SEC. 119. TERRORIST COUNTRIES.

Section 6(j) (50 U.S.C. App. 2405(j)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) No export of goods or technology described in subparagraph (B) may be made to any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism.

"(B) The goods or technology referred to in subparagraph (A) are—

"(i) any goods or technology the export of which is controlled under this Act pursuant to the Missile Technology Control Regime, or controlled under this Act pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and

"(ii) any goods or technology that, as determined and maintained on a list established by the Secretary for purposes of this Act, would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability,

other than goods or technology that the President determines will be used only for humanitarian purposes. A validated license shall be required for the export under this paragraph of any such goods or technology that will be used only for humanitarian purposes.

"(C)(i) No export of goods or technology the export of which is controlled under section 5 may be made to any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism, unless the Secretary of State determines that such export would not make a significant contribution to the military potential of such country, including its military logistics capability, or enhance the ability of such country to support acts of international terrorism.

"(ii) Every 30 days after the date of the enactment of this subparagraph, the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of all determinations made under clause (i), during the preceding 30-day period, regarding contributions to the military potential of a country or enhancement of the ability of a country to support acts of international terrorism.

"(iii) The prohibitions contained in clause (i) do not apply with respect to any transaction subject to the reporting requirements under title V of the National Security Act of 1947, relating to congressional oversight of intelligence activities."; and

(2) by adding at the end the following:

"(5) The President may waive the prohibitions contained in subparagraph (A) with respect to a specific transaction if—

"(A) the President determines that the transaction is essential to the national security interests of the United States; and

"(B) not less than 15 days prior to the proposed transaction, the President—

"(i) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed transaction; and

"(ii) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

"(I) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

"(II) a description of the items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction;

"(III) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

"(IV) the date on which the proposed transaction is expected to occur; and

"(V) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in clause (ii) of subparagraph (B) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

"(6) The Secretary of State shall propose to the group known as the Coordinating Committee, to the Australia Group, to the countries participating in the Missile Technology Control Regime, and to the Nuclear Suppliers Group, that each such group adopt those controls that are imposed by this subsection on exports of goods or technology subject to control by such group. The Secretary of State shall continue to make such proposals until such export controls are so adopted.

"(7) The provisions of this subsection do not affect any other provision of law to the extent such other provision imposes greater restrictions on exports to which this subsection applies than are imposed under this subsection.".

SEC. 120. CRIMINAL AND CIVIL PENALTIES.

(a) CRIMINAL PENALTIES.—Section 11(b) (50 U.S.C. App. 2410(b)) is amended—

(1) in paragraphs (1) and (2)—

(A) by striking "five times" each place it appears and inserting "10 times";

(B) by striking "$1,000,000" each place it appears and inserting "$2,000,000"; and

(C) by striking "$250,000" each place it appears and inserting "$500,000"; and

(2) in paragraph (2) by striking "5 years" and inserting "10 years".

(b) CIVIL PENALTIES.—Section 11(c)(1) (50 U.S.C. App. 2410(c)(1)) is amended—

(1) by inserting ", foreign policy controls under section 6 of this Act," after "section 5 of this Act"; and

(2) by striking "$100,000" and inserting "$250,000, and the civil penalty for each violation of any regulation under section 8(a) may not exceed $50,000".

(c) REFERRAL OF ANTIBOYCOTT VIOLATIONS.—Section 11 (50 U.S.C. App. 2410) is amended by adding at the end the following:

"(j) REFERRAL TO ATTORNEY GENERAL OF POSSIBLE ANTIBOYCOTT VIOLATION.—The Secretary shall promptly inform the Attorney General of any information within the possession of the Department of Commerce relating to a possible violation under subsection (a) or (b) of the regulations issued under section 8 of this Act.".

SEC. 121. POLICY TOWARD COUNTRIES RECEIVING LICENSING BENEFITS.

Section 11A (50 U.S.C. App. 2410a) is amended—

(1) in subsection (a)(1), by inserting after "Committee," the following: "pursuant to an agreement to restrict exports negotiated in accordance with section 5(k)(1), or pursuant to an export control system maintained by a controlled country that is receiving expanded licensing benefits from the Coordinating Committee because of its recognition as a lesser strategic threat as described in section 5(b)(2),"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "and" after the comma at the end;

(B) in paragraph (2), by striking the period and inserting ", and"; and

(C) by adding after paragraph (2) the following new paragraph:

"(3) the revocation by the Secretary of any validated export license previously issued for export by or to that foreign person, notwithstanding any other provision of law, and entry by the Secretary of an order denying all export privileges to that foreign person.

The Secretary shall publish any order under paragraph (3) in the Federal Register.".

SEC. 122. ENFORCEMENT AUTHORITY.

(a) FORFEITURE OF SEIZED ITEMS.—Section 12(a)(3) (50 U.S.C. App. 2411(a)(3)) is amended by adding at the end the following:

"(C) All goods or technology lawfully seized under this paragraph by authorized officers or employees of the Department of Commerce shall be forfeited to the United States. Those provisions of law relating to—

"(i) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws,

"(ii) the disposition of such property or the proceeds from the sale thereof,

"(iii) the remission or mitigation of such forfeitures, and

"(iv) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subparagraph, insofar as applicable and not inconsistent with this Act; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subparagraph by the Secretary or such officers and employees of the Department of Commerce as may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.".

(b) INVESTIGATIVE OPERATIONS.—Section 12(a) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8)(A) With respect to any undercover investigative operation conducted by the Office of Export Enforcement of the Department of Commerce (hereinafter in this paragraph referred to as 'OEE') necessary for the detection and prosecution of violations of this Act—

"(i) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading 'MISCELLANEOUS' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and subsections (a) and (c) of section 304, and section 305, of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c) and 255);

"(ii) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an OEE undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31, United States Code;

"(iii) funds made available for export enforcement under this Act and the proceeds from OEE undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18,

United States Code, and section 3302 of title 31, United States Code; and

"(iv) the proceeds from OEE undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code;

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that any action authorized by clause (i), (ii), (iii), or (iv) is necessary for the conduct of the undercover operation.

"(B) If a corporation or business entity established or acquired as part of an OEE undercover operation with a net value of more than $50,000 is to be liquidated, sold, or otherwise disposed of, OEE shall report the circumstances to the Secretary and the Comptroller General, as much in advance of such disposition as the Director of OEE or his or her designee determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(C) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under this paragraph are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(D)(i) The Director of OEE shall conduct a detailed financial audit of each undercover investigative operation which is closed and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an OEE undercover operation is closed, the Director of OEE shall submit to the Congress a report on the results of the audit.

"(ii) The Director of OEE shall also submit as part of the annual report submitted by the Secretary under section 14 a report to the Congress specifying—

"(I) the number of OEE undercover investigative operations pending as of the end of the period for which such report is submitted;

"(II) the number of OEE undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

"(III) the number of OEE undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

"(E) For purposes of subparagraph (D)—

"(i) the term 'closed' refers to the earliest point in time at which all criminal proceedings (other than appeals) are concluded, or covert activities are concluded, whichever occurs later;

"(ii) the terms 'undercover investigative operation' and 'undercover operation' mean any undercover investigative operation conducted by OEE—

"(I) in which the gross receipts (excluding interest earned) exceed $50,000, or expenditures (other than expenditures for salaries of employees) exceed $150,000, and

"(II) which is exempt from section 3302 or 9102 of title 31, United States Code,

except that subclauses (I) and (II) shall not apply with respect to the report to the Congress required by clause (ii) of subparagraph (D); and

"(iii) the term 'employees' means employees, as defined in section 2105 of title 5, United States Code, of the Department of Commerce.".

SEC. 123. JUDICIAL AND ADMINISTRATIVE REVIEW.

(a) JUDICIAL REVIEW.—Section 13(a) (50 U.S.C. App. 2412(a)) is amended to read as follows:

"SEC. 13. (a) APPLICABILITY.—

"(1) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as expressly provided in this Act, sections 551, 553 through 559, and 701 through 706 of title 5, United States Code, do not apply to the functions exercised under this Act.

"(2) JUDICIAL REVIEW.—A final agency action under this Act may be reviewed by appeal to the United States Court of Appeals for the District of Columbia Circuit, to the extent provided in this paragraph. The court's review in any such appeal shall be limited to determining whether—

"(A) a regulation—

"(i) fails to take an action compelled by this Act,

"(ii) takes an action prohibited by this Act, or

"(iii) otherwise violates the express terms of this Act;

"(B) an agency action violates the express terms of this Act;

"(C) an agency action violates the express terms of an agency regulation establishing time requirements or other procedural requirements of a non-discretionary nature;

"(D) the issuance of regulations compelled by this Act complies with time restrictions imposed by this Act;

"(E) license decisions are made and appeals thereof are concluded in compliance with time restrictions imposed by this Act;

"(F) classifications and advisory opinions are issued in compliance with time restrictions imposed by this Act;

"(G) foreign availability determinations are in compliance with time restrictions imposed by this Act; or

"(H) the United States has complied with the requirements of section 5(f) after a foreign availability determination has been rendered.".

(b) ADMINISTRATIVE REVIEW.—(1) Section 13(e) is amended to read as follows:

"(e) APPEALS FROM LICENSING AND CLASSIFICATION ACTIONS.—(1) For purposes of this subsection, the term 'administrative action' means any action taken by the Secretary under this Act or regulations issued under this Act with respect to a particular person, other than an action under section 11, 11A, or 12.

"(2) Any person aggrieved by an administrative action may appeal such action to an administrative law judge within 45 days after receiving notification of such action. The administrative law judge shall, within 90 days after such appeal is filed, determine whether the administrative action was taken in violation of this Act or regulations issued under this Act and issue any order that is necessary or appropriate to carry out such determination. Such order shall be binding upon the Secretary unless and until vacated or modified under paragraph (3). Such order may be stayed by the administrative law judge or the Secretary pending the filing and determination of an appeal under paragraph (3).

"(3) Any person aggrieved by a decision of the administrative law judge under paragraph (2) may appeal such decision to the Secretary within 45 days after receiving notification of such decision. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after such appeal is filed. Except as provided in subsection (a), the Secretary's decision under this paragraph shall be final and not subject to judicial review. The authority of the Secretary under this paragraph may not be delegated to any other officer or employee.

"(4) Subject to the limitations of section 12(c), final decisions of administrative law judges and the Secretary under this subsection shall be published in the Federal Register within 15 days after they are rendered.

"(5) Except as provided in this subsection, proceedings under this subsection shall be conducted in accordance with sections 554 (notwithstanding subsection (a)(4) of such section), 556, and 557 of title 5, United States Code.

"(6) The Secretary shall issue such regulations as are necessary to carry out this subsection.

"(7) The rights granted by this subection do not abridge any other rights provided by the law.".

(2) The amendment made by this subsection shall take effect 120 days after the date of the enactment of this Act. Regulations implementing the amendment made by this subsection shall be promulgated no later than such effective date.

SEC. 124. POLICY TOWARD THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS AND POLICY.—The Congress finds that—

(1) the United States and the group known as the Coordinating Committee have granted special licensing preferences in favor of exports to the People's Republic of China compared to other controlled countries under the Export Administration Act of 1979, based upon a consensus that the People's Republic of China posed a reduced national security threat;

(2) the United States policy of differentiating the People's Republic of China from other controlled countries was also intended to encourage emerging democratization and economic reform in that country; and

(3) the assumptions underlying past policy must be reevaluated in light of massive abuses of human rights by the Government of the People's Republic of China and evidence that the Chinese Government has assisted in the proliferation of missiles and nuclear technology to politically volatile areas of the world.

It is therefore the policy of the United States that export licensing preferences for the People's Republic of China should be eliminated, applications for distribution licenses and comprehensive operations licenses under section 4(a)(2) of the Export Administration Act of 1979 should be denied, and access to dual-use goods and technology representing proliferation concerns should be restricted.

(b) ACTION TO LIBERALIZE TREATMENT.—Section 5(b) (50 U.S.C. App. 2404(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following:

"(5) If the President determines that licensing treatment for the People's Republic of China should be liberalized compared to other controlled countries, no action to so liberalize such treatment should be taken until 30 days after the President reports such determination to the Congress stating the justification for the change in policy.".

(c) PROLIFERATION CONCERNS REGARDING THE PEOPLE'S REPUBLIC OF CHINA.—Section 6 (50 U.S.C. App. 2405), is amended by adding at the end the following:

"(s) PROLIFERATION CONCERNS REGARDING THE PEOPLE'S REPUBLIC OF CHINA.—(1) Requests for authority or permission to export goods or technology to the People's Republic of China which are controlled under this section, pursuant to multilateral arrangements to control proliferation of chemical weapons and missile technology, should be denied in the absence of adequate assurances regarding appropriate end use and nontransfer of goods or technology to a country or project of concern.

"(2) In order to discourage proliferation, by the People's Republic of China, that is described in paragraph (1), the Secretary of State should seek the cooperation of other governments involved in multilateral control arrangements to restrict exports of goods and technology described in paragraph (1), in harmonizing treatment of exports to the People's Republic of China with control efforts of the United States.

"(3) The policy set forth in paragraph (1) shall remain in effect unless the President determines and reports to the Congress that the People's Republic of China has ceased to act in a manner inconsistent with multilateral efforts to control proliferation of chemical weapons and missile technology.".

SEC. 125. EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

(a) PROHIBITION.—Notwithstanding any other provision of law, no satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China may be exported from the United States.

(b) WAIVER.—The prohibition contained in subsection (a) may be waived by the President on a case-by-case basis upon certification by the United States Trade Representative that the People's Republic of China is, with regard to the respective satellite, or components or technology related thereto, for which the export license request is pending, in full compliance with the Memorandum of Agreement Between the Government of the United States of America and the Government of the People's Republic of China Regarding International Trade in Commercial Launch Services.

SEC. 126. EXPORTS TO THE SOVIET UNION.

It is the sense of the Congress that no exports to the Soviet Union, or any successor confederation or entity, that would otherwise be permitted by virtue of the amendments made by this title should be made if the Soviet Union, or any successor confederation or entity, takes action to restrict the emigration of Jews from the Soviet Union or such successor confederation or entity.

SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) (50 U.S.C. App. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $41,500,000 for the fiscal year 1992, of which $150,000 shall be available only for the representation of the Secretary or the Secretary's designee at the Coordinating Committee under section 5(k)(4); and

"(2) such additional amounts for the fiscal year 1992 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 128. EXTENSION OF THE ACT.

Section 20 (50 U.S.C. App. 2419) is amended by striking "September 30, 1990" and inserting "March 1, 1993".

SEC. 129. TECHNICAL AMENDMENTS.

(a) SECTION 5.—Section 5(f) (50 U.S.C. App. 2404(f)) is amended—

(1) in paragraph (2)(A) by striking "(k)" and inserting "(k)(1)"; and

(2) in paragraph (10) by striking "subsections (f) and" and inserting "subsection".

(b) SECTION 6.—Section 6 (50 U.S.C. App. 2405) is amended as follows:

(1) Subsection (h)(3) is amended in the last sentence by striking "(l)" and inserting "(n)".

(2) Subsection (k) is amended in paragraphs (1), (2), and (3) by striking "section 5(b)(2)(C)" and inserting "subclauses (I) through (V) of section 5(a)(4)(D)(iii)".

(3) Subsection (m)(1)(A) is amended by striking "(l)" and inserting "(n)".

(4) Subsection (q) is amended—

(A) in the first sentence of paragraph (1) by striking "(m)" and inserting "(o)"; and

(B) in paragraph (2) by striking "6(o)(1)" and inserting "6(q)(1)".

(c) SECTION 11A.—Section 11A(k)(3) (50 U.S.C. App. 2410A(k)(3)) is amended—

(1) by striking "(3)" and inserting "(2)"; and

(2) by striking "paragraph (2)" and inserting "paragraph (1)".

(d) SECTION 16.—Section 16 (50 U.S.C. App. 2415) is amended by striking "As used" and inserting "Except as otherwise provided, as used".

The CHAIRMAN pro tempore. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 65, insert the following after line 17:

SEC. 130. ROLE OF PRIVATE SECTOR IN MONITORING EXPORTS.

(a) ANALYSIS AND EVALUATION.—The Secretary of Commerce, in consultation with all appropriate departments and agencies of the United States, shall analyze and evaluate the potential role of private sector firms in supplementing the information available to the Government for the purpose of licensing and monitoring exports of sensitive technology under the Export Administration Act of 1979.

(b) REPORT.—The Secretary of Commerce shall report to the Congress its analysis and evaluation under subsection (a) not later than 180 days after the date of the enactment of this Act. This report shall include, among other things—

(1) statistics bearing on the frequency with which prelicensing and post-shipment inspections are made of overseas purchasers of sensitive technologies for the 3-year period ending on the date of the enactment of this Act, as well as an overall assessment of the effectiveness of the present licensing system in preventing and detecting prohibited exports;

(2) the costs and benefits to the Government of encouraging the submission of supplementary information by private firms described in subsection (a) to be considered in connection with the export licensing process; and

(3) the design and structure of a mechanism by which private inspection firms might be certified for the purpose of providing information to assist the Government in reaching and monitoring export licensing decisions.

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLARZ. Mr. Chairman, I believe this is a noncontroversial amendment which is not opposed by the Department of Commerce and which I believe is supported by the chairman and also my very good friend, the distinguished ranking minority member of the International Economic Policy and Trade Subcommittee, the gentleman from Connecticut [Mr. GEJDENSON], and the gentleman from Wisconsin [Mr. ROTH].

What the amendment does is to require that the Department of Commerce, in consultation with other appropriate agencies of the Government, submit a report within 6 months about the potential role of private sector firms in supplementing the information available to the United States Government when it makes decisions about the licensing and the monitoring of sensitive technology exports.

Specifically, Mr. Chairman, the administration is being asked to study the merit of setting up a system where private inspection companies would be certified by the Department of Commerce as being qualified to carry out either prelicensing investigations or postshipment monitoring for private exporters.

For example, if the United States company wanted to export a potentially sensitive item to a foreign company, the exporter could hire one of the certified private inspection firms to investigate the foreign company to make sure that the company was legitimate and not serving as a front for, say, the Iraqi nuclear program.

The proposal to be studied is completely voluntary, meaning that no company would be required to hire private inspection firms for any purpose. What is contemplated here is not the privatization of this function by the Department of Commerce but, rather, the possibility of having the work of the Department of Commerce supplemented by private firms. It is simply a study, but one which I think will enable us to make some judgments about whether this particular option is worth pursuing.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, while I have some questions about this approach, I have no question that the concept ought to be studied. I think what Mr. SOLARZ brings before us is an approach we used, frankly, in other parts of the Government in the way it operates, and there is certainly nothing wrong with directing that this be examined. It would certainly give entrepreneurs an opportunity to take advantage of a rapidly changing situation and might provide some assistance to the Government in a sort of preclearance, a bonded operation, almost, on some of these very technical areas.

So, Mr. Chairman, I think it is well worth examining, and I would commend the gentleman from New York [Mr. SOLARZ] for bringing this matter to our attention.

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

Mr. GEJDENSON. I yield to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding.

Mr. Chairman, I join with what the chairman of the subcommittee has mentioned. We have looked at this amendment. It is a good amendment, it is well drawn. It is a sophisticated approach, as we expect from the gentleman from New York [Mr. SOLARZ].

The CHAIRMAN pro tempore. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from New York [Mr. SOLARZ].

The amendment was agreed to.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 3489, the Export Administration Act, and want to pay tribute to the gentleman from Connecticut for his superb leadership in advancing this legislation.

I would like to take this time to highlight provisions in title III, relating to nuclear exports, that I introduced during consideration of this legislation in the Foreign Affairs Committee. These provisions were based upon legislation that Mr. MARKEY, Mr. SOLOMON, Mr. STARK, and I introduced earlier and that now enjoys very broad bipartisan cosponsorship. I want to express my appreciation, in particular, to Mr. MARKEY and to his staff for their leadership in this effort.

Mr. Chairman, one lesson is painfully clear from the war with Iraq: Many years of shortsighted United States nuclear nonproliferation policy helped create the monster, Saddam Hussein, that we committed half a million Americans to contain.

Recent reports indicate that over 450 Western companies helped build Hussein's nuclear arsenal—missiles, bombs, poison gas, and precision artillery. And if that news were not enough, today's Washington Post reveals that Iran is aggressively pursuing nuclear weapons capability, eager to replace Iraq as the region's nuclear bully. But neither the United States nor our Western allies have yet faced up to our collective responsibility for this tragedy.

Saddam Hussein has taught us that in the absence of an effective nonproliferation regime, being a party to the Nuclear Non-Proliferation Treaty is no longer enough. We need effective nuclear export controls, a more effective international safeguards regime—and we need them now, before the next Saddam is successful.

Under current law, we condition exports of nuclear fuel or nuclear reactors on a requirement for full-scope international safeguards and a formal nuclear cooperation agreement, but we allow exports of nuclear components, dual-use items on the nuclear referral list, and nuclear technology transfers without any of the same requirements.

Mr. Speaker, that's a loophole big enough to drive a nuclear weapon through. Yet, we continue to take a see-no-evil, hear-no-evil approach to exports of these highly sensitive dual-use items. How else can we explain the fact that within the last 5 years the United States reportedly approved licenses for exports of computers, precision electric and photographic equipment to the Iraqi Atomic Energy Commission? How else can we explain all of the European companies whose products are turning up in the IAEA inspection of Iraq's covert nuclear program?

These shortcomings in U.S. law and policy can be rectified by provisions included in this act. The legislation would:

Require full-scope IAEA safeguards and nuclear cooperation agreements as a condition of all U.S. nuclear-related exports;

Call for negotiations to make the Nuclear Suppliers Group a more effective multilateral exports regime and the IAEA a more powerful safeguards regime;

Phase out the use of highly enriched, bomb grade uranium;

Provide for sanctions against individuals, companies, or countries which contribute to the irresponsible distribution of nuclear weapons and technology.

I should note that this legislation—although an important step—is a compromise. To accommodate the administration we made key modifications in our original provisions. Yet the administration is still not wholly satisfied. The administration and some commercial interests continue to argue that stringent export requirements and tough sanctions will impede legitimate commerce.

Mr. Chairman, let's be perfectly clear on one point. There will be some inconveniences to some commercial interests. But we cannot put the narrow interest of certain industries above our national and international interest in stopping trade in deadly nuclear commerce. And that is precisely what the administration is asking us to do. I will not accept that. The Congress will not accept that. The American people will not accept that.

These arguments of the administration have a familiar ring. In 1978, when the Nuclear Non-Proliferation Act was being considered, opponents of the law argued that it was futile unilateralism. In 1983, when we introduced many of the provisions contained here, we were dismissed by critics in the administration and in the nuclear industry as interfering with their effort to be a reliable supplier of nonsensitive nuclear technologies. In light of the lessons of Iraq, the bankruptcy of such criticisms should be apparent to all.

Recent history has shown not that we have moved too aggressively to stop the spread of nuclear weapons, but that we have not moved aggressively enough. With this legislation, we will begin to correct the mistakes of the past, and prevent the mistakes of the future.

Saddam Hussein has shown us that there are few obstacles in the path of a determined proliferator. We must take immediate, concerted action to block this well-marked path to nuclear weapons and other weapons of mass destruction. Otherwise, it is a path that will certainly lead to another Saddam.

Mr. Chairman, I urge swift passage of the Export Administration Act.

□ 1620

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDEN:

Page 27, line 25, strike "including" and all that follows through line 2 on page 28 and insert the following:

"including—

"(I) equipment used in the transmission of analog or digital information, and

"(II) all components and accessories related to equipment described in subclause (I), such as installation, measuring, or testing equipment, switching and control systems, computer hardware and application-specific software required for data communications, and spare parts; and".

Mr. WYDEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WYDEN. Mr. Chairman, I want to be brief, but I want to commend the gentleman from Connecticut [Mr. GEJDENSON] and also the gentleman from Wisconsin [Mr. ROTH], our colleagues, on this legislation.

Mr. Chairman and colleagues, this amendment would say very simply that in the telecommunications section, where we are doing some particularly important work to allow telecommunications systems to be sold to the Soviet Union, that under this amendment it would be possible to sell buyers the entire system. Unfortunately, as it is set up right now, it would only sell part of a system, and I think that we all know since buyers traditionally buy the entire system from one company rather than picking and choosing different parts from various providers, American companies could not even get to the table and make an offer as it relates to selling telecommunications.

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

Mr. WYDEN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the amendment of the gentleman from Oregon [Mr. WYDEN] makes a lot of sense. It puts it together in a package rather than a fragmented licensing process. It certainly is consistent with everything we try to do in our bill.

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

Mr. WYDEN. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I agree with the gentleman from Connecticut [Mr. GEJDENSON]. This amendment is a good amendment. It clarifies telecommunications, and it is something that I think is needed in this bill.

Mr. Chairman, we accept this amendment on this side.

Mr. WYDEN. Mr. Chairman, this is the same amendment that was offered

the last time we considered this legislation, and it passed by more than 300 votes. I would hope my colleagues would support it on a bipartisan basis.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 62, line 21: Delete "(a)".

Page 63: Strike lines 1 through 11.

Mr. SOLOMON. Mr. Chairman, I will try not to use the 5 minutes. I have to go to a Committee on Rules meeting on the banking bill, my colleagues.

Mr. Chairman, I rise today to offer an amendment that is vitally important to the success of our commercial launch industry. My amendment would prohibit, without exception, the export of American satellites for launch on Chinese boosters.

Back in 1984, Congress passed the Commercial Space Launch Act to encourage American companies to make major investments in the offering of commercial satellite launch services. As a result, three aerospace companies—McDonnell Douglas, General Dynamics, and Martin Marietta—invested over $500 million to develop their own unmanned booster rockets for commercial launches.

But China has also responded to the potential global demand and developed its own so-called long march booster—totally subsidized by the Communist government. How can we then turn around and allow the Chinese to dump their launch services on the market for next to nothing and cripple our own launch industry?

Clearly, this is unfair trade.

The Communist Chinese Government is seeking a viable space program to enhance its own credibility and international prestige. But how can we sit back and reward their efforts when they continue to promote nuclear proliferation and ignore basic human rights issues?

Mr. Speaker, my amendment to prohibit the export of American satellites for launch on Chinese boosters was overwhelmingly passed by the House on June 6, 1990 by a vote of 393 to 15. Since then, provisions have been added that would allow the President to waive the restriction if China abides by its memorandum of understanding with the United States.

But China has publicly repudiated this understanding and continues to make a mockery of the international market by offering to launch for half the going price. It is clear that the only way to protect our access to space and to give our companies a fair shot at the market is to quit being a party to the heavily subsidized Chinese launch program.

The fundamental question is why should we reward the only remaining Communist government of any consequence? A Communist government which exports nuclear and biological weapons and which mows down its own people. The answer is that we should not.

This amendment is offered in the spirit of section 124 of the bill, a section which states:

The assumptions underlying past policy, must be re-evaluated in light of massive abuses of human rights by the government of the People's Republic of China and evidence that the Chinese government has assisted in the proliferation of missiles and nuclear technology to politically volatile areas of the world.

I need only refer you to today's Washington Post which details the activities between China and Iran in assisting Iran to complete their nuclear capability.

I urge adoption of the amendment.

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

Mr. SOLOMON. Mr. Chairman, if the gentleman from Connecticut is going to accept my amendment, I yield to him.

Mr. GEJDENSON. Mr. Chairman, I think the gentleman from New York [Mr. SOLOMON] shows in this instance a rare bit of clarity in purpose, and I would be privileged to join with the gentleman in accepting his amendment.

Mr. SOLOMON. Just goes to show, I say to the gentleman, "You can't beat SAM and JERRY."

Mr. McMILLEN of Maryland. Mr. Chairman, I applaud the efforts of the gentleman from New York for his foresight in offering this amendment. Mr. Chairman, the People's Republic of China has been undercutting our domestic commercial launch industry for quite some time now. The Chinese have been subsidizing their fledgling launch industry—to be sure, this has put the rest of the world at a competitive disadvantage. In 1989, the United States and the People's Republic of China came to agreement that permitted the export of four United States-made satellites for launch on China's long march booster by the year 1994. This was in exchange for an agreement that the People's Republic of China would not unfairly undercut prevailing, fair world prices for commercial launch services.

Evidence surfaced that, in fact, the Chinese were continuing to market their launch services at below cost levels, further, intelligence sources revealed that the People's Republic of China was violating standing agreements about technology transfer to developing countries.

Mr. Chairman, under these circumstances, there is no reason that the United States should—permit the export of United States-origin satellites for launch by the Chinese. They have violated a formal trade pact, prompting the White House to issue a May 1991 order to halt satellite exports to the People's Republic of China.

The well-crafted Solomon amendment merely makes this directive of the White House a legally respected statute. To reiterate our concern, yesterday Mr. SOLOMON and I initiated a letter to Ambassador Carla Hills—U.S. Trade Representative—asking her to not budge on the Americans' insistence this unfair trade ploy cease. This amendment by my friend from New York merely adds additional firepower to our intentions and for this reason, I ask for its immediate passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that my amendment be offered at this point in time.

The CHAIRMAN pro tempore (Mr. VOLKMER). Is the gentleman's amendment to title I?

Mr. TRAFICANT. No, Mr. Chairman, but I ask unanimous consent that it be allowed at this time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 69, insert the following after line 3:

(D)(i) The effects on the international economic competitiveness of the United States of formal and informal trade barriers.

(ii) The effects on the international economic competitiveness of the United States of subsidies by foreign countries to their domestic industries.

(iii) The efforts of the Department of Commerce to reduce trade barriers.

Mr. TRAFICANT. Mr. Chairman, under the section where the Commerce Department performs studies, my amendment would ask them to study and report to the Congress what effects formal and informal trade barriers are having, how they are having an effect on our trade and exports, how subsidies in foreign countries where foreign companies are subsidizing industry are having an effect on our exports and industry and how trade barriers basically are hurting our economy.

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

Mr. TRAFICANT. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, this is an excellent amendment. We would be very happy to accept this amendment. We all need to make sure we fulfill our responsibilities.

Mr. TRAFICANT. I appreciate that.

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

Mr. TRAFICANT. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, we have looked at the amendment. We have no objections to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

□ 1630

AMENDMENT OFFERED BY MR. MAVROULES

Mr. MAVROULES. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. VOLKMER). The Chair will inquire, are these the amendments en bloc?

Mr. MAVROULES. Yes, the amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will report the en bloc amendments.

The Clerk read as follows:

Amendment offered by Mr. MAVROULES: Page 17, strike lines 19 and 20 and insert the following:

"(iv) Whether civil and noncivil uses of the goods or technology are reasonably distinguishable or there is a significant risk of diversion of the goods or technology to an unauthorized use or consignee.

Page 17, insert the following after line 24:

"(C) The presumption created by subparagraph (A) may be overcome by overriding national security concerns.

Page 18, line 1, strike "(C)" and insert "(D)".

Page 34, lines 4 and 5, strike "the Secretary determines" and insert "it is determined".

Page 34, line 7, strike "In" and all that follows through line 12.

Page 34, line 13, strike "by the Secretary".

The CHAIRMAN pro tempore. After reviewing the amendment and the rule, the Chair notes that this amendment does not appear to be the amendment provided for in the rule.

Does the gentleman from Massachusetts [Mr. MAVROULES] ask unanimous consent to offer this amendment in lieu of the en bloc amendments?

Mr. MAVROULES. Yes. Mr. Chairman, I ask unanimous consent that the amendment at the desk be substituted for the amendments printed in the RECORD of Monday.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. HUNTER. Mr. Chairman, reserving the right to object, I am not going to object but I wanted to ask the gentleman, since I have two amendments which are relevant to the amendment which the gentleman is offering, if the second amendment will preclude the amendment of the gentleman from California from being offered. I intend to withdraw one amendment of my four amendments as a result of the amendment the gentleman is offering. I want to establish that point before we proceed.

Mr. MAVROULES. Mr. Chairman, if the gentleman will yield, I am informed, and this is my judgment, that that would not preclude the gentleman from offering his amendment.

Mr. HUNTER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. KYL. Mr. Chairman, reserving the right to object, I, too, will not object, but I want to verify this same point. With respect to the sunset provisions and the sunset of control list which begins on page 33, if this amendment offered by the gentleman from Massachusetts is accepted, then the gentleman from California would still be able to move his amendment which would strike the sunset provision altogether; is that correct?

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

Mr. KYL. Then, Mr. Chairman, I do not object, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MAVROULES. Mr. Chairman, the amendment I am offering goes part way to preserving the role of the Secretary of Defense in the export control process. What is the proper or improper role, is subject to some considerable contention. We have the bill before us today, which would erode the Defense Secretary's authority in some ways. We have several amendments that would increase his authority. The amendment I am offering is the result of an agreement reached earlier today between members of both the Armed Services and Foreign Affairs Committees. It's a compromise. It doesn't do everything I would like to do. But it will make a modest improvement in the bill before us, and allow me to support the bill on final passage.

My amendment, quite simply preserves some of the authority of the Defense Secretary that would otherwise be eroded by this bill.

Mr. Chairman, let me try to put all this into some perspective.

A decade ago, the media erupted with reports of our loose controls on exports and flood of high-technology items going to the Soviet bloc. Richard Perle, who was then Assistant Secretary of Defense, led a campaign to tighten the controls.

At the center of the issue was the fact that the Commerce Department was simply ill-equipped to handle export controls. Commerce's mission is to boost export. The goal of blocking sales to potential enemies is in direct conflict with Commerce's export promotion mission. So, we tightened controls chiefly by making the Pentagon a major player in reviewing export licenses.

Not surprisingly, a new problem erupted. The Pentagon would sometimes study a license application to death. By the time it got around to OK a license, foreign purchasers had wearied and bought from another country. Or, at least that became the popular impression as a new set of horror stories about the evils of the Pentagon review process became daily dinner table talk in the export business.

The pendulum swung. The concerns of the export industry culminated last year in legislation to dramatically revise the Export Administration Act so as to drastically reduce the authority of the Pentagon. I was concerned last year that that bill was an overreaction. So, was the administration. President Bush vetoed that bill.

Today, we have before us a modified version of that bill. Fortunately, key provisions eroding the Pentagon role have been removed. But not all of them. On behalf of the Armed Services Committee, I have introduced this amendment to preserve much of the current authority of the Secretary of Defense.

Mr. Chairman, there is a natural tension between the export promotion drives of the Commerce Department and the national security concerns of the Defense Department. There is nothing wrong with that tension. It's natural and normal. The license review structure we set up a decade ago required that these two agencies work out their tension and find a rational middle ground.

Many exporters concluded that this did not happen. In reviewing the horror stories about Pentagon delays, I have come to two conclusions.

First, the problem of Pentagon delays has been grossly exaggerated. One of the most common anecdotes about a Pentagon delay turns out not even to involve the Pentagon at all.

Second, and perhaps most important, the Pentagon has heard the angry shouts from the exporters—in large measure because the anger has been echoed by friends of the exporters in the Executive Office Building. As a result, the Pentagon has become sensitized—some might even say gunshy—when it comes to the issue of long delays and bureaucratic obstacles.

In sum, I think many if not most of the legitimate gripes of the industry have been addressed. Their ire has not gone unheard.

In sum, I fear that reducing the role of the Pentagon will take us back to the bad old days. New horror stories will emerge about high-technology sales to Third World countries that end up in conflict with us.

The export industry will not win if that is the case, for it will become the focus of public fury.

Mr. Chairman, already, under the current statutes, we have found an excessive volume of questionable exports were approved for Iraq by the Commerce Department. This is because the focus of the tightening up pursued by Richard Perle a decade ago was sales to the Soviet bloc, not to pesky Third World dictators. The Pentagon says its sales to Moscow was boosted, but its role in sales to Baghdad was largely unchanged.

Today, Mr. Chairman, our chief concern is not high-technology sales to

Eastern Europe or the former Soviet Union. It is what we sell to any number of Third World nations with a burning desire to become regional superpowers. If anything, Mr. Chairman, I think we need to tighten our controls over sales to the Third World.

We have spent the last several years pushing our allies in Europe to tighten their export controls. We have been plagued with allies who have strong commerce ministries and weak or even nonexistent inputs from their defense ministries.

That's now changed. In the wake of our own Iran-Contra scandal, almost every European country has had its own arms export scandal—scandals that are sparking reform. In fact, this is one of the real benefits of Iran-Contra. All across Europe, enterprising reporters have searched for arms export scandals in their own countries. And they have found them—in France, Germany, Italy, Austria, Sweden, Belgium, Spain, the Netherlands, and elsewhere.

In Austria, a former chancellor and two of his ministers are under indictment for permitting artillery sales to Iran even after we showed them photos of their artillery pieces in Iran. These scandals paved the way for reform. Just last year, Germany drastically revised its laws to cut down on the voluminous exports that have frankly hurt us.

Mr. Chairman, our exporters have been angry at lost sales. Justifiably so. Now, we are finally getting others to tighten their export controls. This is not the time to loosen our own.

Mr. Chairman, under existing law we have been selling items we shouldn't to Iraq. This is not the time to loosen our controls.

The House Armed Services Committee has fashioned what I can only call modest amendments. All we are proposing is to hold the line. I urge my colleagues to support this amendment. It is the least we should do.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts [Mr. MAVROULES] has expired.

(On request of Mr. BEREUTER, and by unanimous consent, Mr. MAVROULES was allowed to proceed for 2 additional minutes.)

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

Mr. MAVROULES. I yield to the gentleman from Nebraska.

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

Mr. Chairman, as I read the import of part of the gentleman's amendment, it seems to me that the 2-year review of the list now has moved exclusively from the responsibility of the Secretary of Commerce to a generic description which would seem to me to involve the Secretary of Defense, and I assume that is the gentleman's contention.

Mr. MAVROULES. That is correct.

Mr. BEREUTER. I understand the gentleman's motivation, but I do recall the situation a few years ago when we had a gentleman in the Defense Department by the name of Richard Perle. During that period of time he seemed to influence the Defense Department to keep anything, including potentially, lunch buckets, from being exported—to the substantial detriment of our export base.

□ 1640

I am wondering if the gentleman could give me his idea of what kind of role, what kind of action, he would expect the Defense Department to take in the course of the review provided by his amendment. Will we see the extreme kind of situation in the Defense Department that we had some years ago?

I know what the gentleman is trying to accomplish. If the review is not abused, I think it is important on the matter of dual use technology.

Mr. MAVROULES. Mr. Speaker, reclaiming my time, I think my friend makes a very good point. The bottom line is I am trying to eliminate the erosion of the support that the Secretary of Defense needs for purposes of national security. I think we both agree to that.

Mr. BEREUTER. Mr. Chairman, if the gentleman will yield further, I assume the gentleman is not contemplating that the Defense Department is going to go back to the Perle-ized version of review?

Mr. MAVROULES. Mr. Chairman, reclaiming my time, no. Absolutely not. One thing we must realize is eventually this will go to the President. You will be surprised the decisions being made at the administration level. Regardless of what the Secretary of Commerce or the Secretary may recommend, ultimately on the hard decisions, they are all made at the Presidential level.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to put this in a little bit of context. I have the greatest respect and admiration for my friend, the gentleman from Massachusetts [Mr. MAVROULES]. Frankly, had it been any other individual, I think it would have been next to impossible for us to come to an agreement.

But I think we need to take a look at the recent history as we look at this and many other amendments.

The American sale of dual-sale technology that went into Iraq went there because it was national policy directed from the White House. When one examines the number of items that got through, there is no question that there was not a failure in the process by which we do our licensing. It was a conscious decision of American foreign policy, as it ought to be. Whether you agree with it or disagree with it, the President and the Secretary of State have to have their prerogatives.

The important thing for us is that when we take a look at the sales and the licensing, we must understand where there are problems and where there are not problems. The single greatest problem we faced over the last decade is that items that did not threaten American security, where there was no danger that American technology would aid our adversaries, got tied up in a bureaucratic nightmare that often lasts for years.

The example I used on the floor the other day of a company that spent 2½ years going between the agencies of Defense, Commerce, and State, just to find out who was supposed to listen to them, was an actual case history.

In this instance, we are willing, because of our confidence in the gentleman from Massachusetts [Mr. MAVROULES], to give some room for the Department of Defense to continue its role in reviewing the areas where it needs to review. But what we have got to remember is the Secretary of Commerce works for the President of the United States. He is a loyal American. The Secretary of State follows the instructions of the President of the United States.

What we have to make sure is when we draft this document, we recognize several things. First, the Berlin Wall was fallen. It is a different world out there. Our greatest threat today is economic.

Second, that we do not create a bureaucratic nightmare that the Executive cannot handle.

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

Mr. GEJDENSON. I yield to the gentleman from Nebraska.

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

Mr. Chairman, I want to make it clear as far as this Member is concerned the comments of the chairman are not partisan. It is a bipartisan description of what really happened during that period of time.

Last night, during the course of general debate, we had several Members talk about the egregious kind of examples that took place with respect to exports to Iraq.

The chairman is exactly right. In most of the instances brought up, as far as I know, that was the policy of the administration to permit those exports. That was not a hole in our process. Admittedly, there are some defects in that process, but that was an intentional export under existing policy at that time.

So those so-called horror stories were not horror stories at all. It was simply a change in policy because Iraq, after all, was in opposition to Iran. The conscious decision was to export those dual-use items to Iraq.

So I think the chairman has given a good indication of what really did happen and why all of these egregious examples were not egregious examples at all, but were policy being implemented.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, I think we might have had the same mistake in almost any administration. Any Executive taking these actions might have had the same inclinations. But there is no question that what the gentleman points to is we need to deal with real problems, and not try to deal with problems that did not exist.

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

Mr. GEJDENSON. I yield to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, this amendment appears to be a workable compromise of a very difficult issue that we have been wrestling with for a long time. The determination of the civilian end use is critical to the granting of presumption of approval for certain approved countries. It provides for the President to determine who will conduct the 2-year review of the control list. I believe this is a step forward in drafting a bill that can be approved with bipartisan support for this reason.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I rise also in favor of the amendment. Those of us who represent Silicon Valley had a great deal of trouble insofar as export licenses are concerned, where they have been unnecessarily held up. I believe a study made several years ago indicated that we lost in our balance of trade somewhere between $4 and $5 billion because of our export licensing.

Mr. Chairman, debate over export controls inevitably focuses on the threat to national security. While it is clear that we must prevent certain dangerous technologies from falling into the wrong hands, too often controls jeopardize security by hampering the ability of American manufacturers to compete in the world market.

H.R. 3489 gives the United States the ability to respond to rapidly changing international realities. But more important, it responds to the needs of American industry. I commend my colleagues on the Foreign Affairs Committee for bringing this important legislation to the floor and for their hard work and insight.

Throughout the decades of the cold war, our primary objective was to secure peace and promote democracy in the Eastern Bloc. We now have the opportunity to take that policy to its rational conclusion: To help those nations make the difficult transition to the free market, a task that our economic allies and competitors have already undertaken.

As a Representative from Silicon Valley, I am very concerned that unilateral export controls are preventing American high-technology products from reaching lucrative markets. In its most immediate application, this bill would help foster an export-led recovery by making available American technologies in the world marketplace. These products are readily available not only from our military allies, but from non-Cocom countries who have not agreed to abide by multilateral controls, countries such as China, Taiwan, and South Korea.

This legislation eliminates the assumption that any given technology has a dual use or will be used in a military or other unauthorized application. It reaffirms our policy, stated in Congress and in the White House, that license applications should be granted for items that are intended for civilian end use.

For many years, the licensing process was one of delay and uncertainty. In addition to opening markets abroad, this legislation would limit unwieldy bureaucratic procedures, minimize administrative infighting, and remove controls on exports and reexports to and from our Cocom allies.

Since the Export Administration Act expired on September 30, 1990, the White House has acted without statutory authority to impose export controls on American manufacturers. I urge my colleagues to support a rational and predictable trade policy and pass H.R. 3489.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to compliment the gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from Massachusetts [Mr. MAVROULES] for working out a compromise with the House Armed Services amendment. I think it is worthy of support, and I will support it.

In view of the comments by the gentleman from Connecticut, however, I am constrained to make a couple of remarks.

First of all, the compromise does not deal with an important area that ought to be dealt with, and that has to do with commodity jurisdiction. Second, the question that was raised as a matter of parliamentary inquiry had to do with the sunsetting provision, and, as I think we are all aware, there will be an amendment by the gentleman from California [Mr. HUNTER] later that is designed to simply strike the sunset language.

This compromise improves that language considerably, but the gentleman from California [Mr. HUNTER] will be offering to sunset it, which I think is probably a better overall solution.

I would like to make two other comments, one relating to commodity jurisdiction, and one relating to the comments of the gentleman from Connecticut [Mr. GEJDENSON].

The item that we do not deal with in this compromise, but was a subject of the House Committee on Armed Services amendment originally, would have tried to resolve the issue of commodity jurisdiction in the bill under which the goods and technologies that presently appear on the munitions control list, but do not appear on the international munitions list established by Cocom, would be removed.

I think this would have two very serious effects. First, it would restrict the ability of the United States to unilaterally control the export of any defense item if that item or technology is not agreed to by Cocom, which operates on a unanimous consensus basis.

What this means is that theoretically if the Italians want to make night vision goggles, take that off the list to facilitate the sale of Italian night vision goggles, then we could not control the export of U.S. made goggles under the existing procedures in this bill.

I think we should have dealt with that pursuant to the original amendment of the Committee on Armed Services.

Among the technologies that would automatically fall off of the U.S. munitions control list if this provision is adopted, and I presume it will be, are stealth technology, jet engine hot sections, space vehicles, antisubmarine warfare technology, composite materials, night vision technology, inertial navigation systems, global protection positioning systems, receivers, and Navy nuclear propulsion technology.

These are very important items which I think ought to remain under the jurisdiction of the President of the United States and not some other country, and therefore I think we ought to have dealt with it under the amendment.

Mr. Chairman, my second point relates directly to what the gentleman from Connecticut [Mr. GEJDENSON] just said.

Mr. Chairman, the gentleman has made the point and the gentleman from Nebraska [Mr. BEREUTER] concurred in the point that really the horror stories that have been adduced here are not really horror stories at all because, after all, we were trying to defeat Iran at the time and therefore it was administration policy to provide all of these technical things to Iraq at that time.

I think that that misses the point. I think the gentleman from Connecticut [Mr. GEJDENSON] and others on that side of the aisle have been just as critical as some of us on this side of the aisle of the position of the administration in providing all of that high tech equipment to Iraq.

The question I would ask is do we oppose that policy or not? Did we think it was a good idea for the White House to send all of that stuff to Iraq or not?

If we think it is a wonderful idea, then we can say what the gentleman from Connecticut [Mr. GEJDENSON] just said. But if we think it was a bad idea, in other words, if we disagree with the White House position that all of that equipment should not have been sent to Iraq, then what we should do is to move away from the situation which this bill promotes, which is that Commerce, which has a built-in conflict of interest have because it wants to open

up these sales, remove the situation where Commerce has the predominant role, and put the Department of Defense back in the loop, which, after all, it the department that has the best expertise with respect to the decision on whether or not this would negatively impact national security.

□ 1650

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

Mr. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, let me just say, this is an issue that involves profit, which is why I am amazed that the gentleman from California, who has been so vociferous on this floor in trying to lead a cause for peaceful settlements around the world, is supportive of this bill.

This bill puts profits ahead of the export of technologies that can be used to help blow up the world. That is what this is all about.

Now, we have got a compromise here which I am going to vote for the compromise because it is better than what we have. But to compromise and weaken a system that has already allowed people all over this world to build weapons, some of mass destruction, is terrible.

We are heading down a highway by loosening the restrictions in the name of profit against international security arrangements. We are putting profit first.

The CHAIRMAN pro tempore. (Mr. VOLKMER). The time of the gentleman from Arizona [Mr. KYL] has expired.

(On request of Mr. KASICH, and by unanimous consent, Mr. KYL was allowed to proceed for 2 additional minutes.)

Mr. KASICH. Mr. Chairman, if the gentleman will continue to yield, we are weakening the current system. The current system stinks. What we did with Iraq was terrible. What Glaspie did with Iraq was terrible. What the State Department did with Iraq was terrible.

My question is, who else are we arming at the present time? Who else cares we are selling sophisticated technologies that can be converted into weapons systems.

Yesterday it was Iraq. Tomorrow it may be Pakistan. The day after may be Brazil. Brazil has gone from a net importer of technologies and defense technologies to a net exporter of technologies.

The world is in trouble. We better wake up to the fact that companies want to make money. If in the process of making money they arm somebody, they do not seem to worry about it.

I do. I respect what the gentleman from Massachusetts is trying to do, but overall we are weakening. We are weakening the current regimen of stopping the flow of technologies to countries who have leaders who want to use those technologies to blow up the world, and it has got to stop.

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

Mr. KYL. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. Mr. Chairman, I agree with what the gentleman is saying. But let us get one thing straight. We are not the only country in the world. Other countries are getting smarter. They are getting better. They are getting bigger.

If we do not compete in that market, we are going to be drowned. What we are doing with this amendment is giving back to the Secretary of Defense some of the power that would have been taken out by the bill.

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

Mr. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I want to compliment the gentleman in giving him back some of the power. He not only ought to have all the power that he currently has but that power ought to be expanded, because what the world is experiencing is the dissemination of high technology items that can be used to develop sophisticated weapons, both conventional and strategic, that can be used to blow up entire sections of the world.

We have to stop it.

The CHAIRMAN pro tempore. The time of the gentleman from Arizona [Mr. KYL] has again expired.

(On request of Mr. KASICH, and by unanimous consent, Mr. KYL was allowed to proceed for 2 additional minutes.)

Mr. KASICH. Mr. Chairman, if the gentleman will continue to yield, the net effect of the bill of the gentleman from Connecticut [Mr. GEJDENSON], with the amendment of the gentleman from Massachusetts [Mr. MAVROULES], is to weaken the current situation. And the current situation is too weak as it is, because this current situation allows the businesses of this world, the arms merchants of this world, not just the arms merchants but those people who make systems that can be used to help the arms merchants, be able to put profit ahead of international security.

Saddam Hussein was literally months from having a missile system that was conventional, that had guidance systems in it, that could be exported that countries like us and our allies export to him. He was months away from having a nuclear device that could have been put on that missile.

The gentleman from Massachusetts says, "If we don't sell it, our allies will."

If we are a superpower like the President of the United States says that we are, then we ought to use our leverage as a superpower to not only pressure our allies to stop the flow of technologies that can be used to blow up the world, but the United States ought to use its leverage against our enemies who went to export technologies to blow up the world. This is not political.

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

Mr. KYL. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, Let me just say first of all, I would hope the gentleman would read the bill. What the bill does is it does change some things. It makes it more difficult to export even dual-use items to countries that are on the terrorist list. It makes it next to impossible to ship items to nuclear power plants in countries that are not part of a nuclear nonproliferation agreement, and it makes it more difficult to send these items to countries that have reliable end users in these countries.

The CHAIRMAN pro tempore. The time of the gentleman from Arizona [Mr. KYL] has again expired.

All time on this amendment will expire at 5:03.

(On request of Mr. KASICH, and by unanimous consent, Mr. KYL was allowed to proceed for 1 additional minute.)

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

Mr. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, why I feel so passionately about this is because I think we are talking about the future of the world. The gentleman from Connecticut says that one will not be allowed to ship any kind of devices to countries that do not let inspectors in. Does the gentleman know that North Korea has signed on to the Nonproliferation Treaty? Does the gentleman know that inspectors go into North Korea, and they have no confidence at all that the North Koreans are not building a nuclear bomb. In fact, defectors from North Korea have said that the North Koreans are absolutely trying to build a nuclear bomb. The Nuclear Nonproliferation Treaty does not mean anything in terms of restricting the bad actors in this world to develop systems.

Mr. GEJDENSON. Mr. Chairman, if the gentleman will continue to yield, North Korea is not on the list.

Mr. KASICH. Mr. Chairman, it is on the list today. We did not have Iraq on the list. We have Iraq on the list. We do not know who is next going to be on the list. We do not know who all the potential enemies are.

What we do know is, it is possible for leaders around the world to acquire sophisticated technologies that they could use to develop systems of destruction. It should be stopped.

Mr. BARNARD. Mr. Chairman, I rise in support of the Mavroules amendment offered on behalf of the Armed Services Committee to

strengthen the role of the Defense Department in the export administration process.

The Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, which I chair, engaged in a far-reaching investigation of sales licensed by the Commerce Department of dual use items to Iraq from 1985 to 1990. In September 1990, the subcommittee held a hearing on this subject, and we heard from Government witnesses and others regarding problems arising from these sales. The subcommittee had become concerned over reports that sales to Iraq from United States companies had contributed to that country's ability to wage war with missiles, and nuclear, biological, and chemical weapons.

The subcommittee prepared a comprehensive report on the subject. The report, entitled "Strengthening the Export Licensing System"—House Report, 102–137, dated July 2, 1991—was adopted by the full Government Operations Committee. It analyzes what is wrong with the system and makes numerous recommendations on how the Export Administration system might be improved.

Mr. Chairman, we discovered that there is a great deal wrong with the export licensing system now in place. One of the major problems we found is that the system is run by the Commerce Department, intent on sales to anyone who can pay, and the State Department, intent on not offending any of our so-called allies. The Defense Department is given only a minor role, but it is only DOD which objected to many sales to Iraq. The Defense Department deserves a greater role in export administration and the Armed Services Committee amendment would do this. I urge my colleagues to support this amendment. It also supports the major conclusions of the very comprehensive report adopted by the Government Operations Committee.

Mr. MORAN. Mr. Chairman, I rise to strike the requisite number of words, and I rise in support of this amendment specifically and in support of H.R. 3489 generally.

The fact is, it does bring a much greater degree of rationality and reason to the U.S. technology export laws.

For too long, manufacturers and marketers of high technology products in the United States have been forced to battle with export control laws that have been either confusing at their best or much too restrictive at their worst. Throughout the 1980's, while the Department of Defense battled with the Department of Commerce, and the White House battled with Congress, U.S. manufacturers of high technology were practically forbidden from marketing their goods abroad at a time when many of our allies were.

This legislation will bring some semblance of consistency to our export laws by requiring the rationalization of commercial and munitions control lists and by clearly defining the jurisdiction of the Departments of Defense and Commerce in making export recommendations. Furthermore, this legislation contains significant export promotion provisions that would strengthen U.S. industry's ability to export at a time when our economy desperately need it. This legislation doesn't give away the store of U.S. technology, nor will it allow for Third World terrorist nations to produce nuclear weapons. It will allow American companies to participate in the global technology market.

In Northern Virginia and across this Nation we have many, many companies that could benefit immensely from a coherent, organized set of export control laws. The Omnibus Export Amendments of 1991 will provide that guidance.

□ 1700

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

Mr. MORAN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would just like to close by again commending the gentleman from Massachusetts for his efforts in reaching agreement on this amendment and say what we have here before us is a bill that recognizes that the Berlin Wall has come down, that there are certain technologies we need to protect, that there are certain technologies that are generally available that we need to have out there competing and on the cutting edge to make sure we have an economy left to lead the world with. We need to make sure that this process does not tie manufacturers in such knots that they always opt to go to Japan, Germany, France, or England rather than come to the United States.

Half of what this bill does is deal with trade between the United States and our Western allies. We are not going far from what the administration wants except for in one area, and that is we are tougher than the administration wants on terrorist countries and on nuclear nonproliferation. Those are the two big disagreements with the administration.

We have a bill here that recognizes national security but also recognizes that our national security is based on economic viability.

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

Mr. MORAN. I yield to the gentleman from Arizona.

Mr. KYL. Mr. Chairman, I want to make it clear to our colleagues with respect to the amendment which is the subject of our discussion, we are all in agreement and Members should not be put off by our disagreement on other matters, and should all vote aye on this amendment. I just want to make that point clear, and I thank the gentleman for yielding.

Mr. MORAN. I thank the gentleman and I yield back the balance of my time.

The CHAIRMAN pro tempore. (Mr. VOLKMER). The question is on the amendment offered by the gentleman from Massachusetts [Mr. MAVROULES].

The amendment was agreed to.

Mr. HORTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the chairman of the subcommittee, the gentleman from Connecticut [Mr. GEJDENSON], in a colloquy.

Mr. Chairman, on June 6, 1990 we discussed the problem that was created with respect to the Export Administration Act by a decision of the U.S. Court of Appeals for the Ninth Circuit in *Spawr Optical Research, Inc.* v. *United States*, 864 F.2d 1467 (1988). The problem is that since this judicial decision there is no longer a clear nationwide rule governing the burden of proof the U.S. Government must sustain in criminal prosecutions under the Export Administration Act. In that colloguy on June 6, 1990, it was agreed that the court of appeals for the ninth circuit had misapprehended the Export Administration Act requirement that the U.S. Government must prove that the exported item was, in fact, listed by the Secretary of Commerce on the commodity control list, thus creating the legal requirement to obtain a validated license prior to export.

In your position as chairman of the Subcommittee on International Economic Policy and Trade of the House Committee on Foreign Affairs, is this your understanding of the law.

Mr. GEJDENSON. If the gentleman will yield, that is correct.

Mr. McCANDLESS. Mr. Chairman will the gentleman yield?

Mr. HORTON. I yield to the gentleman from California.

Mr. McCANDLESS. I would like to add that Federal courts in the first and eighth circuits have issued decisions which enunciate the legally correct interpretation of the Export Administration Act. For example, in *United States* v. *Gregg*, 829 F.2d 1430, 1437 (8th Cir. 1987) the eighth circuit clearly stated "when the case gets to court, all the government needs to prove is that the item exported appears on the munitions list or the commodity control list, as the case may be, and that the defendant knowingly and willfully exported it, with the necessary intent and knowledge, and without an appropriate license." The same rule applies in the first circuit. *United States* v. *Moller-Butcher*, 560 F. Supp. 552–553 (D. Mass. 1983).

In an earlier colloquy, Chairman GEJDENSON made it explicitly clear that these cases have properly interpreted the Export Administration Act. He stated that the report on H.R. 4653 makes it explicitly clear that it was and is Congress' intent to require the Government to [prove] in criminal prosecutions under the act, that the commodity in question was in fact listed on the commodity control list. If a commodity was not listed, it would not be a crime under the act to export it without a license. Mr. Chairman, is

this still the gentleman's understanding of the law.

Mr. GEJDENSON. Mr. Chairman, if the gentleman from New York will yield; yes, it is.

Mr. HORTON. Finally, as I did in our earlier colloquy on this issue I would like to note that the ninth circuit has issued yet another decision which aggravates the problem. On September 14, 1990, the Court of Appeals for the Ninth Circuit in a case styled United States versus Mandel, reaffirmed the Spawr decision as the controlling precedent governing the burden of proof the U.S. Government must prove in criminal prosecutions under the Export Administration Act.

Under the Spawr decision, the ninth circuit held that the U.S. Government need not prove beyond a reasonable doubt that the commodity in issue had been listed on the commodity control list and therefore was subject to the export licensing requirement. Mandel reaffirms the Spawr holding and explicitly reiterates that judges and juries must accept without question the U.S. Government's allegation that the Secretary of Commerce had listed the commodity on the commodity control list prior to the export of the commodity.

We cannot continue to allow the proliferation of the Spawr decision to wreak havoc on our export trade and the free exchange of technical and scientific ideas. It is clear that the lack of a uniform national standard concerning the burden of proof in criminal prosecutions under the Export Administration Act adversely impacts the dissemination of scientific information, creates a chilling effect on the free exchange of ideas, and impairs our export trade. I have been contacted by scientists and exporters who urge Congress to clarify this matter and to reestablish a uniform nationwide rule. I reiterate that the Optical Society of America believes that the Spawr decision has created an intolerable situation and urges Congress to establish a uniform national rule, namely the Gregg rule, and to repudiate the misinterpretation of the law by the ninth circuit in the Spawr decision.

Subsequent to our colloquy in this matter, Congress passed legislation which would have extended the Export Administration Act with amendments not germane to this problem. The President vetoed this legislation for reasons that, again, are not germane to this problem. The status quo ante under the Export Administration Act is now maintained by Executive order.

Whether the Export Administration Act is kept in force by Executive order or extended legislatively, the problem remains that the ninth circuit has misapprehended that law. In the interval since our earlier colloquy it has come to my attention that yet another case has been decided by a Federal district court in the ninth circuit in which the Spawr case and the Mandel case are treated as the law of the circuit. I refer here to *United States* v. *Adelkadar Helmy* at 712 F. Supp. 1423 (E.D. Calif. 1989). Does the gentleman from Connecticut join us in the desire to see the ninth circuit remedy the problem created by the Spawr case?

Mr. GEJDENSON. Mr. Chairman, I join the gentleman from New York and the gentleman from California in calling on the ninth circuit to reverse itself and thereby join in the uniform national rule established by the Gregg and Moller-Butcher cases which correctly interpret the intent of Congress.

AMENDMENT OFFERED BY MR. MCEWEN

Mr. MCEWEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCEWEN: Page 63, strike lines 17 through 19, and insert the following:

any successor confederation or entity—

(1) takes action to restrict the emigration of Jews from the Soviet Union or such successor confederation or entity;

(2) has not been freely and democratically chosen or is not moving toward a free society and a free market;

(3) is providing military or economic assistance (including subsidized trade arrangements) to Cuba, Vietnam, Angola, North Korea, or any organization in any country which seeks the violent overthrow of a democratically elected government; or

(4) devotes more than 15 percent of its annual expenditures to military activities, including weapons procurement, unless the President reports to the Congress that such defense expenditures are justified by extraordinary defense or security requirements.

Mr. MCEWEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MCEWEN. Mr. Chairman, section 126 of this bill states that no exports regulated by this act would be permitted to the Soviet Union or successor states if the Soviet Union takes action to restrict the emigration of Jews from the Soviet Union. I support that condition, but I also support three additional suggestions to the export of sensitive technologies to the Soviet Union.

These conditions are: First, that the government has been democratically elected and is moving toward a free market and free society;

Second, that no foreign aid of any kind is being sent to Cuba, Vietnam, Angola or North Korea; and

Third, that defense expenditures have been reduced to 15 percent or less of their budget.

It is in the best interest of the Soviet people, and the American taxpayer, that these conditions are met before high technology items are sold to the Soviet Union.

Although it will be some time before economic and political stability returns to the Soviet Union, we do have an opportunity to encourage positive changes in Soviet military and foreign policy, along with free market and democratic reforms in the Republics.

During this time of crisis in the Soviet Union, one thing is clear: the United States Congress must place itself firmly in the corner of the reformers in that country.

Nearly all reformers have called for an end to Soviet foreign aid, and also to significant reductions in the military expenditures of the Soviet Central Government. Such action would also be in the national interest of the United States. Therefore, those are two of the conditions that this amendment would recommend on high technology exports to the Soviet Union.

High technology exports should also be prohibited to governments, either the central or republic authorities, which are not democratically elected and proceeding directly toward a free market and free society. High technology will not be able to rescue the failed Socialist economy of the Soviet Union. Major reform will.

It is evident that significant foreign credit will be requested by the Soviet Union in order to fund imports. It is also likely that they will not be able to meet the payment schedules on billions of dollars of loans from Western European banks. In this economic climate, high technology exports, which will likely be financed by some combination of private and public credit offers, should only be made if governments are well on their way toward significant economic and political reform.

Support this amendment and stand with the brave reformers in the Soviet Union.

Stand with Boris Yeltsin who calls for cutting Soviet defense spending, ending aid to countries like Cuba, and making significant free market and democratic reforms. Those are the conditions in this amendment, and those are conditions every one of us should support.

□ 1710

MODIFICATION TO AMENDMENT OFFERED BY MR. DURBIN

Mr. DURBIN. Mr. Chairman, I would like to support the gentleman's amendment, and I think he is on the right track, but I would like to suggest to him that he consider adding another clause which would say as follows; that the Soviet Union also "agrees to expeditiously withdraw all Soviet troops from the Baltic nations of Lithuania, Latvia, and Estonia."

Mr. MCEWEN. Mr. Chairman, I think the gentleman has made an excellent suggestion.

Mr. Chairman, I ask unanimous consent that that be included in our amendment.

The CHAIRMAN pro tempore (Mr. VOLKMER). Is the modification in writing?

Mr. DURBIN. Mr. Chairman, it is in writing.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. DURBIN: At the end of the McEwen amendment add the following new paragraph:

(5) agrees to expeditiously withdraw all Soviet troops from the Baltic nations of Lithuania, Latvia and Estonia.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified by the modification.

The text of the amendment, as modified, is as follows:

Page 63, strike lines 17 through 19, and insert the following:

any successor confederation or entity—

(1) takes action to restrict the emigration of Jews from the Soviet Union or such successor confederation or entity;

(2) has not been freely and democratically chosen or is not moving toward a free society and a free market;

(3) is providing military or economic assistance (including subsidized trade arrangements) to Cuba, Vietnam, Angola, North Korea, or any organization in any country which seeks the violent overthrow of a democratically elected government; or

(4) devotes more than 15 percent of its annual expenditures to military activities, including weapons procurement, unless the President reports to the Congress that such defense expenditures are justified by extradordinary defense or security requirements,

(5) agrees to expeditiously withdraw all Soviet troops from the Baltic nations of Lithuania, Latvia, and Estonia.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I recognize the intent of the gentleman in the well is sincere, and I certainly support much of his intent, and I would say that was an excellent addition by the gentleman from Illinois.

What troubles me is I remember sitting at a conference, frankly, with, and I think it was the gentleman from Florida, from the other body, the junior Senator from the other body, and he wanted to take away any of the seed assistance to an Eastern European country that traded with Nicaragua, controlled by the Sandinistas. I said to the gentleman, "Well, what would happen if suddenly the Sandinistas were no longer in control of Nicaragua, and what if Violeta Chamorro won the election, and the Polish Government had trade with Nicaragua? We would have to take away any support providing for this growing democracy in Poland." So it seems to me that the most difficult section of this is that section 3, and that is that it gets very hard to distinguish between trade and aid.

If you take a newly free country like Lithuania, which it is my understanding is manufacturing bolts and nails and things, and they used to go all over the Soviet empire. Frankly, Lithuanians do not have a lot of economic options, and if we find that the Lithuanians are trading with the Vietnamese or the North Koreans and somehow somebody argues that, it just complicates the matter.

If the gentleman would accept an amendment striking section 3, then, you know, I think he would have broad support in the Congress, and it is just that when you put these things in, then you end up complicating life so much, although the intent may be very good.

These countries do not have a lot of economic relationships with the West, because the goods they make in general cannot compete in the West. They are new democracies in many instances.

I agree with the gentleman that we have got democratic governments, and let us not put hurdles in front of these democratic governments in Poland, Czechoslovakia, Hungary, Lithuania, and all of these countries, Latvia, Estonia, and hopefully as the Baltic republics become democratic, let us give them some time for the transition. Let us not kill them as they are trying to move toward democracy.

AMENDMENT OFFERED BY MR. GEJDENSON TO THE AMENDMENT, OFFERED BY MR. MCEWEN, AS MODIFIED

Mr. GEJDENSON. Mr. Chairman, I offer an amendment to the amendment, as modified, which I believe would strike lines 7 through 11.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON to the amendment offered by Mr. MCEWEN, as modified: Strike lines 7 through 11.

Line 6, add "or" after the semicolon.

Line 12, strike "(4)" and insert "(3)".

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

Mr. GEJDENSON. I am happy to yield to the gentleman from Nevada.

Mr. BILBRAY. Mr. Chairman, I would like to ask the gentleman, in that I am concerned about two areas that we have worked on in the committee: First of all, the Soviet Union has no way of knowing what percentage of their assets go into their manufacturing of military equipment. They are so confused, and they have no way of knowing.

Who determines at what point they reach 15 percent of their gross national product into defense? Are we going to be looking to our Defense Department to determine that when we have no way of really ascertaining that?

Second, is there a hold-in period for as they emerge toward these democracies?

Right now, as I understand it, most of the technology that we want to sell to the now successors to the Soviet empire is to help them get their production going to be able to distribute food and actual materials throughout their country. It may well be that by the gentleman's definition that some of these republics do not have freely democratically elected governments at the present time, but are certainly evolving toward that.

Do we prohibit sales to those entities during this transformation period?

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

Mr. GEJDENSON. I am happy to yield to the gentleman from Ohio.

Mr. MCEWEN. Mr. Chairman, if I may respond, let me just simply say that this has been worked out with the majority. Section 108 would make it mandatory. I have introduced this amendment to section 126 which is a sense-of-the-Congress for precisely the reasons that the gentleman mentioned, that it is so extremely difficult to calculate.

The verbiage that I have used in my amendment comes from the reformers in the Soviet Union. I was privileged to meet with Mr. GIBBONS in the first meeting that Boris Pankin, the new Foreign Minister for the Soviet Union, had, and he began the meeting by saying how excited he was that his first meeting as Foreign Minister was with Americans, and we discussed Cuba.

He said that he felt that aid to Cuba for the purpose of revolution was immoral, and the first thing he was going to do was to recommend their no longer doing it.

So everything that I have here are suggestions as to where they want to go to help them. They are placed in this position of the U.S. Congress as a sense in support of those statements which they have publicly made to reduce these defense expenditures and send aid to these other countries.

Mr. GEJDENSON. Reclaiming my time just for one second, let us take a look whether it is the Ukraine, the Baltic States, whether they are in some kind of economic union or not, they are tying to survive. We are not giving them any assistance. We do not have the money here. Everybody recognizes that. They are selling nails to Cuba.

If they need to subsidize the shipment to get the nails there or something, leave them alone. Let these countries get on their feet before you start kicking them.

Mr. MCEWEN. If the gentleman will yield further, the gentleman has a misunderstanding, I think, and I think it can be immediately corrected.

If I may read the amendment, it says, "providing military or economic assistance." It does not say trade. It says military or economic assistance to any organization that seeks the violent overthrow of a democratically elected government.

If the United States of America cannot stand against these poor countries being involved in the violent overthrow of democratic governments, then I submit that our foreign-aid program is a little too liberal.

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

Mr. GEJDENSON. I am happy to yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, as I understand this, this is a sense-of-Congress resolution, and it expresses what we hope will occur, and since it is nonbinding, just a sense-of-the-Congress resolution, it does not bind the executive branch and is merely a statement to add to our wish list, and I recommend that we accept the amendment.

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

Mr. GEJDENSON. I am happy to yield to the gentleman from New York.

Mr. HOUGHTON. Mr. Chairman, I do not disagree with that. I think we ought to face reality here, and the reality is that if we want to trade with the Soviet Union that we are not going to be able to, because we are never going to be able to meet these particular conditions.

□ 1720

What happens to our businesses that want to trade is they really dry up, because in the real world this is not going to affect the English or the Germans or the Japanese. They are going to trade, and once again they are going to take our markets away from us.

So I am sorry that this is even the intent of Congress.

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

Mr. GEJDENSON. I yield to the gentleman from Ohio.

Mr. MCEWEN. Mr. Chairman, the language says, "Any organization or country that seeks the violent overthrow of democratically elected governments."

We are in the process of defending freedom and democracy in the world. They are asking for access to unique technology for that purpose, and merely stating that are opposed to using it for that purpose is certainly not overly demanding on our part, in my judgment.

Mr. GEJDENSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. VOLKMER). The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] to the amendment offered by the gentleman from Ohio [Mr. MCEWEN], as modified.

The amendment to the amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio, as amended, as modified.

The amendment, as amended, as modified, was agreed to.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the last word.

I would like to engage in a colloquy with the ranking member on a subject that is of importance to businesses in my district, and that is the export of medical equipment for humanitarian purposes.

Section 119 amends 6(j) of the act regarding countries supporting international terrorism. It contains a provision allowing an exception for "humanitarian purposes." Is it your understanding that medical equipment, as described in section 5(g) of the act would fall under this exception?

Mr. ROTH. Mr. Chairman, if the gentleman will yield, yes, all medical instrumentation and computers that are integral to the functioning of medical equipment would fall into the exception from foreign policy controls under this provision. By integral I mean that the specific equipment in question requires a computer to function properly and as intended. Various types of medical equipment can operate with any number of different computers. This amendment would allow to be licensed only medical instrumentation commonly sold to the United States, or other free world customers, purchasing the same or similar equipment. It would not, for example, allow a supercomputer to be licensed because it is attached to a magnetic resonance imager. But, it would allow that computer which is ordinarily and customarily used in conjunction with MRI equipment to be eligible for an individual validated license. Similarly, it would not allow instrumentation to be licensed to any and all end-users, but it would allow, for example, such instrumentation that is necessary and appropriate to fetal or heart monitoring to be eligible for license to bona fide medical institutions.

Mr. MILLER of Washington. Could computer associated with medical instruments be used for nonmedical purposes, thwarting the effect of the U.S. foreign policy export controls?

Mr. ROTH. That would be an extraordinarily expensive and inefficient means of obtaining the computers. The items in question, without associated medical equipment, could be purchased directly from our allies in Europe or Asia for a fraction of the cost of obtaining them from United States companies.

Because medical instrumentation and the integral computers would only be exported as medical equipment and because the items themselves could be purchased from the competitors of United States companies in Europe and Asia, the only logical explanation for their sale is that those products are needed for legitimate medical purposes. Under these particular circumstances, humanitarian concerns dictate that the export be permitted.

Mr. MILLER of Washington. Mr. Chairman, I want to thank my colleague, the gentleman from Wisconsin. I appreciate this responses.

Mr. Chairman, I support H.R. 3489, the Omnibus Export Act of 1991. This act brings timely and important improvements to our export control laws by acknowledging the enormous changes that have taken place throughout the world since we last considered our export control laws. This is very important: Last year U.S. exports were responsible for 88 percent of the increase in our GNP. This is an act that will help our exporters bring growth back to our economy.

For our exporters to continue to compete, U.S. laws must catch up with rapid changes throughout the world. Our export control laws must reflect the failed coup in the Soviet Union this past August. This act begins to make those changes. For instance, the act liberalizes export controls to Eastern Europe, the Baltics, and the Soviet Union.

This act recognizes other dangers in our world. For instance, the bill tightens export controls for terrorist countries, such as Iran, Syria, Iraq, and Libya. The act also includes a provision I offered in committee, establishing a set of human rights principles for United States companies operating in China.

But for all this act's merits, we should remember that this is a short-term effort. Its intent is to help our exporters now while we prepare to comprehensively rewrite our export control laws. The result is a slightly schizophrenic act. On the one hand, this act liberalizes exports to the Soviet Union and former Eastern bloc countries. On the other, it restricts exports to the Middle East and other dangerous regions.

Moreover, the act wants to make our export controls multilateral, and succeeds at this on an East-West basis, but fails on a North-South basis. This contradiction is a result of history: Our export controls were built around the cold war.

But the cold war is ending. While the end of the cold war does not end the need for export controls, it does mean that our export controls must be reshaped from top to bottom. Cocom, the major multilateral export control mechanism designed for East-West controls, is rapidly losing its relevance. Congress and the administration must strive to establish effective multilateral export control regimes for the new world order.

This act contains a provision that I worked on in subcommittee establishing a time line for decontrolling the Baltic countries of Lithuania, Latvia, and Estonia. First, within 30 days after enactment of the act, the United States must ask Cocom to give the Baltics the status that Poland, Hungary, and Czechoslovakia had as of September 1990. That is, liberalization of telecommunications equipment and technology. Second, the Baltics will be even further decontrolled once they meet these three conditions: Implement an effective export control system; adopt arrangements for end-use assurances and onsite inspection and verification; and terminate intelligence cooperation with other controlled countries; for example, the remaining Soviet Union. Third, the act further directs the administration to provide technical assistance to aid the Baltics' in meeting

these three conditions. Finally, 120 days after enactment of the act, the President must determine whether Latvia, Lithuania, and Estonia should be removed completely from the list of controlled countries.

We must move quickly to allow greater exports to the Baltics, both to help those countries, and to help our exporters. Without modern telecommunications equipment, it will be difficult for other United States, Baltic, and foreign companies to do business. If a company cannot call an employee in Lithuania, or send a fax from Latvia, or communicate to Estonia, they will not be able to do business in today's world. Without such business, the Baltics cannot hope to achieve the economic reform they are striving for. And in today's highly competitive world, we cannot penalize our exporters merely because it took us too long to change our export laws.

Some have urged caution in allowing exports to the Baltics and Eastern European countries. They are apparently worried that these countries will turn over technology to the Central Government of the Soviet Union. However, these countries are more likely to exercise care than our other European allies. The Baltics are more suspicious of the Soviet Union and rogue countries than we are ourselves.

Liberalizing our export controls to these countries will contribute to further democratization and free-market reforms there. Many have argued that we cannot afford to give aid to these countries. But allowing our exporters to do business in these countries is aid we can afford. It costs the taxpayers nothing, and, in fact, helps the American taxpayer. It helps American exporters who are the engine driving the U.S. economy.

This act also includes a provision I offered during the Foreign Affairs Committee's work on the act. My provision establishes a set of human rights principles for United States companies operating in China. The principles include asking U.S. companies not to use goods produced by forced labor and asking U.S. companies to raise the issue of political prisoners in their contacts. The United States has the power to have a positive influence on events in China. My amendment does this by enlisting the powerful tool of United States businesses in the struggle for freedom and democracy in China. My amendment is based on legislation I introduced and is cosponsored by, among others, the cochairs of the congressional human rights caucus, Mr. LANTOS and Mr. PORTER.

Mr. Chairman, I am pleased to have helped keep language in the bill regarding mass-market software in the act. This language stipulates that mass-marketed software is to be moved off the munitions list to the commodity list, which is overseen by the Commerce Department.

This language benefits our software exporters because the Commerce Department must approve or deny export applications within 30 days. As a munitions item, overseen by the State Department, a decision on a license often takes much, much longer.

A software feature known as encryption is at the heart of this language. Encryption is an increasingly popular software feature which scrambles the contents of a computer file for everyone but the designated user. Under present law, software with an encryption feature is treated as a munitions item. Mr. Chairman, I could leave the floor now and be back within an hour having purchased and sent overseas, to any country in the world, via a computer modem, encryption software.

When a munitions item can be purchased at any retail software outlet anywhere in the country, by anyone, and transferred by phone anywhere in the world, then it clearly has become futile to consider this software a munitions item. Without helping national security, we are doing great harm to our exporters.

Mass-marketed software, by its very nature, is widely available and difficult, if not impossible, to control. This is a case where our export controls have become anachronistic. The language in this bill cures this problem.

Mr. Chairman, this is a good act, worthy of passage. But, for the sake of our economy, we must soon revisit this issue in a comprehensive manner. Fortunately, we have in the chairman of the subcommittee, Mr. GEJDENSON, and the ranking Republican, Mr. ROTH, leadership up to the task. Washington is the most trade dependent State in the Union; 1 in every 5 jobs is trade related. Washington State will be depending on our subcommittee's good work.

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

Mr. MILLER of Washington. Yes, I am happy to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I rise because I think this whole issue raises a very good point. What the gentleman from Washington was concerned about was the type of computer that we were going to export and the fact that this computer had to be used for medical research and was not applicable for using to develop ballistic missiles.

The interesting point about this is that there was a company in Chicago that exported a super computer to Brazil. Brazil used a super computer to produce a ballistic missile. Brazil is the fourth largest arms exporter in the world. We suspect they could have been involved in exporting this deadly technology to Iraq.

The comment I wanted to make to the gentleman from Washington is that the gentleman from California [Mr. HUNTER] is going to be offering an amendment that will allow the Secretary of Defense to weigh in on these issues. Clearly, the Secretary of Defense is not going to veto the shipment of a computer that is connected to an MRI scanner that is clearly only to be used in the area of health technologies, but the Secretary of Defense may want to weigh in against the super computer that we may want to ship to Brazil.

The danger in this legislation is when you do not make the Secretary of Defense paramount as the arbiter of these decisions.

In terms of the gentleman from Wisconsin, I applaud him for his efforts to allow health-related computers to move forward.

I also applaud him for his ability to let me use some of his time to promote something that I think the gentleman understands I feel so strongly about.

Mr. MILLER of Washington. Mr. Chairman, I thank the gentleman for his comments.

I think much of the debate here, I have to say, reflects frustration with things that have gone on in the past. In the case of medical instruments, as members of the subcommittee know, going back several years, there were cases where the administration through the Defense Department——

The CHAIRMAN pro tempore. The time of the gentleman from Washington has expired.

(At the request of Mr. GEJDENSON, and by unanimous consent, Mr. MILLER of Washington was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Washington. There were cases, Mr. Chairman, where the administration through the Defense Department did hold up and delay fetal heart monitors, so as we deal with these issues we are trying to correct and trying to see that those errors and difficulties of the past do not reoccur.

Mr. Chairman, I thank the House and my colleagues for their indulgence.

Mr. GEJDENSON. Mr. Chairman, I would just like to say in the remainder of my time here, I want to thank the gentleman from Washington [Mr. MILLER] for his work in this and so many other areas that he has been helpful with on the committee.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: Page 48, insert the following after line 15 and redesignate succeeding sections, and references thereto, accordingly:

SEC. 120. REVIEW OF LICENSES.

(a) AUTHORITY OF SECRETARY DEFINED.—

(1) AUTHORITY.—The Secretary of Defense is authorized to review any proposed export of any goods or technology under the Export Administration Act of 1979 to any country, and to recommend to the President that such export be disapproved whenever the Secretary of Defense determines that the export of such goods or technology could make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any country.

(2) DEPARTMENT OF DEFENSE TECHNOLOGY REVIEW LIST.—The Secretary of Defense shall determine categories of transactions which will be reviewed by the Secretary of Defense in order to make a determination referred to in paragraph (1). The Secretary of Defense shall submit this determination to the Secretary of Commerce in the form of a list, which shall be referred to as the "Department of Defense Technology Review List". Whenever a license or other authority is requested for the export of any item on such list, the Secretary of Commerce shall refer the application to the Secretary of Defense. The Secretary of Commerce may not issue any license or other authority pursuant to such request before the expiration of the pe-

riod within which the President may disapprove such export. The Secretary of Defense shall carefully consider any notification submitted by the Secretary of Commerce pursuant to this paragraph and, not later than 20 days after notification of the request, shall—

(A) recommend to the President and the Secretary of Commerce that he disapprove any request for the export of the goods or technology involved to the particular country if the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would provide detrimental to the national security of the United States, to the military potential of such country or any other country;

(B) notify the Secretary of Commerce that he would recommend approval subject to specified conditions; or

(C) recommend to the Secretary of Commerce that the export of goods or technology be approved.

(3) TIME PERIODS FOR ACTION.—The Secretary of Commerce shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this section, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in section 10 of the Export Administration Act of 1979.

(4) RESOLUTION TO DISAGREEMENTS.—Whenever the Secretary of Defense makes a recommendation to the President pursuant to paragraph (2)(A), the Secretary of Commerce shall also submit his recommendation to the President on the request to export if the Secretary differs with the Secretary of Defense. If the President notifies the Secretary, within 20 days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country. If the Secretary of Defense fails to make a recommendation or notification under paragraph (2) within the 20-day period specified in the 5th sentence of such paragraph, or if the President, within 20 days after receiving a recommendation from the Secretary of Defense with respect to an export, fails to notify the Secretary of Commerce that he approves or disapproves the export, the Secretary of Commerce shall approve or deny the request for a license or other authority to export without such recommendation or notification.

(5) REVISION OF LIST.—The Secretary of Defense shall revise the Secretary of Defense Technology Review List as often as the Secretary of Defense determines is necessary.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. HUNTER. Mr. Chairman, I think that the debate that we are having and the amendments that we are going to be voting on here shortly, including this amendment, are every bit as important as the amendment that we vote on with respect to the armed services bill.

When we talk about technology transfer, never has there been a time in our history when we can more truthfully say that this is a matter of life and death.

Let me just compliment my two friends, the gentleman from Arizona [Mr. KYL] and the gentleman from Ohio [Mr. KASICH], because those two gentlemen stood on this floor with me over a year ago before the invasion by Saddam Hussein of Kuwait, and they said to me that there was a flow of American technology into the wrong hands, that this was dangerous to the United States and that we had to change the way we did things.

Very shortly after that, we heard many, many people talking about the importance of selling overseas and the fact that you have to be aggressive and, yes, we make a few mistakes, but let us let the Commerce Department make the decisions as to what we should sell and what we should not sell.

Mr. Chairman, that has been an unmitigated disaster. All of the attempts of the other side to rehabilitate the Commerce Department and the decisions that they have made, and I am referring to the Committee on Government Operations report, which is devastating for the Commerce Department. I am referring to such groups that I never thought I would be working in conjunction with, like the Wisconsin Group on Arms Control.

Our young men and women in Desert Storm went into harm's way and the harm was created by American technology that was delivered most often with the blessing of the Commerce Department into the hands of people who aimed it at 19- and 20-year-old American kids. The record again is devastating in its implications.

The facts are, the Commerce Department has the job of selling. That job is inherently in conflict with the job of the Secretary of Defense, which is the job of defending, defending not only the people of this country, but defending the young men and women who wear the uniform of the United States.

Now, let me quote a few things from the Government Operations Report, chaired by the fine gentleman from Georgia [Mr. BARNARD].

While it is not possible to prove that Commerce's bias to promote exports contributed to the skull furnace near disaster * * *

The skull furnace, my friends, was a system that we sold Iraq with the approval of the Commerce Department, which was utilized in the nuclear program by Saddam Hussein.

The committee goes on:

The committee believes it would be naive to attribute Commerce's decision to permit the sale to a simple lack of coordination.

It is likely that Commerce's mission to promote exports clouded the agency's ability to perform its secondary mission. That is the mission to deny sales in cases where a likely but not quite proven threat to U.S. security existed.

Now, let me quote the words of the president of Consarc, Mr. Roberts, who said,

We are being encouraged by the Commerce Department in Washington and by the U.S. embassy in Baghdad to go get this order. We are being told to go out and sell. The feeling we got from our Government is that this is business and we should be going after it.

□ 1730

Now, I want to be fair to the Commerce Department. I talked with them a few minutes ago. They said, "You know, we did run that by Defense." And, you know, Defense is going to say, in fact maybe Mr. GEJDENSON is going to show their response, it says Defense did clear this. You know, it is funny, they did clear it. We got a sign-off on Defense and the sheet that came from Commerce. But you know how Commerce described this transfer of electronics and skull furnaces to be used in the nuclear program for Saddam Hussein. Get ready:

It is for use in furnace systems sold to the Republic of Iraq for development work in materials science technology and the production of medical prostheses.

Now, I think that reflects either the incredible naivete or a desire to mislead or just horrible negligence on the part of Commerce.

Now, it is possible that Defense then got this request to sign off on this thing and they saw "medical prostheses" and they signed off. But the record is so full that that explanation withers as you go down through the pages of the Committee on Government Operations' report.

They go on:

Commerce's poor coordination and institutional bias to promote exports likely combined in the case of Iraq to allow the sale of technologies that may have helped the aggressor nation's missile and nuclear, chemical, and biological weapons development program. Defense tried hard to prevent these sales from going through, but was ignored or overruled.

Now, I go to another case, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 5 additional minutes.)

Mr. HUNTER. Mr. Chairman, I go to the case of the Scud missile program. Two export licenses that were issued on January 20 and February 10, 1988.

Do you know who those went to? A big $1.4 million sale; no money was involved here, to speak of. They went directly to the Iraqi Scud missile program. And they went over the objection, according to the Committee on Government Operations report, of Defense.

So the record is replete, Mr. Chairman and my colleagues, with instances where Commerce did not act in the total interest of the United States of America, not simply because they were negligent and sometimes, I think, because they wanted to sell aggressively, and other times because they just did not have the military expertise to understand what was important.

Let me finish here, and then I will yield to my friend, the gentleman from Ohio [Mr. KASICH], who has done such a great job here.

The point here is we are talking about expertise.

Now, who has expertise if you have a certain computer or some type of a machine tool, who has expertise on whether or not that is an item that can be used in warfare? It is not the people who are salesmen in the Department of Commerce; it is the people who are in the Department of Defense who understand warfare.

The problem is, as we give more and more of this control to the Department of Commerce, we are phasing out the people who might be able to catch something, who might be able to say, "Wait a minute, that is not a prosthesis. These guys are going to use this thing in a very deadly way."

You have to have the ability of the Department of Defense to act proactively.

Do you know what our problem is? Our problem is that the Department of Defense has to kind of hover around the Department of Commerce, they have to fish, and if they get some information, they might go out and be able to stop an airplane before it leaves the airport. We are always running out on these cliffhangers and trying to grab onto something before it leaves the station.

Now let me offer my amendment.

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

Mr. HUNTER. I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, let me make one point: I say to the gentleman from California, the argument against all the Iraqi examples is that they are going to say that Iraq is now listed as a terrorist state and, therefore, the restrictions are tough.

Well, my concern is not just with Iraq. Let us take Brazil: The Commerce Department approved the sale of two major components for ballistic missile technology, large motor rocket castings, and also this supercomputer. We sold this stuff to Brazil. Commerce said fine.

So DOD did not object to this sale. So what happens?

Well, we give these two technologies to Brazil, they develop ballistic missile technology. They have now become the fourth largest exporter of arms in the world, and I say to the gentleman from California that they exported astro tube battlefield missiles to Iraq in 1980; they were involved in the development of the Iraqi air-to-air missile.

You see, we just cannot focus on what we know clearly is terrorist nations today. The Brazilian Government is a major exporter of these weapons of destruction around the world. And if Commerce approves the sale to Brazil because they are not on the terrorist list or the enemies list, that does not mean that we are not arming somebody who then arms somebody else.

Brazil now has an indigenous arms business that they are using to make profit to put powerful weapons in the hands of our potential enemies. That is a big problem.

Mr. HUNTER. I thank the gentleman. He hit the nail right on the head.

Let me explain my amendment very briefly, and I will yield to the gentleman from New York.

Springboarding off of what the gentleman from Ohio said, the arms network today is just that, it is a network. The Secretary of Defense, in order to act proactively, responsibly for this Nation, has to be able to reach out and pull something in at any given time, even if it is going through a friendly country.

If there is a phony front in some friendly country and we are seeing our adversaries sucking high technology out of the United States in a circuitous manner, he has to be able to stop it. This amendment says that the Secretary of Defense has got the right to create a list of technologies and countries that he wants to review. It is a list. The Secretary of Commerce has to give him that information.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has again expired.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. The Secretary of Commerce then must refer any application that is on that list, covered by that list, to Secretary of Defense. He just has to send it over to him, I tell my friend from Ohio. He sends it over. The Secretary of Defense, within 20 days, recommends approval or disapproval. So we are not talking about 6 months or 1 year; within 20 days.

Now, what if he recommends disapproval? If he recommends disapproval and if he differs with the Secretary of Commerce, you have the Secretary of Defense saying that this could accrue to the detriment of our young men and women in uniform, then it goes to the President and the President has 20 days.

So you have a very quick process. You give the Secretary of Defense, who is charged with defending this country, the right to stop technology transfer in its tracks.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, I want to say to the gentleman from California that there were 23 countries that shipped material to Iraq. I am now told we sold certain kinds of supercomputers to the Chinese, who have become one of the largest exporters in the world.

What the gentleman is saying is let the Secretary of Defense reach out and touch somebody when there is potential military significance. And if it slows down the process, let us not put profit first.

Mr. HUNTER. I thank the gentleman and thank him for supporting the Kasich-Kyl-Waxman-Hunter amendment.

Mr. Chairman. I yield to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding.

Let me say, Mr. Chairman and members of the committee, the subcommittee of which I am the chairman, the Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations, did a very extensive study on export controls. I might say, and I do not want to go through all of the findings and recommendations, let me just say frankly this amendment is strongly needed in this process. Customs is not capable of doing it in and of themselves. It is quite political, and the Department of Defense needs this. This bill needs this particular amendment if we are going to be interested in the defense of our country.

□ 1740

Mr. Chairman, I think that is proven in my report, which I certainly would commit for the reading of people all over this House. This is a very important bill, and I think this amendment will make a fine contribution toward it being more perfect.

Mr. HUNTER. Mr. Chairman, let me say I thank the gentleman from Georgia [Mr. BARNARD]. He did a lot for the country when he put that report together in illuminating the traffic that culminates in this enormous arsenal in the Middle East.

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

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

Mr. RITTER. Mr. Chairman, I thank the gentleman from California [Mr. HUNTER] for yielding, and I want to rise in support of his amendment.

Mr. Chairman, I support the Department of Defense reviewing export license applications. This is their area of expertise. But I want to make it clear that dual use items mean only those items that are subject to national security control.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GEJDENSON. Mr. Chairman, I am not going to object, but the gentleman's side has already had 15 minutes on this amendment, and I think for

those people watching the debate it would make sense that, while we extend, and I do not want to cut people off, that we give each side a chance to response in several tranches, and then give the other side a chance.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Connecticut [Mr. GEJDENSON], but we are just wrapping up this last speaker, and we will go right to the gentleman.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

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

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

Mr. RITTER. Mr. Chairman, I thank the gentleman from California [Mr. HUNTER], and it is my understanding that items such as heavy trucks, and tractors and diesel engines, which are subject only to foreign policy controls, would not now, because of his amendment, be placed under Department of Defense review as dual use items.

Is that correct?

Mr. HUNTER. Mr. Chairman, it would seem to me that the Secretary of Defense is going to be interested in what would largely be high-technology items that have a militarily critical dual use, and in my estimation those vehicles the gentleman speaks about would not fall under it, but of course this is an area that would lie under the discretion of the Secretary of Defense. It would be my thought that that would not be included.

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment of the gentleman from California [Mr. HUNTER].

Listen to what my friend just said. We are putting it all in the discretion of the Secretary of Defense. I say to my colleagues, "Get ready to shut down the exports in your State, put them on the shelf. Tell the customers to go to Germany, France, or England because they've got all the same products."

Now let us put Iraq out of the picture for one moment. Why did Iraq get all that it wanted? Because the President of the United States, wanted them to get them. Do not blame the Commerce Department for what was national policy. The Secretary of defense, the Secretary of Commerce, and the Secretary of State all responded to the President. The President of the United States wanted to protect Saddam Hussein's life, and that was the policy of the United States of America.

Mr. Chairman, I will not yield for a while. I would like to make my statement.

Mr. Chairman, we have gone through this. We had a gentleman at the Commerce Department lose his job because he came forward and told the truth. A gentleman from the Commerce Department came to our committee and said that in a meeting in the White House he asked the administration to stop exports of dual use technology to the Iraqis. He said he was overruled by directions that clearly came from the administration through a number of individuals associated with Defense, and State, and the White House itself. The next day the gentleman resigned his high position at the Commerce Department. We have not heard from him since, but we did not believe that. That was not enough for us. We demanded the files, and we wrangled with State, and Commerce, and Defense for some time, and finally we got the documents, and, while those documents are secret, any Member of this Congress ought to be able to read them because they very clearly state that the Commerce Department, and I understand on more than one occasion, but in this one instance in particular, came to the President's people and said, "Let's stop the export of this dangerous technology to the Iraqis." Not a Commerce Department unpatriotically trying to shill for business, not trying to make profit, a Commerce Department official, Mr. Kloske, who lost his job because he spoke out, came forward and said to stop these sales. And he was stopped because of a policy of this administration.

Mr. Chairman, I do not want to argue that insane policy today, but do not blame the Commerce Department.

Now, as for the bill, and, no, I will not yield at this time. I will be happy to do so in a few moments. But let us get straight where DOD looks. The gentleman from Pennsylvania [Mr. RITTER] is concerned about his trucks and whether his trucks can be sold around the world. Note, America does not hold a monopoly on trucks, although trucks can be used in military actions. The author of the amendment as well as the Secretary of Defense could take a look at that.

Well, let us take a look. The Secretary of Defense under our bill can look at all missile tech items, can look at all chemical weapons items, all nuclear items, and all items going to terrorist countries. We are tougher than the administration. The committee that I work with, Republicans and Democrats alike, are frightened to death about nuclear proliferation, missile technology proliferation and chemical proliferation, and this administration vetoed this bill last time because of the chemical weapons penalties that were in the bill as American troops were in the deserts, possibly facing Iraqi chemicals. This bill puts together the strongest attack on the proliferation of missile technology and nuclear technology that we have ever had in this country.

But what we plead for is that we do not destroy the economy of the United States in an attempt to fight some ghost, a ghost that is frankly developed by the internecine warfare of three agencies.

Let me tell my colleagues about the skull furnaces. My chief of staff got a call from the Defense Department, said, "Hey, we've got these skull furnaces going off to Iraq. Do you mind if we stop the sale?"

Well, my chief of staff checked with me. I said, "You could stop peanut butter going to Iraq and we'd be happy about it."

Defense stayed quiet.

Now let us take a look at what happened. The skull furnaces did not get to Iraq, and why? Because we are working with a team effort here. The President leads the team effort, and even the administration figured out it was a mistake.

Now let us take a look at Defense's involvement numerically.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(On request of Mr. MILLER of Washington and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 3 additional minutes.)

Mr. GEJDENSON. Mr. Chairman, I will just use a minute of it and then get some others to speak, and I hope we have some real debate here.

DOD reviewed dual use equipment going to Iraq, 1985 to 1990. DOD reviewed 487 licenses. Four hundred seventy six were approved. Eleven there were disagreement on. DOD saw them and said, "Well, we're not sure." Commerce says, "Well, we think it's OK." DOD sent none of them up in the system.

Iraq was national policy. Six of us were on the floor with many others trying to stop the export of grain to Iraq 6 days before it invaded Kuwait. We did not have a crystal ball. We knew that Saddam Hussein was a bloodthirsty murderer when he killed the Kurds, when he trained terrorists. That is not the debate here. The Commerce Department did its job. It ought not be condemned for it. We have a process that lets Defense get involved where Defense needs to. We make it tighter on terrorist countries, tighter on nuclear, tighter on missile technology, and tighter on chemical.

Mr. Chairman, I would hope that, having accepted the amendment of the gentleman from Massachusetts [Mr. MAVROULES] which gives DOD adequate access to all the information; Mr. MAVROULES would not have done it if it did not do the job, that we do not need the Hunter amendment.

I plead with my colleagues. Do not shut down the American economy further than it is. Reject this bad amendment.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield for a question?

Mr. GEJDENSON. I yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, there has been a lot of discussion of this furnace, and this was a proposed export of a high temperature furnace that had both civilian and military uses. It is my understanding, is it not, and I ask the gentleman, that at the time of the proposed export these furnaces no longer required an export license because a decision had been made to stop requiring licenses for that technology? Is that correct?

Mr. GEJDENSON. That is correct.

Mr. MILLER of Washington. And that the agencies who approved the decision to stop requiring a license for the export of that technology included the Defense Department and the Joint Chiefs of Staff; is that correct?

Mr. GEJDENSON. That is correct.

□ 1750

Mr. MILLER of Washington. OK.

Mr. Chairman, the stopping of licenses for this technology was approved by Cocom, but even though the furnace did not need a license, related computer equipment needed a license. Is that not correct?

Mr. GEJDENSON. Yes, that is correct.

Mr. MILLER of Washington. In fact, two license applications were made for related equipment, a Compaq Deskpro 286 computer and a Herco vertical spindle machine. Is that not correct?

Mr. GEJDENSON. That is correct.

Mr. MILLER of Washington. Both applications clearly indicated they were to be used in Iraq as part of the operation of a furnace system, is that not correct?

Mr. GEJDENSON. Yes.

Mr. MILLER of Washington. Is it not true that on June 26, 1989, and on January 31, 1990, the Defense Department approved these licenses?

Mr. GEJDENSON. Yes, that is correct.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. GEJDENSON] has again expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 2 additional minutes.)

Mr. GEJDENSON. I yield to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, so the Defense Department participated in ending the license requirement for the furnaces, and then approved related computer and machine tool equipment for Iraq. Is that not correct?

Mr. GEJDENSON. That is correct.

Mr. MILLER of Washington. Mr. Chairman, the reason I bring this up, and I do this reluctantly, but this issue has been raised, so we have to bring it up. I bring it up because there seems in this debate to be an assumption by the proponents of this amendment that somehow if we change the system so that the Defense Department has more responsibility, that this will solve a problem that is very serious, that this will have created a terrible mistake that was made by our country.

I would suggest that the mistake was made not because of the Commerce Department bureaucrats, and not even because of Defense Department bureaucrats. The mistake was made because, unfortunately, back in the days before Saddam Hussein invaded Kuwait, the mistake was made because there was a policy in the administration to support the export of certain equipment to Iraq.

That is a fact. The question is where do we go from here? What I am suggesting is the way to stop those mistakes is to have an administration that learns from the lessons of the past, and which is diligent about giving direction to both the Commerce Department and Defense Department.

The way to stop those mistakes is not just to create layers of bureaucracy when it comes to the export of dual use technology.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has again expired.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the way to correct that mistake is not to create an additional layer of bureaucracy among Government departments on all dual use technology. The way to correct that mistake is to have an administration in the future that is on top of the issue. But to start creating these layers of bureaucracy on dual use technology, when much of this claim has nothing to do with nuclear furnaces, much of this dual use technology has to do with products you can go down to Radio Shack and buy. We are talking about some of the most basic computer technological products that our companies are trying to sell, create, and maintain markets for overseas. You are darn right they are worried about delay, because the shelf life on some of these products is no more than 6 months before a new generation takes over.

So if our companies are going to have a market, they have got to be able to sell products. If we are going to stop military equipment that can be used for military purposes from getting to terrorist regimes like Saddam Hussein, you have got to have somebody at the top telling the people, "Don't let it happen."

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

Mr. MILLER of Washington. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank my friend for yielding and wish to ask him a question just to follow up.

If you want to have a good administration policy, is it not in our interest to have some experts, not just at the top, but at the bottom, who know the difference between a nuclear missile system and a nuclear weapons program, and a medical prosthesis, which is what the Commerce Department put on the application for the computer equipment that was going to go with the skull furnace?

I have one other question for the gentleman: the Defense Security Technology Administration was the entity, and that is the Department of Defense Technology Administration, the agency that put the hold on the skull furnaces, and in fact they were not shipped.

My question to the gentleman from Washington [Mr. MILLER] is, do you not want to have some people who have some real defense know-how and can look at a computer, look at a skull furnace, and say we think that is weapons related, and stop it?

Mr. MILLER of Washington. Mr. Chairman, reclaiming my time, that is why you have a consultation process that involves Commerce and Defense, and that is why you have a process that allows this to be kicked upstairs to the policy and national security groups.

Mr. HUNTER. Mr. Chairman, if the gentleman will yield further, could I further inquire of the gentleman from Washington [Mr. MILLER] if it is so that you want to have consultation, according to the committee report from the Committee on Government Operations on this, I understand that the gentleman who is the president of the company that sold the skull furnaces says that in written and verbal statements he said to Commerce, "Hey, this stuff can be used in a nuclear program." He said that to them.

Yet when they sent this thing up to Defense to review, they marked on it, for Defense's review, "This is for a medical prosthesis."

Mr. Chairman, I would ask, does that not indicate that at least the information they forward was somewhat incomplete?

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

Mr. MILLER of Washington. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, let me make a point. I do not think that anybody could argue that the Commerce Department, who has an Office of Export Administration, I would say to my friend, whom I have the highest respect for, that the Commerce Department has a vested interest in exporting things.

The Department of Defense, we are having an argument now where somebody is actually trying to make the point that the Commerce Department is more concerned about national security than the Department of Defense. That is patently absurd. The Department of Defense is more interested in

stopping the spread of technology that impacts on America's defense than the Commerce Department is.

Now, let me say another thing. The gentleman from Connecticut [Mr. GEJDENSON] makes a point that we made a terrible mistake there. I maintain the problem of the exporting of technology, not just to Iraq but to Brazil as well, is not a Republican or Democrat issue. I think that Republicans and Democrats are equally guilty.

What the gentleman proposes in his amendment is to weaken the current system of controls. That is what I object to.

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

Mr. MILLER of Washington. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would be happy to have a Democratic President to be equally wrong. We have not had a Democratic President in a long time. We cannot take all of the blame equally. We have had 4 years out of the last 24 years.

As far as the role of the Department of Defense, as soon as that gulf war was over, the Defense Department was here with a $1.6 billion arms sale to Egypt. They had multiple sales ready to go into Kuwait and all these countries.

I would not say the Defense Department is the barrier for weapons around the globe. They have been the main salespeople.

The CHAIRMAN. The time of the gentleman from Washington [Mr. MILLER] has again expired.

(At the request of Mr. KASICH and by unanimous consent, Mr. MILLER of Washington was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Washington. I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. The purpose of this bill, of course, is to remove the bureaucracy and the delay that the Department of Defense has imposed. That is why you are out here. Now you are saying the Department of Defense does not want to impose any restrictions.

Your bill not only implies, but explicitly states that DOD has been dragging its feet on letting these technologies be able to get out there into the international marketplace. That is why you are here. DOD has been objecting.

Have they objected at all times? Of course, they have not objected at all times.

I think the current system is terrible. I think we ought to strengthen the current system. We ought to slow it down. What the gentleman from Connecticut [Mr. GEJDENSON] is doing is weakening the current system and placing more power in a Commerce Department that inherently wants to ship more technology overseas.

What the gentleman from California [Mr. HUNTER] has in his amendment is to say that if the Department of Defense objects, then they have a right to take that objection to the President and the President has the right to decide.

Who could be against that? All we are trying to say is we ought to slow down the spread of technologies throughout the world. We ought to slow them down, because hurrying them up is creating so many of the problems around the world.

We are all guilty in this, but it is time for us to confess our sins and fix the current system.

Mr. BILBRAY. Mr. Chairman, I move to strike the requisite number of words.

□ 1800

In January 1987, when I came to Congress, I was appointed to the Committee on Foreign Affairs and sat on the Subcommittee on International Economic Policy and Trade which the gentleman from Connecticut now chairs.

For 2 years, I heard discussions on this particular matter. In fact, at the end of my 2 years, after serving on that committee and on the conference committee on a potential trade bill, I asked the Academy of Sciences to do a report or had it put in the RECORD to have them do a report, which they did. It was of great concern to me in getting off the Iraqi situation, which we all know was a fiasco, was the fact that American businessmen were being impeded in their trying to do business throughout the world.

It started with Motorola coming to us that had tried for almost 2 years to sell cellular telephones to the People's Republic of China to the point that the Chinese Government was saying, "If we don't get a permit from the Department of Defense shortly, we are going to take our business to Japan."

They did get that permit shortly thereafter at the pushing of this committee. To seismographic equipment that was being sent to Romania that was held up by the Department of Defense to the point where they finally, the Romanians canceled the order and bought from another Western European country; to other equipment like computers that were sold to East Germany but had a part broken down. We had testimony from the companies that because the DOD, which previously approved the sale of the particular computer, had not approved the part within the computer, would not approve the shipment of the part to fix the computer, that the East Germans ceased doing business with the American company and put on their unreliable source of repairs and, therefore, did not do any further business with the American company.

It went on and on. It was like a nightmare to this new Member of Congress coming in.

We went to the conference committee that year with some radical changes, much like what has been proposed in this bill. But lo and behold what happened was the infamous Toshiba affair, which we all remember, where the Japanese shipped high technology from the Toshiba Co. to the Russians that allowed the Russians to redo their submarine propeller drive and made it virtually undetectable to American equipment.

When we got into conference, the emotions were running high, and these provisions were virtually emasculated that the committee had proposed.

When we questioned, though, the Department of Defense, whether or not that we would have been able to stop the same sort of technology transfer, in reality we would not have been able to. It was admitted. One of the reasons we would not have been able to was because Toshiba actually lied on their applications on what they were shipping. They actually said it was agricultural planting or milling equipment that went there.

If the same type of equipment had gone through our process and lying and fraud was created, we cannot stop that sort of thing. The liars, the cheats, the people that ship things out, lying to us, they slip through the process. What we have begun to hamper is genuine American businessmen that want to compete worldwide. Believe me, Members that are out there watching this on television in their offices or wherever else they may be, listen to this: Talk to your businessmen that try to compete worldwide.

The Mavroules amendment has been a good amendment. It has certainly brought the process back within the scope of the Department of Defense to look at.

Having served on both the Committee on Armed Services, which I serve on now, and the Committee on Foreign Affairs, it gives me a pretty good perspective of the problem. I know that the present Speaker told me, when I got this appointment, that he wished all people that served on the Committee on Armed Services would serve a couple of years on the Committee on Foreign Afairs. And people on Foreign Affairs would serve a couple of years on the Committee on Armed Services, because I think they would get a broader view of the whole situation.

When one is on the Committee on Armed Services, which my colleague from California is, and my colleague from Ohio and the gentleman from Arizona [Mr. KYL], one gets a very narrow view. And I think a very parochial view.

I think when one serves on the Committee on Foreign Affairs, which many of my colleagues do here, one gets a broader view and understands this problem in a different light.

I think, having looked at it both ways, of what it is doing to American businessmen, because believe me, the

same computers that we could not get the part over into East Germany were sold by the French or the British or the West Germans to the East Germans; the seismograph equipment was shipped into Romania by another company. And believe me, the Japanese were just foaming at the mouth to sell those cellular telephones to the People's Republic of China. It went on and on and on.

I think that the system is broken and, gentlemen, it is broken. We have got to correct the situation. I think this bill is an excellent bill, the Mavroules amendment that corrects any problems that we should have.

If we fall back and accept the Hunter amendment, we will go back to the status quo. We are going to hurt American business. We will not allow them to compete.

I think it is a bad, bad amendment.

Mr. HOUGHTON. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I have a feeling we are sort of missing the point here, that we can give all these patriotic speeches about medical prosthesis and special furnaces and the terrible things that have happened to Iraq, but what is happening to the jobs in this country? They are being taken away by other countries.

Some interesting quotes. I would like to quote something. This is from the GAO report of June of 1989.

> Commerce and DOD generally agree on how to respond to license applications that they have reviewed.

Furthermore it says, that Commerce in many instances—because of concerns over potential diversion or unacceptable nuclear uses, that DOD recommends to be approved—stopped those.

One other quote, and this is from the famous Government Operations Report of July 2 of this year.

> The underlying cause behind the inefficiency is that too many government agencies are involved in the licensing process.

So while we wave our hands and we talk about Iraq and we bring up all these tremendous patriotic issues, the business person who is trying to create the jobs to bring this country back into some semblance of balance is being hurt.

If there is a critical issue of defense, it is easily solvable. There is an Interagency Council headed by the National Security Group, and that will then be bumped up to the President. The Department of Defense at any time can request that.

All this whole process is doing, and I am speaking against the Hunter amendment, is to allow the Secretary of Commerce to take products off the control list. That will help business. It will help America. It will help create more jobs.

If there is any critical national defense issue which comes into focus, it can be reached very easily through this Interagency Council and will be bumped directly to the President.

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

Mr. HOUGHTON. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. Mr. Chairman, just for a matter of conversation, I think what the gentleman has stated makes an awful lot of sense. I made an agreement with the committee. We worked on it now for about 2 days, which I think protects the interests of DOD, at least in my judgment. It protects it and protects it quite well.

The question is, and I think the gentleman makes a businessman's point of view, which is extremely important, which I tried to articulate before but we did not have enough time, is that we are not alone in this world. We are not the champions of the world anymore. We are not the heavyweight champions any more. We might think we are. Maybe militarily we are, but we are not in the field of technology.

If we have not given the opportunity, or at least given to our business people in this country the opportunity to ship their goods, other countries will get them from someplace else. The gentleman knows that and I know that.

At least let us give a playing field to those who operate in this country.

With regard to the amendment of the gentleman from California [Mr. HUNTER] and the amendment the gentleman from Arizona [Mr. KYL] is going to be offering, I do believe the agreement that I have reached on behalf of the Committee on Armed Services covers the major points and protects the integrity of DOD, in my judgment.

On the one hand we have that. On the other hand we give a level playing field to the businessmen of our country to ship their goods.

Ultimately, and it was a shame that we had to bring it out tonight, ultimately the decision is made by the President of the United States. And that ought not to be a token conversation on this floor at this time when our President is in the Middle East trying to bring peace to that part of the world.

I would suggest very strongly, these amendments are not helping and I do not take a back step to any Member when it comes to the national security of our country. This is the wrong time and the wrong place.

□ 1810

If indeed we can work it out, we work it out in conference. That is where we ought to work it out. That is all I am asking. I ask that in behalf of the Armed Services Committee because we reached an agreement, and also to tell the gentleman that I certainly agree with his statement and thank him.

The CHAIRMAN. The time of the gentleman from New York [Mr. HOUGHTON] has expired.

(By unanimous consent Mr. HOUGHTON was allowed to proceed for 2 additional minutes.)

Mr. HOUGHTON. Mr. Chairman, I agree with the gentleman from Massachusetts. It is a fine intellectual argument for us to stand here and talk about what the Secretary of Defense and the Secretary of Commerce can do. But the people who are going to get crushed are the American businessmen because the gentleman is absolutely correct. In the real world, those products, those services are going to go to the country, irrespective of what we want. And furthermore, I do not accept the proposition that because you are the Secretary of Commerce you are less of a patriot than the Secretary of Defense.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak in support of the Hunter amendment and try to clarify some things that have been brought up here.

The first point was made by the gentleman from Nevada [Mr. BILBRAY] and he made some very good points about delay, and we are all concerned about delay. This bill does some things about that. I just want to make it clear that the Hunter amendment does not build in any delay. As a matter of fact, it provides for an expedited procedure.

The Secretary of Defense would have only 20 days to object to any item on his list, and the President would have to resolve any dispute within a further 20 days. So clearly there is an acceleration of dispute resolution in the Hunter amendment. That is a good feature of the amendment.

Second, with regard to the question of the furnace, I serve on the Government Operations Committee as well as the Armed Service Committee, and the Government Operations Committee has issued a report, Mr. Chairman, which answers a lot of these questions. I would like to quote carefully from the Government Operations Committee in a couple of key respects.

The first is with respect to the sale of the furnace that we have heard about. What are the facts? I quote from the report of July of this year of the Government Operations Committee:

> Commerce appears to have made two mistakes—both of which cast doubt on the wisdom of allowing the agency to continue as the principal licensing authority for dual-use goods.

This is not the Armed Services Committee speaking, this is the Government Operations Committee. I continue:

> First, Commerce failed to provide DOD with a key piece of information; namely, that two other items were to be sold with the furnaces: computer control units and machining lathes. Second, Commerce ignored, for whatever reasons, CONSARC's warnings that the skull furnace had nuclear fabrication capabilities and thus failed to notify appropriate intelligence and Defense agencies of the proposed sale.

That is what the Government Operations Committee says was wrong with the sale of the furnace, and they go on. Let me complete these points. That is why the committee goes on in its report to detail case after case after case of situations where the Commerce Department never notified the Defense Department.

The Department of Defense cannot object if it does not know, and my colleague from Connecticut correctly criticized the administration for a policy which allowed all of the equipment to go to Iraq, and then I think left dangling the answer to the issue, which is that until the Defense Department knows about these things the Defense Department cannot raise the red flag to the administration and, therefore, the administration may well make some bad decisions.

The key is to let the Defense Department in on the process, and all the Hunter amendment does, my colleagues, is to say that the Secretary of Defense can send over a list and say if anything shows up that is on this list, would you let me know, and the Commerce Department has to let him know. And then he has only 20 days to decide if he likes it or not. If he says "I do not think this is a good idea," if Commerce goes along, fine. If they say we still think it should be exported, then the President has 20 days to resolve the issue.

I would just refer my colleagues to this July Government Operations Committee report, because time after time, machine tools, lasers, some computer equipment, quartz crystals, and in many other situations the Government Operations Committee concludes that the Commerce Department failed to refer the applications to any other Government agency.

I read the conclusion of the Government Operations Committee report:

> It is likely that Commerce's mission to promote exports clouded the agency's ability to perform its secondary mission to deny sales in cases where a likely but not quite proven threat to U.S. security existed.

That is why we believe the Department of Defense at least ought to be told. That is all the Hunter amendment provides. And in the event it disagrees with the Department of Commerce, we ought to have the right to let the President decide.

As my colleague from California said, who can disagree with the proposition that the President of the U.S. ought to decide?

Finally, a headline, June 20, Chicago Tribune, "Study: Commerce Department Aided Iraqi Arms Buildup." This is a newspaper article which goes on to point out the fact in other instances where the "Commerce Department approved some of the technology sales without consulting the Defense, State or Energy Departments," and this study is prepared by the Nuclear Arms Control Project of Wisconsin, an affiliate of the University of Wisconsin Law School, so not just the Government Operations Committee, but this prestigious study as well as indicated that the Department of Commerce needs a second opinion. In this case we are suggesting it be the Department of Defense.

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

Mr. KYL. I am happy to yield to my friend, the gentleman from New York.

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman for yielding. He is very eloquent.

But I would like to ask the gentleman a question. Has the Department of Defense requested this amendment?

Mr. KYL. To my friend from New York I would say I have no idea what the Department of Defense's position on the Hunter amendment is. I would refer that question to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Arizona [Mr. KYL] has expired.

(On request of Mr. KASICH and by unanimous consent, Mr. KYL was allowed to proceed for 2 additional minutes.)

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

Mr. KYL. I yield to my colleague, the gentleman from California, the author of the amendment.

Mr. HUNTER. Mr. Chairman, let me answer my friend. The Department of Defense has not issued any letter or official statements on this. But let me just say to my friend, as a guy who is the world's greatest expert on his own opinion, I have talked with the Department of Defense. They are dangerously upset with the idea that they cannot participate and have been left out of important decisions with respect to technology being transferred, and the people who work in DTSA, and who are concerned with keeping deadly technology that can be used against the men and women in uniform of the United States who have that job in the Department of Defense like this amendment.

The gentleman cannot say who has the official imprimatur stamped on their letterhead. I think that is irrelevant. I think the things that have occurred since this country went into the gulf war and saw American technology facing young American men and women should make a case to everybody here that I think would lower the importance to the gentleman from New York of having some certificate stamped on a piece of paper from DOD saying the President wants this, Cheney wants this.

My position and my opinion, after having dealt with them and worked with them on this is darn right.

Mr. KYL. To reclaim my time to make a point, I think we ought to get away from jurisdictional turf battles, does Commerce like it, does Defense like it, does Foreign Affairs like it, does Armed Services like it. What is right for America is the key. We have to stop a willy-nilly process here which gives key technology to people who should not have it, and all the Hunter amendment does is say let the Secretary of Defense know about it, and if he and Commerce cannot agree, let the President decide.

Who can disagree with that proposition?

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

Mr. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I happened to talk to the Department of Defense officials who objected to the Gejdenson legislation. I do not have it in a letter. I talked to them on the phone. The gentleman from Massachusetts [Mr. MAVROULES] came over here to negotiate something the DOD has not even reviewed, and that we are not happy with.

The CHAIRMAN. The time of the gentleman from Arizona [Mr. KYL] has again expired.

(On request of Mr. KASICH and by unanimous consent, Mr. KYL was allowed to proceed for 1 additional minute.)

Mr. KASICH. If the gentleman will continue to yield, the point of this thing is that even within DOD there is a bureaucracy. In fact, I have been fighting the DOD bureaucracy for 9 years, and a lot of what they do out at the DOD is not very smart.

The bottom line is they are more directed toward stopping the flow of technology than the Commerce Department. We ought to fix this problem.

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

Mr. KYL. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, just to answer the gentleman's question, I just talked with members of the administration outside. The administration's position, as given to me, was they want to strike the entire section, so they are a little bit worried about cleaning this thing up and making it acceptable. That is the information that I was just given.

Mr. KYL. I urge my colleagues to vote "yes" on the Hunter amendment.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is hard to talk about this subject without getting very patriotic and wrapping ourselves in the flag and defending soldiers who have given their lives on the battlefield. I know that, but there is a limit to what we can do about the spread of technology. I think that the Committee on Foreign Affairs, under the gentleman from Connecticut [Mr. GEJDENSON], as

the subcommittee chairman, has done a fine job in laying out the basic ground rules.

That does not mean that no important technology will ever escape here again. We are not the masters of technology in this world. Our technology is good, but we certainly do not have a monopoly on technology.

All of the industrialized countries manufacture, develop, research this kind of material. That does not mean that because they do it we ought to go out helter-skelter and scatter our goods and technology all over the world just to make a buck.

□ 1820

That is the feeling that the members of the Committee on Foreign Affairs have had. They have put together a careful piece of legislation. It has been fortified by the Mavroules amendment. I do not think we can do any better than that.

I would encourage the Members, my fellow Members, to vote against the Hunter amendment. It is overreaching, and it will cause more harm than it does good in the whole process. So let us remember we do not have a monopoly on technology. Some of it is going to escape. But we do have a need to go out and sell our goods around the world, and if we put the Hunter restrictions upon it, we are going to end up not getting the legitimate contracts out there.

That is what we have got to worry about today. The cold war is over, thank God. Most of our problems in this area are behind us.

I hope that the day will come when we will see the end of exports of arms around the world and the tools that make arms, but we are not going to do it by acting unilaterally, by putting excessive restraints upon the American business community as regulated by this piece of legislation. This piece of legislation is a good piece of legislation. It does a good job in controlling the reckless spread of lethal technology. We should not try to go further than that.

I think that if the Defense Department wanted to go further than that, we would all get a call from the Defense Department saying that we need to do something about this bill that the Committee on Foreign Affairs has brought to us. None of us have gotten those kinds of calls.

The gentleman from California [Mr. HUNTER] is acting out of his own patriotic fervor, and I do not criticize him at all for doing that. But I think he is exceeding the grasp that we need to levy upon the export of our goods, and I urge the Members to support the committee bill as it stands and as it has been amended by the gentleman from Massachusetts [Mr. MAVROULES].

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

Mr. GIBBONS. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would like to thank my distinguished friend, the gentleman from Florida, for his support on these efforts.

A lot has been talked about the study for the Committee on Government Operations. The study also states that the greatest complication comes from the multiplicity of agencies involved in the decisionmaking. That is in that study. It says it slows down the licensing, and it does not help controls, frankly, and in this study from the National Academy of Sciences, which it included the No. 2 from the Arms Control Agency, they frankly argue against the Hunter amendment, as my friend from Florida does, as my friend, the gentleman from Massachusetts [Mr. MAVROULES], does, and let us defeat the Hunter amendment. Let us take care of the bill that takes care of our national security concerns and does not tie American industry in knots.

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Barnard-Hunter amendment. I want to congratulate my colleagues.

It is in fact the Barnard-Hunter amendment, and I want to thank my colleague from Georgia who is the distinguished chairman of the Commerce, Consumer and Monetary Affairs Subcommittee on which I served for 2 years.

It is not casually that my colleague from Georgia sponsors this amendment. His subcommittee worked for a period of years to look into the very facts that are being discussed on the floor today.

In particular, we have been discussing some examples, the example of the very near fatal shipment of skull furnaces to Iraq and, frankly, I think some of the facts we have heard on the floor have been wrong to the extent we can make better decisions when we understand what are the facts, and I would like to read into the RECORD from the testimony in our hearings, the testimony of Stephen Bryen, who was one of several witnesses who all testified to the same end in our committee hearings. He says:

By way of background, Mr. Chairman, during the Reagan administration, from 1981 until 1988, when I left the Pentagon, I served as Deputy Under Secretary of Defense for Trade Security Policy and also I had the responsibility to be Director of the Defense Technology Security Administration. I was keenly involved in a large number of cases, some of which have come to the surface since the Iraqi invasion of Kuwait.

In fact, I spent a lot of my time trying to oppose the transfer of some of the strategic technologies which ended up in Iraq. I would like to comment on that if I may in the next few minutes.

I would like to begin first with the furnace story, these so-called skull furnaces which were proposed to be exported by a company in Rancocas, NJ, to Baghdad. All analysis now, including the President's, show these were furnaces intended to be used for nuclear weapons development.

I first learned about the furnaces from a reporter in Philadelphia, Mark Fazlollah, who called me on the phone to tell me that he had some information about this pending transaction and needed some help with it. He had seen my name in a magazine article and felt that I might be of some assistance to him.

What I did was to arrange a meeting in my office between the reporter and staff people from my old agency at the Defense Department in order to do a preliminary scrub on this proposed export. The rest of the story really was the effort of the Defense Department, having learned of the furnaces, and they learned it through me and through this reporter from Philadelphia, the rest of the story was the effort by the Defense Department which went right down to the wire, as Mr. Milhollin made clear. The goods were due to be shipped out of the country on July 20 of this year and I think the decision from the White House to block them came around July 19, just at the very last minute as an Iraqi freighter was heading for Baltimore harbor.

The Pentagon had to fight a terrific internal battle to convince the other agencies, and particularly the Department of Commerce, of the strategic importance of this sale and to intervene against it. The Commerce Department, until the bitter end, wanted to see the export go forward.

Since then, I have had the opportunity to look at some of the papers that the company has provided concerning its dialogue with the Commerce Department over a 1-year period concerning this export. There are some very revealing incidents that are reported by the company that I think the committee should be aware of.

There were at least two occasions with two different officials of the Commerce department who met at the company headquarters in New Jersey, where the company explained in clear terms that the furnaces in question had nuclear application and could be employed for nuclear work without modification. I am quoting almost exactly a memoranda of conversation that the company has provided.

And yet, despite these interventions by the company, the Commerce Department appears to have conducted no investigation or sought any outside expert opinion as to the nature of these furnaces or the danger that they might or might not pose.

The furnaces case is not an isolated incident. I regret to say that it is just one more case among many that I was involved in over the period of time that I worked in the Defense Department.

The Pentagon, when it was consulted, was able to provide concrete information to Commerce Department officials about the intended end-use, the strategic risks and the dangers implicit in certain exports and where exports were permitted to take place in any case information disregarded.

Mr. Chairman, those are the facts. That is the record.

This is not a question about which agency is more patriotic. It is a question about mission. The mission of the Department of Commerce is to promote exports, an important American goal. The mission of the Department of Defense is to protect our national secu-

rity, likewise an important American goal.

We cannot take good patriotic Americans and tell them simultaneously to walk north and walk south.

The Barnard-Hunter amendment, in a 20-day period, no more, will permit the Department of Defense to consult. This is a very responsible amendment, but more than that, it is a very important amendment for our national security.

I urge my colleagues to support it.

The CHAIRMAN. The time of the gentleman from California [Mr. COX] has expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. COX of California was allowed to proceed for 2 additional minutes.)

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

Mr. COX of California. I am happy to yield to the gentleman from California.

□ 1830

Mr. HUNTER. Mr. Chairman, if the gentleman will yield, I want to thank the gentleman. I want to thank the chairman of the Government Operations Committee, the gentleman from Georgia [Mr. BARNARD], for what I think perhaps may have been the most important report issued this year by any committee.

The opposition to the Barnard-Hunter amendment that the gentleman from California speaks about is reiterated again and again. "Why wait an additional 20 days."

Well, I guess I would ask anybody who bases their opposition to the amendment on that premise that 20 days is too long, I would ask what are the lives of American soldiers and sailors worth? This is not a game. This information and this technology that literally has been caught at the airport on a number of occasions because we do not have a secure discipline of stopping technology transfers is a technology that could destroy many, many Americans. This is a very, very critical situation.

So I guess I would ask those people, is 20 days worth 10, or 15, or 25, or 50 National Guardsmen or reservists in the Middle East? Is it worth putting away a situation or forestalling a situation when a Third World country, a terrorist country, is going to acquire at least a crude nuclear weapon? Why is 20 days now so important, and why is it so important to push the Secretary of Defense out of the process?

The gentleman from California [Mr. COX] has pointed this out. The opposition to the Secretary of Defense being involved in the process is not because he is not stopping anything. It is because when we have had technology stopped and when we have had opposition because there is a dual use that creates a military danger, more times——

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of of the gentleman from California?

Mr. GEJDENSON. Mr. Chairman, reserving the right to object, I will not object, but may I just ask this of the author of the amendment, because we are trying to balance out time here: We have other Members who have amendments to this bill and I do not want to preclude them. Could we maybe do 8 minutes on each side? Is that enough for the gentleman?

Mr. HUNTER. Mr. Chairman, that is fine.

Mr. GEJDENSON. Mr. Chairman, I ask unanimous consent that further debate on the amendment be limited to 8 minutes, controlled by the author of the amendment, which he could distribute, 4 minutes for him, and 4 minutes for us.

Mr HUNTER. Mr. Chairman, I would be happy to do that.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. HUNTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. BARNARD].

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

Let me say that I want to compliment the committee on what they have done. Unfortunately, one of the recommendations that was made, that we establish an independent agency for export administration, if we had an independent agency handling this process it would be much more efficient, an agency consisting of the Commerce Department, the Bureau of Export Administration, the Treasury Office of Foreign Assets, the State Department Office of Defense Trade Council, the Defense Technology Security Administration, the Energy Office of Arms Control, the Nuclear Regulatory Commission. If we had an independent agency handling these export licenses, it would be a much better system. Unfortunately, we do not have that.

I am hoping in future legislation that we will consider it, but in the absence of that, Mr. Chairman, we do need this amendment, because this is the most serious aspect of export licensing.

Nobody is more probusiness than I am. I think that our industries ought to be unleashed, but I have seen what happened in Iraq and what we did.

This report did not come out timely because it was not timely to expose all of this to the American public at a time when Desert Storm was in operation.

But finally the Commerce Department came forth and helped us expose all this information.

This is evidence that we need to make some corrections.

Again I want to say that this is a modest proposal that needs the support of this Congress.

Mr. HUNTER. Mr. Chairman, I thank the distinguished gentleman and I thank him for his coauthorship of the amendment.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT], the chairman of the Sea Power Subcommittee, and then I would like to let my colleagues know that I will yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. BENNETT. Mr. Chairman and Members of Congress, it seems to me that we have here today something very essential with regard to the security of our country and of the world and of the future.

I do not have any technical information to bring to you, but I want to bring to you my conviction that anything we can do to make it more difficult to sell arms abroad will be a good thing to do for our country at this time.

I think certainly our country cannot be underrated as a country. We can produce other things in which we can compete in the world, but for our country to go into this situation today where the world is turning toward peace and turning toward a permanent situation in which we can look for some future for the world and for mankind, it is a great mistake for us to try to make it easier to sell arms abroad.

Therefore, Mr. Chairman, I strongly support any amendment which would give the Department of Defense greater authority to provide for our security in this matter.

Mr. GEJDENSON. Mr. Speaker, I just say the Berlin wall is down. This does not deal with arms. It deals with dual-use technology.

I say to my friend, the gentleman from Florida, for whom I have the greatest respect, this is not a weapons amendment. This is a commercial amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank my friend for yielding this time to me.

Mr. Chairman, I am just here to express the reason why I support the balance that the committee has struck on this amendment. I do believe we are dealing here with trying to effect a delicate balance. We clearly are dealing with two legitimate countervailing concerns. On the one hand, we have the concerns and the objectives of the author of the amendment which are clearly legitimate, and in fact there have been some I believe serious mistakes made in terms of the oversight of the administration with regard to these issues in the past, but that is not the issue today.

The issue today is how do we strike a balance that will not hamstring American competitiveness and American business in dealing with the key high-technology issues of the future without in some fashion compromising our security, and that is the balance that the subcommittee has struck.

The subcommittee has already required that the DOD oversee all exports that go to Iran, Iraq, Syria, Libya, all proliferation items, licenses that are now reviewed by the Pentagon include all missile tech licenses, nuclear licenses, chemical and biological precursors, all items going to these terrorist countries; but if we go further than that, we will end up essentially being like the little boy trying to stick his finger in the dike, when the genie is already out of the bottle. We will find that it is our competitors from both Europe and Asia who will be making the sales to free world countries where there are no significant national security considerations. It is that balance that has been struck that on the one hand will enhance our competitiveness, and on the other hand will continue to keep the DOD in the game where DOD ought to be in the game.

Mr. Chairman, I commend the subcommittee for having struck the balance that they have and I strongly support the balance that the subcommittee has in this legislation, and I oppose the amendment.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, many of you know my district. I represent the south end of Palm Beach County, IBM, Motorola, Pratt & Whitney, Seamans, little mom and pop operations like that.

Now, this is corporate America. These are not leftwing pinko commie consortiums, and these companies more than anything else want to guard the national security of the United States, but let me tell you, these companies are getting their lunch eaten by the Japanese in large part because they cannot get exporting licenses. We are not talking about 20 days. We are talking about 2½ years.

Now, this bill is excellent. During a period of a cold war, I do not see why we give the DOD any more authority or responsibility than they have. They blew it.

I strongly urge that you defeat the Hunter amendment. There has been a lot of work put on this bill, and I strongly urge that you vote for the bill on final passage.

The CHAIRMAN. The gentleman from California [Mr. HUNTER] is recognized for 1 minute to close.

Mr. HUNTER. Mr. Chairman and my colleagues, you just had a chance to vote a number of months ago to win the gulf war. You have got a chance today to vote to prevent another one.

This amendment is a very reasonable amendment. I want to thank the gentleman from Georgia [Mr. BARNARD], and all the Members on the other side who spoke in favor of this, because it is a reasonable amendment. It gives the Secretary of Defense 20 days when he requests an item to be looked at. If he does not like the idea that it is going to be transferred to another country, this particular technology, he then can refer it to the President of the United States if he differs with the Secretary of Commerce. That is a reasonable thing. The lives of our young men and women are worth 20 days.

□ 1840

Let us not make the same mistake that we made about 2 years ago before this gulf war when we forgot about the fact that we have an incredible flow of high technology going to adversaries, that are going to be taking that technology back to the men and women in uniform who serve this country.

Vote "yes" on the Barnard-Hunter amendment.

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment.

The Omnibus Export Amendments of 1991 strikes a balance between national security concerns with trade and economic opportunity.

The amendment on the floor, however, fails to recognize that the cold war is over.

By enhancing the role of the Department of Defense to review export licenses, the amendment will add to the bureaucratic gridlock and redtape that confront U.S. exporters.

Mr. Chairman, economic priorities are changing throughout the world. So must ours.

Many U.S. industries, including the critical high-technology and electronics industries, are losing ground in the competitive contest against our trading partners.

If we do not create an atmosphere that allows these industries to compete, we will face the very real prospect of being left at the post while our competitors race toward the future.

I strongly urge my colleagues to oppose the amendment.

The CHAIRMAN pro tempore (Mr. DURBIN). All time has expired. The question is on the amendment offered by the gentleman from California [Mr. HUNTER].

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

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 217, not voting 27, as follows:

[Roll No. 355]

AYES—189

Abercrombie
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Camp
Carr
Chandler
Clement
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Darden
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
Evans
Ewing
Fawell
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (SD)
Johnson (TX)
Jones (GA)
Kaptur
Kasich
Kennedy
Kildee
Klug
Kyl
Lagomarsino
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Mollohan
Moody
Moorhead
Murtha
Myers
Neal (NC)
Nichols
Nussle
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Peterson (MN)
Pickett
Porter
Poshard
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Waxman
Weldon
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—217

Alexander
Allard
Anderson
Andrews (TX)
Annunzio
Anthony
Atkins
AuCoin
Bereuter
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Engel
English
Erdreich
Espy
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Geren
Gibbons
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Horn
Horton
Houghton
Hoyer
Huckaby
Jacobs
Johnson (CT)
Johnston
Jones (NC)
Jontz
Kanjorski
Kennelly
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)

Long	Ortiz	Skaggs
Lowey (NY)	Orton	Slattery
Luken	Owens (NY)	Slaughter (NY)
Manton	Owens (UT)	Smith (FL)
Markey	Panetta	Smith (IA)
Matsui	Pastor	Solarz
Mavroules	Payne (NJ)	Spratt
Mazzoli	Pease	Staggers
McCloskey	Pelosi	Stallings
McCurdy	Penny	Stark
McDermott	Perkins	Stokes
McGrath	Peterson (FL)	Studds
McHugh	Petri	Swett
McMillen (MD)	Pickle	Swift
McNulty	Price	Synar
Meyers	Rahall	Thornton
Mfume	Ramstad	Torres
Miller (CA)	Ray	Towns
Miller (WA)	Reed	Unsoeld
Mineta	Richardson	Valentine
Mink	Roe	Vento
Moakley	Roemer	Visclosky
Montgomery	Rose	Volkmer
Moran	Rostenkowski	Washington
Morella	Roth	Waters
Morrison	Roukema	Weber
Murphy	Roybal	Weiss
Nagle	Russo	Wheat
Natcher	Sabo	Whitten
Neal (MA)	Sanders	Wise
Nowak	Sangmeister	Wolpe
Oakar	Savage	Wyden
Oberstar	Serrano	Yates
Obey	Sharp	Yatron
Olin	Shays	
Olver	Sikorski	

NOT VOTING—27

Ackerman	Hopkins	Sawyer
Boxer	Jefferson	Scheuer
Brown	Lehman (FL)	Schumer
Davis	Lent	Shuster
Eckart	Lloyd	Slaughter (VA)
Fields	Martinez	Smith (TX)
Gephardt	Mrazek	Tanner
Glickman	Rangel	Traxler
Goodling	Rowland	Williams

□ 1900

Messrs. LEHMAN of California, WEBER, PANETTA, and VENTO, Ms. WATERS, and Mr. SLATTERY changed their vote from "aye" to "no."

Messrs. BEILENSON, ABERCROMBIE, and HOAGLAND, and Ms. KAPTUR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title I?

AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KYL: Page 21, strike line 8 and all that follows through page 25, line 20, and insert the following:

"(g) COMMODITY JURISDICTION.—Notwithstanding any other provision of law, no item may be included on both the control list and the United States Munition List after the publication of the lists required under paragraph (4) and the resolution of any dispute with respect to such lists under paragraph (5).

"(2) Notwithstanding any other provision of law—

"(A) an item agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under the Arms Export Control Act and not under this Act; and

"(B) except as provided in paragraph (3), an item not agreed for control on the International Munitions List of the Coordinating Committee shall be subject to control under this Act and not under the Arms Export Control Act.

"(3)(A) The President shall identify those items which are included on the United States Munitions List and are not included on the International Munitions List of the group known as the Coordinating Committee.

"(B) The President shall conduct a case-by-case review of each item identified under subparagraph (A) for the purpose of assessing the national security implications of removing such item from the United States Munitions List for purposes of control of the item under this Act. If the President determines that, pursuant to such review, the removal of such item from the United States Munitions List would have a detrimental effect on the national security of the United States, the item shall be controlled under the Arms Export Control Act and not under this Act. If the President does not make a determination under the preceding sentence with respect to the item, the item shall be subject to control under this Act and not the Arms Export Control Act.

"(C) Within 10 days after making a determination under the second sentence of subparagraph (B), the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate that determination, together with a report describing in detail the reasons for the determination, in appropriate classified form, as necessary. As soon thereafter as is practicable, the President shall propose to the Coordinating Committee that the item to which the determination relates be added to the International Munitions List.

"(4)(A) Within 6 months after the date of the enactment of this subsection, the Secretary shall publish the control list and the Secretary of State shall publish the United States Munitions List, with all revisions that have been made in accordance with this subsection.

"(B) Within 6 months after the date of the enactment of this subsection, the Secretary of State shall publish in a separate list those items remaining subject to control under the Arms Export Control Act under paragraph (3).

"(5)(A) whenever—

"(i) the Secretary or the Secretary of State receives a request to determine whether an item is subject to control under this Act or the Arms Export Control Act,

"(ii) either Secretary finds that an item is included on both the control list and the United States Munitions List, or

"(iii) an item appearing on the list of one Secretary under paragraph (4)(a) is considered by the other Secretary to be under the jurisdiction of that other Secretary,

the Secretary or the Secretary of State (as the case may be) shall refer the matter and any relevant information to the other Secretary.

"(B) The 2 Secretaries shall have a period of 15 days following the referral of a matter under subparagraph (A) to resolve any differences with respect to the matter involved.

"(C) If the 2 Secretaries fail to resolve such differences within that 15-day period, either Secretary may refer the matter to the President who, within 15 days after receiving the referral, shall notify the Secretaries of his determination on the matter in dispute.

Mr. KYL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. KYL. Mr. Chairman, I would like to briefly explain what this amendment does, and then briefly yield to the gentleman from Massachusetts [Mr. MAVROULES], and then make a few arguments on its behalf.

This is one of the portions of the amendment that would have been offered as part of the Committee on Armed Services amendment, but was withdrawn in favor of the compromise worked out with the gentleman from Connecticut [Mr. GEJDENSON].

Mr. Chairman, this provision amends section 107 of the bill. Section 107 deals with commodity jurisdiction.

Under the bill, this provision of the bill would require that the President remove all goods and technologies that presently appear on the U.S. munitions control list, but do not appear on the international munitions list established by Cocom. Effectively, here is what that means: that even though the United States may want to have an item controlled, if that item does not appear on the Cocom list because one of the Cocom countries has objected to its inclusion on the list, the President would be required to move it from our munitions list. No other country would be subject to that same limitation.

Mr. Chairman, I would like to read just a list of the technologies that would automatically be eliminated from our munitions list if this section of the bill is not amended. This is a list of technologies which will no longer be subject to control by the U.S. Government as being on our munitions list, unless section 107 of the bill is amended pursuant to my amendment.

Here are the technologies that would no longer be on our list: Stealth technology, space vehicles, antisubmarine warfare technology, jet engine hot sections, composite materials, night vision technology, inertial navigation systems, the global positioning system receivers, naval nuclear propulsion technology, submersibles, frequency hopping radios, intelligence collection technologies, and others.

Mr. Chairman, the point is that we list certain of these technologies because we understand they have significant national security applications in other countries.

Ordinarily Cocom would go along with such technologies. But for one reason or another, we cannot get the unanimous consent which is required of Cocom to put these particular items on the Cocom list.

As a result, under the bill they would automatically be eliminated from the U.S. munitions control list. My amendment simply allows the President to keep these items on our list and not let one other country in Cocom dictate to us what is on our list.

I might tell Members that Japan is one of the Cocom countries. If Japan said that it wanted to sell some of these things and refused to allow it to be on the Cocom list, automatically these items would not be subject to our control under our munitions list.

That is why the original Armed Services Committee amendment would strike part of this provision of the bill.

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

Mr. KYL. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. MAVROULES. Mr. Chairman, I want to thank my friend, the gentleman from Arizona, for yielding just so that I may clarify my own personal position on this matter.

This amendment was part of the en bloc amendment which I was to present to the committee this afternoon. After further review and negotiation with the Committee on Foreign Affairs, and especially with the gentleman from Connecticut [Mr. GEJDENSON], we agreed to protect the DOD's part of this overall bill.

In so doing, we had agreed at that time to withdraw this particular part of the amendment. So I want to clarify my position. Before I do, I would like to thank and express my appreciation to the gentleman from Arizona [Mr. KYL] for his very, very cooperative manner, not only today, but also in the conference we are working together in with the other side.

Mr. Chairman, given those set of circumstances, so that I can retain my own personal integrity on the matter, I cannot support the gentleman from Arizona [Mr. KYL] on ths matter, because I did agree to withdraw it from the original agreement.

Mr. Ghairman, I appreciate the opportunity to clarify my position.

Mr. KYL. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments.

Mr. Chairman, I just want to close by reiterating that all this amendment does is preserve the existing law which gives the President of the United States the authority to decide what is on this list, and not one other country, any other country that belongs to Cocom. Those decisions ought to belong to the United States of America, not other countries.

Mr. Chairman, one final point: I read a list of technologies that currently would be taken from the list. We should consider the fact there is future technology developing all the time. As these future technological items are placed on this munitions list, whether or not they are on the Cocom list, we may have a reason to protect them. All my amendment does is give the United States the ability to provide that protection.

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

Mr. KYL. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I want to compliment the gentleman from Arizona [Mr. KYL] on his amendment.

The CHAIRMAN. The time of the gentleman from Arizona [Mr. KYL] has expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. KYL was allowed to proceed for 3 additional minutes.)

Mr. KYL. Mr. Chairman, I yield to the gentleman from California [Mr. HUNTER].

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

Mr. Chairman, I would ask the gentleman from Arizona, is it the case that he basically has two lists? He has a list called the munitions list, and the State Department and Department of Defense oversee this list. On that list are included things right now like stealth technology, jet engine hot sections, space vehicles, antisubmarine warfare technology, and other technologies that are very critical to the national defense. And then the gentleman also has the commodity control list, or the Commerce list, which is controlled by Commerce.

□ 1910

Would it not be a fair statement that the State Department and DOD munitions list is a much more critical list for purposes of national security than the Commerce list?

Mr. KYL. That is correct. That is why this is so critical. These are not the run-of-the-mill things that we have been talking about in the past. These are the most sensitive crown-jewel technologies.

Under the bill, the only way that the President could override, in effect, the decision of some other country is if he finds, quoting now, "extraordinary circumstances which affect national security."

Our amendment simply allows the President to do this if he finds a detrimental effect on national security. It is an important difference between my amendment and the bill that we are considering.

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

Mr. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, what we are trying to do in this bill is to say that if somebody else in the world wants to sell something that is potentially dangerous, rather than the rest of the world working to stop that country from selling something that is potentially dangerous, what the bill says is that we all ought to sell the product that is potentially dangerous. It goes in exactly the wrong direction.

Rather than using the leverage of the world to stop the spread of these technologies that are dangerous and rather than us making an effort to say that we are going to stop the greedy people, the greedy profiteers from selling these things, we give into them. It is exactly the wrong way for the world to go.

That is why we should support the Kyl amendment. The Kyl amendment is nearly as important as the Hunter amendment. I hope that we will have the guts to approve this thing and not to resort to a very distorted logic.

Mr. KYL. Mr. Chairman, I urge my colleagues to support the amendment.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word, and I rise in opposition to this amendment.

I know it is unintentional, but my colleague did not accurately reflect the legislation. My colleague said if there is a technology that we have that other nations do not have, then it is not protected.

Let me read from the bill, page 22, line 20:

> An item that is not on the International Munitions list may be subject to control under the Arms Export Control Act if the President determines that extraordinary circumstances exist affecting the national security of the United States which require that the item be controlled under the Arms Export Control Act.

If the President wants it controlled, it is controlled. We have given the President of the United States the discretion to control the technology.

The problem with the gentleman's amendment is that this is a munition. Word-Perfect is a munition and WordStar is a munition. And we can just shut it all down and have this nonsensical confusion in the bureaucracy or we can, as the committee's draft does, give the President of the United States the authority to determine those things he needs to protect. It is simply, factually not true that under the bill, as the committee has brought it to the floor, that the President could not protect jet engine hot technology, stealth technology, fire technology, sonar technology.

The President can snap his fingers and protect all of that.

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

Mr. GEJDENSON. I yield to the gentleman from Utah.

Mr. ORTON. Mr. Chairman, my friend from Arizona indicates that we are talking about the crown jewels of our national security, inherently dangerous items which would be sold overseas.

This, my colleagues, is produced in my district. This is a munition. I would suggest that most all of us in our offices have this munition. Not only is this munition in each of our offices, I was recently in Riyadh, Saudi Arabia. I walked into a storefront retailer of software, and that storefront retailer, for $10 and a computer disk, will copy this or any other mass-marketed software and hand it to one, in violation of U.S. copyright laws, in violation of intellectual property laws, in violation of our own export controls.

If the purpose is to prevent this type of mass-marketed product, which is inherently dangerous, which is a crown jewel of national security, it is not working.

Anyone with a telephone and a modem can transfer this outside of the United States. The bill that we have crafted in the committee adequately protects real security items by giving to the President the discretion to price those items on the security list.

Otherwise they will be dealt with in Commerce.

Mr. GEJDENSON. Mr. Chairman, I ask unanimous consent to conclude debate after 7½ minutes on each side. The gentleman from Arizona [Mr. KYL] will control the time on his side, and I will control the time on my side.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. KYL. Mr. Chairman, if the gentleman will continue to yield, the gentleman, I think, somewhat misrepresents my position. I thought that I had quite clearly quoted both from the bill and from my amendment what the standard is for the President to determine whether or not it was on the list or not.

I did quote that, and the difference is this. Under the gentleman's bill, the President would have to find extraordinary circumstances which affect national security in order to preserve one of these items on the bill. That is the language the gentleman quoted.

What the amendment says is that the President, if the President determines that pursuant to such reviews the removal of such item from the U.S. munitions list would have a detrimental effect on the national security of the United States, then the item shall be controlled under the Arms Export Control Act. And that is the difference between the two bills.

I did not mislead my colleague when I quoted from both provisions. The point is the President ought not to have to meet some kind of extraordinary finding if he determines that something is detrimental to national security. He ought to be able to keep it on the list.

To the point of my colleague that holds up the software, all I can say and all any of us can say on this House floor with respect to any software that may be on that list is, as my friend from Connecticut knows, the only reason that software would be on the list is because of encryption capabilities. And we cannot talk about it any more than that.

So I do not think we ought to hold up a box and say we can find this anyplace in the world. We all, those of us in the area, understand why that would be on the list.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, I would just say what the gentleman points out, however, is correct. Any of this software from a $1,000 computer can be sent anywhere in the world without any Government agency having an opportunity to review it.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

The time now begins on the agreed-upon 7½ minutes for each side.

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

I will just summarize what this provision does. Under the bill, the only way that the President can preserve an item on our munitions list is by meeting a finding of extraordinary circumstances affecting national security. Why would we object to a different standard which is, if the President finds that the removal of such an item from our munitions list would have a detrimental effect on national security? It is a finding by the President of the United States, and the only reason that one of these items would be removed from the list is if some other country in Cocom decides that it wants to disagree with us or for whatever its own personal reasons might be, not include an item on the list or to remove an item from the Cocom list, then the United States would have to follow suit.

But none of the other countries in Cocom would have to do the same, if we removed the item from the list.

□ 1920

So it is a totally unilateral process here. I do not know why we are tying the hands of the United States.

If Cocom has agreed that an item should be on the Cocom list, it can remain on the munitions list. If for any reason a country decides an item cannot be on the Cocom list, should that be binding on the United States of America, unless the President meets this test of extraordinary circumstances affecting national security? I think it ought to be enough if the President finds a detrimental effect on national security.

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

Mr. KYL. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, let me just say to my colleague, have we gone absolutely crazy here with this legislation? Stealth technology is something that the President of the United States should hold very closely to his chest and we should enact legislation that allows him to control it even more closely than he does. The idea of giving other countries veto power over our technology and the security with which we hold it is absolutely incredible.

The Kyl amendment should pass with a vote of every Member of this House of Representatives.

Antisubmarine warfare technology, that is what stands between us and the strategic power of the Soviet Union. And if that goes down, that is what stands between us and unsafe sealanes that feed this maritime nation with commerce.

The idea of having antisubmarine warfare slip to a level of the lowest common denominator is incredible. Members of this House should vote for the Kyl amendment. It is a simple, straightforward amendment. It does absolutely no damage to the commercial interests of this country.

I thank the gentleman for yielding.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the other gentleman from California.

Mr. COX of California. Mr. Chairman, I thank my colleague from Arizona for yielding.

I would like to point out that unlike the last amendment that we just considered and voted upon, this amendment is supported by the administration. We have just been informed specifically of the support of the Departments of State and Commerce. Furthermore, I have here a statement of administration policy.

Mr. GEJDENSON. Does the gentleman have a letter to that effect? Because every indication we have had is that the Department of Commerce does not support such an amendment.

Mr. COX of California. I will not yield to the gentleman, but I heard his question, nonetheless, and I will respond to it.

I am reading now from the statement of administration policy on H.R. 3489. "The administration opposes a number of provisions in H.R. 3489 that dictate internal executive branch procedures and decision processes." These include the provisions in section 107 on commodity jurisdiction. The Kyl amendment redresses these problems. It does have the support of the administration and the relevant Cabinet departments, and I think the Members should consider that when they vote on this amendment.

I urge an "aye" vote on the Kyl amendment. I think it is a very, very sound provision.

Mr. KYL. I thank my friend and just reiterate that the administration has objected to this provision in the bill. My amendment would fix this provision of the bill, and I urge my colleagues to support this important amendment.

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

Mr. Chairman, I would just say the gentleman interprets the administration letter and concern about some aspects of the bill as support for this amendment. That is not correct. The amendment is a major troublesome amendment. It would make and keep

items of the nature of Word Perfect II and other similar software programs as munitions.

I would hope we defeat the amendment.

Mr. KYL. Mr. Chairman, I yield myself such time as I may consume and would just conclude by saying I want to state officials of the State and Commerce Departments have said they are in support of my amendment. In any event, we have explicit language in the letter of the administration specifically objecting to section 107 of the bill, which is the section that my amendment addresses.

I urge support for my amendment.

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

Mr. GEJDENSON. Mr. Chairman, I yield back the balance of my time.

Mr. OWENS of Utah. Mr. Chairman, I rise in strong opposition to the amendment offered by my friend from Arizona, Mr. KYL. This amendment would severely weaken the provision currently contained in the bill that allows for simpler export of mass market software with encryption capabilities.

Mr. Chairman, two Utah-based companies, Novell and Word Perfect, are seeking to compete in the international market. Their programs are readily available abroad and it surely serves no useful national security purpose to complicate export licenses for these programs. Anybody with a personal computer and a modem can transfer these programs anyway, and it is my understanding that many of these mass market software programs are available in stores all over the world.

While my friend from Arizona is well-intentioned, his amendment undermines a carefully negotiated agreement between the Foreign Affairs and Armed Services Committees, respectively. As a member of the Intelligence Committee, I understand the challenges facing our national security agencies. This is an amendment that does nothing to enhance our national security interests but harms our exporters.

So let our companies compete in the market. As it is it's tough enough to gain and keep a market share. U.S. exporters don't need additional burdens, if anything they need our help to overcome subsidies, cheap labor, and other unfair trade practices of foreign companies.

I urge my colleagues to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. KYL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 223, noes 180, not voting 30, as follows:

[Roll No. 356]

AYES—223

Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Broomfield
Browder
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLay
Dellums
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Evans
Ewing
Fawell
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Horton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Jones (NC)
Kasich
Kildee
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCloskey
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Morrison
Myers
Neal (NC)
Nichols
Nussle
Olin
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Peterson (MN)
Pickett
Pickle
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Waxman
Weldon
Wilson
Wolf
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—180

Abercrombie
Ackerman
Alexander
Anderson
Annunzio
Anthony
Atkins
AuCoin
Bacchus
Berman
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Bruce
Bustamante
Cardin
Carper
Carr
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dymally
Early
Eckart
Engel
Erdreich
Espy
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Guarini
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Horn
Houghton
Hoyer
Jacobs
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Luken
Manton
Markey
Matsui
Mavroules
Mazzoli
McCurdy
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Petri
Poshard
Price
Rahall
Ramstad
Rangel
Reed
Richardson
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sawyer
Schroeder
Serrano
Sikorski
Skaggs
Slaughter (NY)
Smith (IA)
Solarz
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Vento
Visclosky
Walsh
Washington
Waters
Weber
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yates

NOT VOTING—30

Boxer
Brown
Coble
Dwyer
Edwards (CA)
Ford (TN)
Glickman
Goodling
Hopkins
Ireland
Jefferson
Jenkins
Kleczka
Lehman (FL)
Lent
Lloyd
Martinez
McDade
Mrazek
Rowland
Savage
Scheuer
Schumer
Shuster
Slaughter (VA)
Tanner
Traxler
Valentine
Williams
Young (AK)

□ 1946

Ms. SLAUGHTER of New York, and Messrs. JACOBS, RAMSTAD, ERDREICH, CRAMER, HARRIS, STOKES, ENGEL, AUCOIN, and TALLON changed their vote from "aye" to "no."

Messrs. STAGGERS, VOLKMER, SMITH of Florida, MCCLOSKEY, CONDIT, APPLEGATE, and ANDREWS of Texas changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ORTON: Page 51, line 1 strike "technology" and insert "tangible items."

□ 1950

Mr. ORTON. Mr. Chairman, the entire amendment has been read. It is a fairly simple amendment which simply changes wording. It substitutes for the word "technology," it substitutes the term "tangible items."

Let me explain to you the purpose of this particular amendment. Under current law, current Export Administration Act, it states the following in section 11(g) of the act in referring to the property subject to forfeiture for a violation of this act. And let me give you an example.

A particular manufacturer may transfer or sell property through a U.S. distributor. That U.S. distributor could, perhaps, in violation of this act, attempt to transport or sell particular property subject to restriction under the act outside the United States. If in fact that is the case and those items in violation of the act are seized, those items are forfeited. In the current wording of the act, the items that are subject to forfeiture are goods or tangible items. That is the wording of the existing act.

Now under the provisions of the act as drafted, the language of items subject to forfeiture are "all goods or technology lawfully seized."

What the act that is proposed does in this particular provision is change the wording of the existing law which is "tangible items," changes that wording to "technology."

What my amendment would do is change back to existing law, delete the term "technology" and substitute the term "tangible items."

Now the reason that I am attempting to do this, Mr. Chairman, is quite simple. In the example I gave you, this software is manufactured and sold in my district. If this software were sold through a U.S. distributor, since it is currently on the munitions list, if this software were sold through a U.S. distributor and in violation of this act were sold overseas, and that distributor's items were seized under the act and forfeited, I believe the intent of the committee, the intent and, clearly, current law is that it is the goods and tangible items that could be seized and forfeited.

Therefore, all of the products that are attempted to be shipped overseas in violation of the act could be seized and forfeited. My amendment does nothing to change that. What I am concerned about is that under this current wording of the proposed bill which says "technology," technology is not adequately defined in the proposed bill and "technology" could be interpreted to go beyond tangible items to intangible items.

What is the intangible item in this example that we would be concerned about? The intangible item would be the intellectual property rights, it would be the copyright on the software itself. Certainly we do not intend to seize intangible copyrights which could then invalidate all of the other marketing agreements and invalidate the manufacturers' opportunity to sell that product.

So my amendment would simply substitute the term "technology" in this section of the bill.

In many other sections of the bill we refer to "goods and technology." I do not have a concern in any other area of the bill because we may in fact in other areas of the bill want to extent these restrictions to all types of technology, even intangible technology. But I do not believe that forfeiture should extend to the intangible technology.

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

Mr. ORTON. I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, I understand the gentleman's statement, I believe, and let me just reiterate in a simple question to him what I believe he said. That box of software, if illegally exported, could be seized under the language that the gentleman is proposing, reinstating, the existing law.

Mr. ORTON. The gentleman is correct.

Mr. BEREUTER. There is no doubt about that.

Mr. ORTON. But the underlying intellectual property rights owned by the corporation which developed that software could not be seized.

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

(On request of Mr. BEREUTER and by unanimous consent, Mr. ORTON was allowed to proceed for 1 additional minute.)

Mr. BEREUTER. Mr. Chairman, will the gentleman continue to yield?

Mr. ORTON. I yield to the gentleman from Nebraska.

Mr. BEREUTER. My understanding is consistent with this explanation, since there is no intent as I understand it for our regulators, our enforcement agencies, to seize intellectual property rights. Therefore, I understand now there should be no objection to the gentleman's amendment.

Mr. ORTON. I thank the gentleman.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to one again commend the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Utah [Mr. ORTON], the author of the amendment, for the excellent work they have done to resolve both the national security concerns but also the commercial concerns.

What we have to learn to balance here is the interests of the country both from an economic point of view and from a security point of view. It does no good to take actions that fundamentally undercut the economic stability of the Nation and do not achieve the goals that we are seeking when it comes to protecting technology.

Now we saw what happened in the case of Iraq. Once the President of the United States made a determination—and I do not need to go back to the statement from the State Department—we had shipped things that we would have never shipped to Iraq, once the Reagan administration took Iraq off the terrorist list. They did that for a reason. They took Iraq off the terrorist list so that they could ship those dual use items.

We ought not shoot ourselves in the foot misinterpreting what happened in Iraq when it comes to issues like this kind of technology, this software that, as was indicated earlier, I could send anywhere in the country simply with a $1,000 PC, probably less than that today, using a PC sitting here on the floor we could send this anywhere in the world.

So when we are dealing with these kinds of items, it seems clear to me that we ought not try to set up regulations that are unworkable, that are counterproductive and hurt the economy of the country.

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

Mr. GEJDENSON. I yield to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding.

Mr. Chairman, due to the fact that we have only 1 hour and 40 minutes left and some very serious amendments that yet face us, let me congratulate the gentleman from Utah [Mr. ORTON] and the gentleman from Nebraska [Mr. BEREUTER] for the work they have done. We have reviewed this amendment. I think it is a good amendment. We have no objection on this side to the amendment.

Mr. GEJDENSON. Mr. Chairman, I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. ORTON].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title I?

AMENDMENTS OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer several technical amendments.

The Clerk read as follows:

Amendments offered by Mr. GEJDENSON: Page 65, insert the following after line 2:

(3) Subsection (1)(3)(B) is amended by striking "the government of which" and all that follows through "terrorism" and inserting "whose government is determined for purposes of subsection (j) to be a government that has repeatedly provided support for acts of international terrorism".

Page 65, line 3, strike "(3) Subsection (m)(1)(A)" and insert "(4) Subsection (n)(1)(A)".

Page 65, line 4, strike "(n)" and insert "(o)".

Page 65, line 5, strike "(4) Subsection (q)" and insert "(5) Subsection (r)".

Page 61, line 21, strike "(s)" and insert "(t)".

Page 64, line 23, strike "(n)" and insert "(o)".

Page 65, line 7, strike "(o)" and insert "(p)".

Page 65, strike lines 8 and 9 and insert the following:

(B) in paragraph (2) by striking "6(o)(1)" and inserting "6(r)(1)".

Page 33, line 15, strike ", as of September" and all that follows through "thereafter" on line 16.

Page 33, line 17, insert the following after "(i)": "as of September 30, 1992, and as of the end of each 2-year period occurring thereafter,".

Page 33, line 24, insert "in accordance with subparagraph (D)," after "country,".

Page 32, lines 3 and 4, strike "for national security reasons" and insert "under this section".

In Sec. 119, strike clause (1)(C)(iii) and insert in its place:

"(D) The prohibitions contained in subparagraphs (A) and (C) do not apply with respect to any transaction subject to the reporting requirements under title V of the National Security Act of 1947, relating to congressional oversight of intelligence activities."

Page 74, strike lines 19 through 26 and insert the following:

"(ii) in the judgment of the Secretary of Commerce, is likely to be diverted for use in a nuclear production or utilization facility, or for research on, or for the design, development, or fabrication of or other use in, any nuclear explosive device.

Page 80, strike lines 5 through 13 and insert the following:

"(6) For purposes of this subsection, the term 'nonnuclear-weapon state' means any nation that is not a nuclear-weapon state within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons.

□ 2000

Mr. GEJDENSON. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to considering the amendments en bloc?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, we are having a conference at this point with our colleagues on the minority.

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

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I would just ask of the gentleman from Connecticut [Mr. GEJDENSON] if he can assure us that these are technical amendments.

Mr. GEJDENSON. Mr. Chairman, these amendments are technical in nature, and I assure the gentleman from Wisconsin [Mr. ROTH] that they do not substantively change the provisions of the bill.

Mr. ROTH. Mr. Chairman, with that we have no objections to the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Connecticut [Mr. GEJDENSON].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON: Page 58, strike line 4 and all that follows through page 59, line 11, and insert the following:

(b) ADMINISTRATIVE REVIEW.—(1) Section 10(1)(1) (50 U.S.C. App. 2409(1)(1)) is amended by striking "10" and inserting "30".

(2) Section 13(e) is amended—

(A) by striking "(e) APPEALS FROM LICENSE DENIALS.—" and inserting "(e) APPEALS FROM LICENSING AND CLASSIFICATION ACTIONS.—(1)"; and

(B) by adding at the end the following:

"(2) Within 30 days after the issuance of a classification decision under section 10(1)(1), or within 30 days after the failure to issue such a classification decision in response to a request for such a decision, any United States person aggrieved by such decision or failure may file an administrative appeal thereof to the Secretary pursuant to regulations issued by the Secretary. Such administrative appeal shall be decided within 30 days after the filing of the administrative appeal.

"(3) Within 30 days after the issuance of a decision under paragraph (2) pursuant to an administrative appeal or within 30 days after the failure to issue such decision, any United States person aggrieved by such decision or failure may file an appeal thereof to an administrative law judge, but only on issues regarding classification decisions pursuant to section 10(1)(1) including, but not limited to, decisions of whether an item is covered by any general or specific note, or is eligible for a general license. The administrative law judge may not review determinations as to the reliability of an end user or the nature of an end use or end user. The administrative law judge shall, within 90 days after such appeal is filed, issue his or her decision and issue any order that is necessary or appropriate to carry out such decision. Such order shall be binding upon the Secretary unless and until vacated or modified under paragraph (4). Such order may be stayed by the administrative law judge or the Secretary pending the filing and determination of an appeal under paragraph (4).

"(4) Any United States person aggrieved by a decision of the administrative law judge under paragraph (2) may appeal such decision to the Secretary within 45 days after receiving notification of such decision. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after such appeal is filed. Except as provided in subsection (a), the Secretary's decision under this paragraph shall be final and not subject to judicial review. The authority of the Secretary under this paragraph may not be delegated to an officer or employee of the Bureau of Export Administration.

Page 59, line 12, strike "(4)" and insert "(5)".

Page 59, line 16, strike "(5)" and insert "(6)".

Page 59, line 20, strike "(6)" and insert "(7)".

Page 59, line 22, strike "(7)" and insert "(8)".

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I think that this is a noncontroversial amendment. I believe the gentleman from Wisconsin [Mr. ROTH] would not have any objection to it.

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

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I wonder if the gentleman from Connecticut [Mr. GEJDENSON] would just in a capsule form tell us what it is.

Mr. GEJDENSON. Mr. Chairman, the amendment that I am offering has been accepted by the Commerce Department. The amendment would establish a more reasonable time frame for the pursuit of administrative appeals allowing for delegation authority by the Secretary of Commerce to other officials within the Commerce Department. It narrows the scope of what may be appealed, and for that reason we think it will be far more workable.

Mr. ROTH. Mr. Chairman, with that, this is pretty well as we had discussed it before, and all people have agreed to it before, and we have no objections on that from our side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON: Page 48, insert the following after line 15 and redesignate succeeding sections, and references thereto, accordingly:

SEC. 120. EXPORTS OF NATURAL GAS.

Section 7(d) (50 U.S.C. App. 2406(d)) is amended—

(1) in the subsection caption by inserting "AND NATURAL GAS" after "OIL"

(2) in paragraph (1)—

(A) by inserting "or natural gas" after "crude oil" each place it appears;

(B) by inserting ", in whole or in part," after "transported"; and

(C) by inserting ", in the case of crude oil," after "such exchange"; and

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting "or natural gas" after "Crude oil"; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by inserting "or natural gas" after "crude oil";

(ii) in clause (i) by inserting "or natural gas" after "petroleum";

(iii) in clause (ii) by inserting after "(ii)" the following: "in the case of crude oil"; and

(iv) in clause (iii) by inserting "or natural gas" after "crude oil".

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, this bill, which primarily deals with the controls on high technology and the divisions between items that are consid-

ered munitions and those that are not, also deals with short supply. Traditionally it has had a provision in the bill referred to often as the McKinney provision which prohibits the sale of Alaskan crude oil outside the United States of America.

As we have seen in recent years, Mr. Chairman, our supplies of crude oil get disrupted almost on a regular basis. As a matter of fact, not just twice in recent years with the oil embargoes in the fall of the Shah of Iran, but as the Iraqis moved into Kuwait. Part of what mobilized and energized this administration to move over half a million men from the United States and our bases in Europe to the Middle East and put them in harm's way was the West's dependence, and particularly American dependence, on foreign energy supplies.

Additionally, this country faces a new and tougher clean air bill that the vast majority of Americans support. The need for cleaner fuels is clear for the future of this country.

So, for those reasons I am offering an amendment that would include natural gas with the prohibition on the export of oil from the Alaskan fields. The United States ought not be exporting to Japan or other Pacific rim countries a valuable clean energy fuel that we have, that we ought to use the portions of the existing Alaskan pipelines to bring that gas down to the lower 48 States. Americans ought not be held hostage for short-term profits, profits that would liquefy and sell our natural gas overseas.

How many times must we go through these crises before we recognize we need a serious energy policy? Not one simply of using our own resources efficiently, but developing alternative fuels, increasing conservation and indeed, yes, in some instances exploration. But it seems to me that Members of Congress ought not step forward and ask that we drill in ANWR and other pristine areas of this continent while we are not utilizing efficiently our own energy resources.

Now there are those who would argue that we need to do this in a broader bill, that we need to do this in a context of a larger energy package. I would hope that we can have some energy package, but I have been in this Congress since the first day of the Reagan administration, and through Reagan and Bush we have seen no energy policy. We have seen only an attempt to further exploit those resources that are precious and scarce.

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Americans ought not be sent across the globe as mercenary soldiers while we have our own resources that we are underutilizing, resources that exist today.

Following the 1970's energy crisis America joined with the Canadians to establish a pipeline to bring that energy from Alaska through Canada to the lower 48 States.

Mr. Chairman, natural gas is clean, it is available, and we ought to use it. We ought not take the short-term approach of selling this gas to Japan.

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

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

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

Mr. Chairman, this really does not deal with high technology. The gentleman from Connecticut [Mr. GEJDENSON] has been eminently fair with this body. We only have about an hour and a half left on amendments. We have some very important amendments yet to be addressed.

I wonder if I could ask the gentleman from Connecticut [Mr. GEJDENSON] to put this amendment aside, let us have hearings on this, and bring it back, in fairness to other Members who have amendments dealing with high technology? Would the gentleman from Connecticut [Mr. GEJDENSON] be so fair?

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, I may be receptive to the proposal of the gentleman from Wisconsin [Mr. ROTH]. It certainly does make some sense. Part of the reason I bring this here today is to raise the issue.

Mr. Chairman, before doing so, some other Members are on their feet. I think we would like to hear from them.

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

Mr. GEJDENSON. I yield to the gentleman from Indiana, someone who has spent a considerable amount of time on this issue.

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

Mr. Chairman, I regret that I have to rise to oppose the amendment of the gentleman from Connecticut [Mr. GEJDENSON] at this point. First, it is a surprise amendment with no notice to the Members here in the House. It really has potentially great significance for our energy markets and our world economic trade.

Second, it does have an enormous superficial appeal, because most of us want to see our domestic energy resources utilized.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(At the request of Mr. SHARP and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 5 additional minutes.)

Mr. GEJDENSON. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I realize this has superficial appeal and that many of us worked very hard in the 1970's to get a law in place that would expedite procedures to build a major pipeline out of Alaska through Canada down to the United States market. Indeed, all of those legal provisions are in place.

But as events would have it, it became horrendously expensive. As a result, there is no prospect at the moment and no prospect in the near future that a pipeline will be built.

I might add there is no need for us to rush to worry about the question of export of this natural gas either, because the fact that the business consortium that would like to hatch a deal with the Japanese or somebody else have run into enormous difficulties. It is another high cost proposition, since it requires investment in major facilities, major tankers. So it is not likely to happen overnight either.

We need to have a far more careful examination whether we want to do this.

Finally, if I could just add, the way the amendment is drafted, it clearly violates the Canadian Free-Trade Agreement, because it would prevent us from exporting that gas right across the border into Canada.

Mr. Chairman, we had a very special relationship with Canada, especially on this question, because the Canadians back in the 1970's went ahead and built pipelines out of Alberta to the United States as the prebuild, the part of the section of this pipeline, under the condition that they would have the opportunity to buy and sell our gas.

Mr. Chairman, this really violates a number of things. I understand it is a serious question with many Members and we need to examine it seriously, but we do not need to rush. Rushing I think will make a big mistake for the national interest.

Mr. GEJDENSON. Mr. Chairman, if I could ask the gentleman from Indiana [Mr. SHARP] one question, it seems to me the largest portion of this pipeline is already in place. The danger that I see is that in Alaska, they will make precipitous decisions to capitalize the liquefaction process and start shipping that. They will stop moving the money toward the liquefaction facility, and that would preclude then bringing the natural gas that we at some point may need to the lower 48.

Does the gentleman from Indiana [Mr. SHARP] feel that we have some time before that road is crossed?

Mr. SHARP. Mr. Chairman, if the gentleman will yield further, I think we do. I think we ought to have very extensive hearings. Because the section of pipeline yet to be built is over the most difficult terrain and it is very high cost. It may yet become an economic investment.

But the other big change in the market is that Canada had calculated that they would need almost all of their own gas supplies. Of course, as our own gas industry has learned to their horror, Canada was more than willing to export because of their surpluses.

The point being that the price of natural gas in the United States and Canada and even on the world market probably will not sustain the investments in either direction for some time to come.

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

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

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

Mr. Chairman, I understand that the gentleman in the well does not plan to move this issue through to resolution this evening, but I want to express my personal appreciation for the gentleman raising this subjection at this time.

As the gentleman from Connecticut [Mr. GEJDENSON] noted, since 1979 exports of Alaskan crude oil have been prohibited by provisions in the Export Administration Act. In my judgment this prohibition has increased American energy security, protected job losses in the wartime and related shipping industries, and saves billions of dollars for west coast consumers at the pump.

What the Gejdenson amendment, what the amendment of the gentleman from Connecticut [Mr. GEJDENSON] would do, is essentially apply the same restrictions. It would yield great benefits to our economy, to our consumers, and to our environment, through Alaskan natural gas.

Mr. Chairman, the proven North Slope reserves of natural gas amount to approximately 15 percent of American gas reserves. American consumers during the early 1970's learned all too well the price of dependency on foreign energy supplies. It makes no sense to export critical U.S. natural gas to Japan and the Pacific rim when we need this energy here at home.

Mr. Chairman, how can we propose to send one of our most precious natural resources overseas, as the gentleman in the well has suggested, to our international competitors, when we just sent hundreds of thousands of young Americans to the Middle East to risk their lives for oil.

In my judgment, the Gejdenson amendment would also help to protect America's environment. We will need greater supplies of cleaner fuels, especially natural gas, in coming years. I think we should preserve this critical supply of clean fuel, and not increase our reliance upon imported supplies of less clean fuel, such as crude oil.

So I would hope that this suggestion that is being made this evening will be given very serious consideration at the hearing that have been indicated will be coming down the road, and that they will really focus upon the implications of this amendment in depth.

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

Mr. GEJDENSON. I yield to the gentleman from California.

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

Mr. Chairman, I want to say that I echo the comments of the gentleman from Indiana [Mr. SHARP]. I think this does have a superficial appeal when you first hear it, but there are a lot of ramifications where you just do not know, or at least I do not know at this point standing here tonight.

I understand there were no hearings held on this issue, is that correct?

Mr. GEJDENSON. Mr. Chairman, there have been some hearings held in another committee that I had jurisdiction on that has jurisdiction on it as well. We have held none this year.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has again expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 2 additional minutes.)

Mr. GEJDENSON. I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, it seems to me, without knowing more about this, it is just ill advised to take up this amendment at this time. I would oppose it, and regret that the gentleman from Alaska [Mr. YOUNG] is not here, because we are talking about something in his State.

As I understand it, companies have made investments based on the present law, and they should at least be allowed to be heard in a hearing before we take this action which I deem to be precipitous.

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

Mr. GEJDENSON. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, I would hope that the gentleman from Connecticut [Mr. GEJDENSON] would not press this amendment, because it comes as a surprise to me, and I guess it does to most of the other Members of the House.

Mr. Chairman, I am persuaded by the argument that the gentleman from Indiana [Mr. SHARP] makes over here. I do not know exactly what this does. I know the gentleman is the chairman of the United States-Canadian group, and he would not deliberately violate our agreement with them.

Mr. Chairman, there is a lot to this. I do not think it is a very urgent matter. It is not within my jurisdiction at all over here. I would hope that we would just take our time with this, and I hope the gentleman from Connecticut [Mr. GEJDENSON] would either withdraw his amendment or just not press it.

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman from Florida [Mr. GIBBONS] for his kind words. The gentleman is correct, I will not press this amendment at this point. But I would like to give notice to all those interested, that the committee does plan to hold hearings on this subject and I do think that it is a critical issue that we not allow this valuable resource to be sold off to the Pacific rim when it may be vital to both our environmental policy under bills like the clean air bill and also our own national security.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Are there further amendments to title I?

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: Page 31, line 14, strike "paragraph (3)" and insert "paragraphs (2) and (3)".

Page 31, insert the following after line 15:

"(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary may, within 20 days after notifying the Secretary of Defense of the Secretary's determination, refer the matter to the President for resolution. The Secretary shall notify the Secretary of Defense 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 inclusion of such items on the list. Failure of the Secretary to notify the President or the Secretary of Defense (or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary of Defense regarding the inclusion of such items on the list.".

Page 31, line 16, insert "(A)" after "(3)".

Page 32, line 22, strike "The" and all that follows through "made." on line 24.

Page 33, line 10, strike the quotation marks and second period.

Page 33, insert the following after line 10:

"(B) The concurrence of the Secretary of Defense is required before any revision in the list is made under subparagraph (A). If the Secretary and the Secretary of Defense are unable to concur on any such revision, as determined by the Secretary, the Secretary may, within 20 days after notifying the Secretary of Defense of the Secretary's determination, refer the matter to the President for resolution. The Secretary shall notify the Secretary of Defense 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 revision of the list.

Failure of the Secretary to notify the President or the Secretary of Defense, or failure of the President to notify the Secretary, in accordance with this subparagraph, shall be deemed by the Secretary to constitute concurrence in the implementa-

tion of the actions proposed by the Secretary of Defense regarding the revision of the list.".

Page 31, line 7, strike "(a) IN GENERAL.—".

Page 33, strike line 11 and all that follows through page 35, line 22.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

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Mr. HUNTER. Mr. Chairman, this amendment goes to the balancing of the process of controlling technology transfer. It is very simple. I think it is very fair and very balanced.

It says simply that we have reduced the controlled list by 50 percent. We have pared it down over the years. A number of people who wanted to sell more and who felt outmoded items were on the list have said, let us cut it down. We have cut it down.

The administration has worked long and diligently, and it is now about half as big as it was.

This is a list which has dual-use items on it. That means items that could be used by civilian commerce and items that could be used in national security or national defense.

All the Hunter amendment does is say this: If we are going to add an item to the list or take an item from the list, since it is a dual-use item that affects both defense and commerce, the Secretary of Defense and the Secretary of Commerce shall both have the right to concur in that item being added or taken away.

Let us say they have an argument and the Defense Secretary said this is something that is critical to national security and could be used against the country if it falls into the wrong hands. And the Secretary of Commerce says, "I disagree. I think it is something we should sell commercially and I don't think that the security risk is that great." Then they take it to the President.

The President has 20 days to come down on the side of either Commerce or Defense. It does not add a lot of time. It adds a balance to the process. What it does is it gives both gentlemen or gentlewomen, whoever the Secretary of Defense or Secretary of Commerce happens to be, it gives them a right to work in their area of expertise, whether it is commerce or national security, in analyzing each item and seeing if there is something inherent in that item that is going to accrue to the detriment of national security in this country or not.

I think this is a well-balanced amendment.

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

Mr. HUNTER. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, again I want to rise in support. I think the House cast a great vote on the last amendment, which was designed to tighten this whole process up.

On the original Hunter amendment, which I think was distorted in its description of being overkill, although we got almost 190 votes for that amendment, I think there was some misunderstanding.

Let us have no misunderstanding on what the gentleman from California [Mr. HUNTER] is trying to do on this amendment. He is basically saying that if there is an effort to remove items from the control list that restricts the sale of certain items because they have military application, the Secretary of Defense ought to participate in that process. The Secretary of Defense ought to express his or her concern about the fact that some of these items have military application.

This is not an overkill. This is a very reasonable amendment. I ask the Members on both sides of the aisle who supported the previous amendment offered by the gentleman from Arizona that was designed to tighten this up, come to the floor again and vote to further tighten this bill by supporting the Hunter amendment.

It makes good sense. It gets the Secretary of Defense, who has a very real interest in national and global security issues, in the loop and does not permit just the Secretary of Commerce from making this very critical decision.

The list has already been reduced. If it is going to be reduced any further, then the Secretary of Defense ought to be a player in this. It is a very reasonable amendment.

I would plead with the House to, again, accept this kind of an amendment, not because we want to support the gentleman from California, [DUNCAN HUNTER], because he is a Republican, or the administration or anything else. It is good public policy.

I ask for my colleagues' support.

Mr. HUNTER. Mr. Chairman, I thank the gentleman.

Let me just say one other thing before I wrap up my remarks. This is something that liberals and conservatives can agree on. Gary Milhollin, of the Wisconsin Project on Nuclear Arms Control, says that this provision is very important and says that the current provision that is in the bill right now that is being presented to the House misses the emerging North-South dimension of trade security policy.

And when he says the North-South dimension, he is talking about the Third World acquisition of military technology.

Under the present regimen that we are voting on and the present bill, all technology transfer and the entire control list, as of September 30, 1992, to all non-Communist countries, and that includes many Third World countries, are going to be eliminated from the list, unless they are specifically reinstated by the Secretary of Commerce.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 30 additional seconds.)

Mr. HUNTER. Mr. Chairman, very simply, this is an amendment that gives the Secretary of Defense equal footing with the Secretary of Commerce in concurring or objecting with the addition or the subtraction of items from this list. It has already been whittled down very substantially. If there is a dispute, it goes to the President of the United States. He resolves it in 20 days.

Mr. KYL. Mr. Chairman, I rise in support of the amendment.

I want to clarify something. I realize this is complex, but I urge my colleagues' indulgence on this.

Right now in the law there is a conflict. That conflict results in more time being taken to issue these licenses, make these determinations, than is necessary.

My colleague, the gentleman from Nevada [Mr. BILBRAY] spoke earlier about some problems that some of his constituents had had in getting these licenses issued promptly.

We are trying to speed this process up. One of the things that this Hunter amendment does is to erase an ambiguity in the law and thereby make it clear what the lines of authority are. And what it does is to give both Defense and Commerce equal authority.

Here is the conflict: Under the law one section says that the Secretary of Defense has the authority to add items to this control list. In a later provision of the law it says that the Secretary of Commerce has the authority to modify the list, and he is not required to get any concurrence from any other agency. So we have a built-in conflict in the law.

That conflict is one of the things that result in delays in people getting licenses.

One of the nice things that this Hunter amendment does is to eliminate that confusion, makes it real clear. It says:

> Whether you are adding to the list, whether you are modifying the list, whether you are deleting from the list, no matter what you are doing, both the State Department and the Commerce Department have an equal say in this.

They work together on it. And if they have some kind of a dispute that cannot be resolved, then the ultimate decider is the President of the United States.

Another good feature of it is that only 20 days can elapse before the President has to make his decision.

So what we are trying to do is speed up the process, eliminate the ambigu-

ities, and try to get these licenses issued in a timely fashion.

The other good thing that the Hunter amendment does was explained earlier by the propounder of the amendment. That is, that it eliminates this sunset provision which otherwise is going to require a great deal of work. It is going to create a great deal of confusion. It is a new provision in the law.

I think it is fraught with difficulties. I think it creates problems that we simply do not need under the current regime.

I urge support for the Hunter amendment because it is going to clear up a very difficult area of conflict right now and simply put both Commerce and Defense on an equal footing, not give either one of them the advantage. I urge support for the Hunter amendment.

Mr. ROTH. Mr. Chairman, I rise in opposition to the amendment.

It pains me to say this, because the gentleman from California [Mr. HUNTER] is my good friend. But this amendment just is not practical.

I mean, stop to analyze it for a minute.

We have got some 2,000 agencies here in Washington, and we are going to make Commerce and Defense equal. And if there is a disagreement, the President is going to have 20 days to decide the disagreement. What is the President of the United States, a babysitter?

The President is going to, every time there is a disagreement, the President is going to resolve this disagreement. It is so totally impractical.

The President is on his way to Madrid, and staff says, "But you can't go to Madrid today. You have to resolve this issue between Commerce and State or between Commerce and Defense."

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This amendment gives the Defense Department a hammerlock over export licenses, and we know what the history of that is. It is just not going to work. It would require a duplicate licensing bureaucracy in the Defense Department.

Until a few years ago they had the Civil War scavenger caps on the control list. They have everything on that control list. If they have a question, they just put it on the control list.

I am for protecting our national defense, but by the same token, we have to be somewhat practical. We are living in a fast world, and not even the administration would want this amendment. We cannot have everybody having a veto over what is going to be exported, or else we will just have gridlock in the entire system, and that is what is happening now.

Mr. HUNTER. Mr. Chairman, will my friend yield for a second?

Mr. ROTH. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank my friend for yielding.

I would just like to ask the gentleman a question. If the items are on the list because they have a security implication, that is they could be dangerous if they are used against us, what is wrong with letting the guy who is in charge of security and has the security experts, the Secretary of Defense, render a position and have the position in balance with the Secretary of Commerce? What is wrong with that?

Mr. ROTH. Let me answer that by saying that if we have items on the list that are only the items that the gentleman is addressing on the control list I would say fine. But we do not have that. We have everything including the kitchen sink on that control list, and that is the problem. We cannot get items off that control list. And that is precisely the problem we have.

We have to be practical with the control list and we are not doing it. Under this amendment we are asking the President of the United States to take on housekeeping duties that not even the CEO of a Fortune 500 company would consider doing. It is impractical and I think it is unfair to the President of the United States to make him a babysitter, and I cannot go along with this amendment.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is no wonder that our balance of trade falls far behind that of other nations when we add layers of bureaucracy onto the sale of America's goods and products. Let us be realistic.

The President of the United States appoints both the Secretary of Commerce and the Secretary of Defense. There is no need to run through layers of bureaucracy if one of those Secretaries decides that some item may be added or removed from the list. It takes a simple phone call.

If the Secretary of Defense is really concerned with what is good or not good for the country, it just takes a simple phone call for him to call Mr. Sununu or somebody else at the White House, or call the Secretary of Commerce himself and say, "Look, I have some reservations. Let's talk about this."

Why run this through one bureaucratic agency after another before a product can be added or subtracted from the list? Be reasonable. Both Secretaries are appointed by the administration. The administration is responsible. One Secretary is enough.

Let us move on with this measure and let us move on with American commerce.

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

Mr. MURPHY. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding and I want to commend him for his remarks.

Mr. Chairman, I have listened patiently here to a variety of arguments that have been raised on the amendments by my respected colleagues, and I love them, and I like their zeal. But the world has changed and national security is threatened by our own economic difficulties and economic security, and I think we have in this legislation given the kind of protection we need against the shipment or export of sensitive technology.

The Secretary of Defense has an ability to impact this process, and the gentleman is absolutely right. This is an unnecessary bureaucratic step that simply delays the legitimate export of our products abroad, and I thank the gentleman for his statement.

Mr. MURPHY. I could not agree with the gentleman from Nebraska more. Our major enemy today is the economic situation of our country.

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

Mr. MURPHY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, as I understand, under this amendment as proposed by the gentleman from California, even if I want to sell a nondefense item to a buyer in England I would have to get approval?

Mr. MURPHY. It is my understanding that that is what the amendment would do. It would go back over to the Department of Defense.

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

Mr. MURPHY. I am glad to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, no; this amendment is being totally misconstrued. What this says is this: We have a control list. On the control list are items that have both a military use and a civilian use, so there are items that we are kind of worried about, because if the wrong people get the item they might use it in a bad way against us in places like the Middle East.

Let me just answer the gentleman's question. So we have this list, and the list has been cut in half by negotiations. We have a lot of items that we thought were extraneous off the list. Now that we have this list and it has military application and civilian application we are simply saying let us let the Secretary of Defense, who knows about military applications, participate in deciding if we are going to increase the control list or going to add to the control list or take items off the control list. Let us let him participate.

Mr. MURPHY. I would like to reclaim the balance of my time.

Mr. HUNTER. The items already on the list are not going to be affected.

Mr. MURPHY. We understand that, except what it does is put on another layer of bureaucracy.

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

Mr. MURPHY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, even if the sale is to one of our friendly allies or NATO allies or anything, then we still have to go through this process?

Mr. MURPHY. They would run it through the Secretary of Defense. The whole Department of Defense, not the Secretary's desk. If it were one desk, I would not object, but it is not one desk. It is a series of bureaucratic levels in the bureaucracy.

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

Mr. MURPHY. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, bank cards were tied up from being sent to London. We had an American company that wanted to send 50,000 bank cards to London. Under this kind of provision they wanted to have 50,000 background checks on people in England.

They decontrolled machine tools at a time when nobody wanted to buy those machine tools anymore. We now have the Defense Department saying they want to buy Japanese machine tools because American machine tool makers do not make the quality they want anymore.

We are trying to set up a process here that is not much different than the one that exists presently. If we accepted the gentleman's amendment, and this is a very complicated area, we will have a more complicated export law now than when the Berlin Wall was standing. It is counter intuitive. It makes no sense at all.

Mr. KASICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me speak to this issue of America's inability to have economic growth because we are somehow restricting exports.

First of all, we are asking under the Hunter amendment to make a decision about whether an item has military use in a period of 40 days. That is what we are asking for. We are not asking to hold it up for 4 years, but 40 days.

This idea somehow that we ought to put profit ahead of international security is bogus. We have this technology spreading throughout this world, putting sophisticated technology in the hands of Third World dictators who want to use that technology to develop weapons that they want to use to fight wars.

I cannot believe that this House, who is concerned about our defense budget, and let me tell Members what I mean by this, we are trying to struggle to put a defense budget together to meet the threat, and we are trying to do it in a rational way under the leadership of our chairman, the gentleman from Wisconsin, Mr. LES ASPIN.

As Members know, what we are doing is trying to defend our enemies and defend the threat, while at the same time allowing technology to be spread across this world that will empower tinhorn dictators to threaten the security of the United States and their neighbors. You want us to put a defense budget together that restricts the amount of resources we spend on this country to defend ourselves, while at the same time you want to let the flow of technology go across the world to empower the very people that we are protecting ourselves against, and it is absolutely a bogus argument to say that somehow we are shutting down exports because we see something that has a military application and we want to hold back the reins. We do not want that technology that could give somebody a military capability to flow out of here without slowing it down, and that is the problem with this bill.

Come on, folks, this is a new day in America. JACK MURTHA is trying to design an appropriation bill that defends the threat.

□ 2040

How can he define the threats against a moving target of a President of a country that is interested in building weapons of mass destruction? So we have to support the Hunter amendment. This is not overregulation or overkill. This is putting peace ahead of profit, and I think we should put peace ahead of profit and not let people dictate the movement of this House so that the military-industrial complex will get their way again.

Support the Hunter amendment.

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

Mr. KASICH. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, it is interesting. All we are doing here is saying let us let the Secretary of Defense in an area where you have items that have a defense capability, let us let him share in the determination as to whether or not they should be on the list or not.

The other side says no, that is ridiculous, let us let Commerce analyze these things from a defense perspective, and they will decide if there is a national security problem. That makes no sense at all. They are trying to shove the Secretary of Defense out of the way.

You know, it is interesting, the same debate 2 years ago before the Persian Gulf situation, and the other side got up and talked about old gym socks and all these old things that were not being transferred. When our people got to the Middle East, they did not meet gym socks. They met a lot of high-technology equipment that had gotten through this network, because we did not have an effective system to stop it.

This is a very well balanced amendment, very reasonable. It just says let us let the Secretary of Defense share in the determination with the Secretary of Commerce.

What is wrong with that?

Mr. KASICH. The reason why people do not want the Secretary of Defense to weigh into this debate is because the Secretary of Defense may put national security ahead of some company's profits. Do you know what, in a changing world, and the threat is not like the Soviet threat of the past, it is the emerging threat. It is the Third World countries that are trying to build very powerful weapons. That is the threat.

If we let technology flow throughout the world, we are going to empower Third World countries to act against the United States and their friends, and the reason why they do not want the Secretary of Defense in this fight is he may put national security ahead of profits, and you now what, I think we ought to put global security ahead of profitmaking.

We learned that lesson. Eisenhower warned us about it, and we ought to enact the Hunter amendment.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what the gentleman is asking us to do that I just heard is to trust the Secretary of Defense and the Secretary of Commerce.

I want to tell you a little story about that, because I used to chair a subcommittee that had oversight over something called the Defense Production Act. That act is the act that says that in a time of crisis, do we have the industrial base to produce our own defense equipment, in other words, to be able to protect ourselves?

We asked in our legislation for a simple list of necessary items that we felt were inherently dependent on production in the United States of America. The fact is they were very reluctant to say that.

Meanwhile, we saw Japan being able to bid on defense contracts to protect our country, getting those contracts, billions of dollars, let me tell you. We saw all kinds of memorandums of understanding that were signed off without really congressional oversight that was necessary in which we gave thousands of jobs away to other countries.

What we are now saying is what happens if we have products to sell that produce jobs in our own country?

I want to tell you this one quick story about not the current Secretary of Defense or the current Secretary of Commerce but during the Reagan administration. Here is the scenario that happened: We were told in a report they made that our country did not have to produce metal fasteners for our defense products. Now, you know, there are over 100,000 metal fasteners in a typical small-size airplane, and my region of the country used to be the metal-fastener capital of the world.

So they put out this report indicating that we, in a time of crisis, could go to Japan, to Germany, to Canada, to

other countries and import those metal fasteners, that we should not have to produce those in the United States of America.

My friends, something that simple, but so necessary to our defense strategy. So I asked for a GAO report on their report. Do you know what they did? Because they did not want the American people to know the answer, and I obviously cannot say the answer publicly, they stampled it "Confidential." They stamped it "Confidential" because they did not want the American people to know the answer as to whether or not in a time of crisis we could have the leisure, the leisure to import metal fasteners from Japan.

I say it is a two-way street. We subcontract all of the way down the line to foreign countries. Is it not about time that the American people be able to produce products in this global economy without having these levels of bureaucracy on reasonable items? I think it is imperative that we defeat this amendment, because more than anything it is symbolic of what is wrong in this philosophy, and that is it is about time we take care of our own people and let our economy take off by producing our jobs and letting our people fairly compete.

If you put all of these levels on our business community and our labor community, you will not see a job left in America, and you will not see an industrial base left in America.

So I hope that we follow the chairman's leadership on this and defeat the Hunter amendment.

Mr. HOUGHTON. Mr. Chairman, I move to strike the requisite number of words.

I would like to just talk for 1 minute, Mr. Chairman, about this issue of profits as contrasted to security.

I mean, it almost seems as if the pyromaniacs are posing as the firefighters here. They are accusing the people who are trying to create jobs in the United States, as contrasted to other countries, and that is our responsibility, as being less patriotic, and I resent that. I think it is wrong. I do not think it has anything to do with the issue.

The provision in this bill has nothing to do with that issue. It only is what is on the list.

Really, it is a matter of attitude. The President, if he wants to decide anything, can decide it.

We are really in two wars. We have done pretty well militarily, and that is the military aspect. The other war is the economic war, and we are not doing very well there.

The attitude of this Government has to change. Since 1945, the last person into the President's office has been either the Secretary of the Treasury, the Secretary of Defense, or the Secretary of State, never the Secretary of Commerce.

We are asking for the attitude change to be put in the hands of somebody who can fight that economic war, and it is not unpatriotic.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent to proceed for 1 minute.

The CHAIRMAN. Without objection, the gentleman from California [Mr. HUNTER] will be recognized for 1 minute.

There was no objection.

Mr. HUNTER. Mr. Chairman, we are going to move this amendment quickly, but I just wanted to say to my colleagues that we have really gotten off track here.

We are talking about a list that several years ago we said we have to cut down, and we have to get it down so we have a manageable number of items. We did that. We cut this list of controlled items in half, and we said, now, what is left we are really going to manage well; we are really going to take care of it. All we are saying is with this list of items that have a military capability as well as a commercial capability, we are going to let the Secretary of Defense share with the Secretary of Commerce the responsibility for adding or subtracting items from the list. If they do not agree, the President makes the decision.

Now, when we had this debate several years ago, all the Members that wanted to cut the list down said:

> By gosh, if we cut this list down, we are really going to concentrate on what we have left, because that really will be militarily critical technology.

So let us let the guy that knows about the military, the Secretary of Defense, just share 50/50 with the Secretary of Commerce in deciding whether an item is listed or taken off the list.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we all know we are trying to balance competing concerns, interests in national security with interests in American business, staying competitive.

But my distinguished colleague from Ohio, for whom I have the greatest respect, earlier talked with great alarm about technology going all around the world, that this bill would allow technology from the United States to flow around the world.

□ 2050

Mr. Chairman, let us think about that. Is that bad?

I mean, technology is where the United States has had the lead. Technology is becoming more and more important in the world economy. It is becoming more and more important in export.

What we have got to realize is that this munitions list, poorly named, not only included traditionally many products having dual civilian and military use that were very complex, but also included products such as a Microsoft electronic mail system here, the Word Perfect has been mentioned.

Now, what you have to understand about the changing world economy is that these products are not only used by millions of people today, these products constantly change. American companies that produce them realize that they may only have an edge for 1 year, 9 months, or 6 months, so when you talk about adding another layer of bureaucracy, you say 20 or 40 days, but of course once something goes to a Department and they keep it 60 or 90 days, not every business can bring a lawsuit to compel them to obey the deadline. When you start talking about 20, 60, or 90 days, you are talking about whether American business is going to be able to compete with our competitors, Britain, Japan, Germany, in entering new markets.

If American business is going to have technology and be a leader in technology 10 and 15 years after we finish this debate, they have got to make sales in these markets. They have got to have customers.

So we are trying to draw a balance. We are trying to set up a process where Commerce and Defense and the administration are involved in drawing up a munitions list. We are trying to make sure that that munitions list does not, as it did in the past, include a lot of items you could get at Radio Shack.

We are trying to make sure that when an item is either about to go on or go off that munitions list, particularly a new product, that there is not a lengthy delay.

We want to have national security. We want to have peace. We want to have business. We want to have a strong economy. We do not want to have a situation where we create a bureaucracy which overrides all those interests.

So Mr. Chairman, I urge support for the committee bill and defeat of the Hunter amendment.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent to proceed for 1 minute to respond.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 1 minute.

There was no objection.

Mr. HUNTER. Mr. Chairman, let me just respond to my friend. I just want to make sure that my friend realizes that we are not talking about all the commodities that are sold in the world. We are only talking about commodities that have a military use. We are saying that if they have a military use and we are going to take them off the list, we want the Secretary of Defense to share in that decision.

The other thing is that the Hunter amendment says you have got 20 days. If the Secretary of Defense does not

want an item coming off the list, he has got 20 days to object, and if he cannot get together with the Secretary of Commerce, they take it to the Office of the President and the Office of the President has 20 days to make a decision. That is not 60, 90, or 120 days.

Once again, we have cut that list down to half of what it was, and we all agreed the items that are left are very critical items.

This is not a burden on the American business people. It simply is not.

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

Mr. HUNTER. I am happy to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, nobody is talking about restricting credit cards and nobody is talking about restricting telephones. That is not what we are interested in.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. SMITH of Florida. Reserving the right to object, Mr. Chairman, I am not going to object this time, but I have an amendment, too. We have a finite amount of time to debate all these amendments.

Mr. HUNTER. Mr. Chairman, this is our last speaker.

Mr. SMITH of Florida. The gentleman has debated a number of amendments a significant number of times. I want everybody to be able to participate in the debate, but the gentlewoman from Miami, FL, and myself and others have an interest in an amendment that we also feel is important and we would like to be able to get to it before we are excluded by time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. HUNTER] is recognized for 2 minutes.

Mr. HUNTER. Mr. Chairman, I appreciate the gentleman's concern. This is our last speaker, and I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I certainly appreciate the gentleman's concern and respect it.

It is not our intent to do that. It is our intent to restrict the quick sale of equipment that can have military use around the world. We do not want to talk about cards that have hollow phones on them for Christmas. We are not talking about credit cards. We are talking about clear technology that can be used to make big weapons. That is why the gentleman's amendment deserves to be supported. To distort it is not fair to him and we ought to slow down the sales of this stuff. We ought to include the Secretary of Defense in the decisionmaking. That is not an unreasonable request to make.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words. I will be brief, because I know everybody is getting tired.

Mr. Chairman, this is just a case of the gentleman from California [Mr. HUNTER] trying to run the executive branch. The President did not ask for this. If he did, he would have let Congress know about it and he would have taken some position on it.

All we are talking about here is a simple list. I am sure the Secretary of Defense has a copy of the list. I am sure when the Secretary of Commerce gets ready to delete items from the list, the Secretary of Defense knows about it, and if he has got any objection he calls up the Secretary of Commerce on the phone and says, "Hey, Mr. Secretary, I think you ought to drop that."

And if he cannot get it dropped, he will just go to the President himself and get it dropped or get a Presidential decision about it being dropped.

We do not need to tell the President of the United States, who has not asked for the amendment of the gentleman from California [Mr. HUNTER], how to run his office or how to run his branch of Government. What we really are objecting to here is the over-bureaucratization of this whole process. If we pass the Hunter amendment, the Secretary of Defense will set up a bureaucracy over there to do all of this. They will feel greatly put upon if they do not turn down about two-thirds of what the Secretary of Commerce suggests and we will go through all of that.

Let them handle it informally, as they do now. Let the President run the executive branch.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, let us get something straight here. We are not talking about weapons in this amendment. Weapons are dealt with completely differently.

We are talking about bank cards. We are talking about telephones. We are talking about software. We are talking about computers.

Now, if you think America is going to stay strong with yesterday's technology, then take a look at what the Defense Department says about purchasing machine tools. The Defense Department does not want to buy American machine tools anymore. Yes, Mr. Chairman, the Secretary of Defense said, "Don't sell those machine tools overseas because we still give away our technology."

And yes, we handcuffed American machine tool companies. We told them they could not sell overseas because they could give away our military edge.

Well, the good news is out, I say to the gentleman from California [Mr. HUNTER]. We cannot give away that edge anymore because we do not have it. The edge in machine tools is now in Japan. The Defense Department prefers Japanese machine tools.

OK. We have done in the machine tool business. Let us see if we can do it to software. Let us see if we can tie this system up, because let me tell you, Mr. Perle is gone, but somebody is gong to replace him and they are going to find out that that software in the bag of the gentleman from Washington [Mr. MILLER] could potentially have some military application. Where? Maybe it could have an application in East Germany—— Oh, East Germany is not here anymore. They might have a hard time getting it to Europe, we believe, but we could send it over a line.

Now, if the Russians want to invade the Germans who are giving them economic aid today, let us remember that the Russians have got to go through the Ukraine, the Baltic States, and Poland, but that is going to be easier than the nightmare you are setting up for American industry.

Saddam Hussein did not get his technology because of a failure in the Commerce Department. The talk at the door about stop it from getting to Saddam Hussein is frankly dishonest. The hardware and software that got to Saddam Hussein got there because President Bush wanted him to have it. The letter on the floor indicates it was national policy to aid and abet the survival of Saddam Hussein. Do not leave at the door of the Commerce Department what was policy from the White House.

Now, this is a great game here. We have lost the Soviet Empire as an adversary, so we have got to find a place to be tough. The bill is tougher than the administration or the gentleman's amendment. To terrorist countries, we send nothing.

□ 2100

To nuclear facilities in countries that do not accept nuclear nonproliferation, we send them nothing.

The question is what do we sell to England? What do we sell France?

Now, the easy vote here may be, "Oh, it is too complicated, let's go with the Secretary of Defense." How many people go on the unemployment lines? How many companies close their doors in America and move to Europe because of your amendment? How many more Americans lose their mortgages, their homes and pull their kids out of school before we figure out it is enough?

Now, there is a balance between coming up with rational security, and we

have that in this bill. This bill has adequate security, more than the administration has.

What we need to make sure is that we do not devastate our own capabilities, worried about the Soviets coming over to get us.

We have got prohibitions against terrorist countries in the bill. It is not a debate, it does not take the Secretary of Defense; it bars those sales. It bars sales to unreliable end users.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. MAVROULES] with whom we resolved all of these issues at the beginning of the day.

Mr. MAVROULES. I want to thank the gentleman for yielding.

Mr. Chairman, I was listening to this debate in the office, and I must reiterate for those who are here and those who might be listening and watching this debate, when this bill came on the floor we had reached agreement that we, being the Committee on Armed Services—and I represented the chairman—with the Committee on Foreign Affairs, we reached agreement on those problems that we thought were very important to our committee.

What is happening here all of a sudden—and I give Mr. KYL credit—he came in the back door and he won his amendment. I am not going to argue about that point.

But once there is an honor system within this House, there is an honor system within this House. When you reach agreement, you bring it to the floor, you vote on it and that agreement passes, then we ought to honor it. there is an integrity issue here this evening.

The point is, under the agreement which we reached, let no one kid you, nobody, we give plenty of cover to the Secretary of Defense, absolutely plenty of cover to the Secretary of Defense.

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

Mr. GEJDENSON. I yield to the gentleman from California [Mr. HUNTER].

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

Mr. MAVROULES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

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

Mr. MAVROULES. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Let me remind my friend that he brought the amendment from the Committee on Armed Services, he wanted me to take a look at it along with the gentleman from Arizona [Mr. KYL] and the gentleman from Ohio [Mr. KASICH]. We did that. We said, "What do you think?" We said, "We have four amendments here. Your amendment takes care of what we think is one of them, and we still want to offer the other three."

The gentleman from Massachusetts said that is fine.

Mr. MAVROULES. Let me reclaim my time so that I can make a correction. During that discussion that you and I had, it was my impression that there would be two amendments, one by Mr. KYL and one by you. All of a sudden, we have ended up with three or four amendments. that was the agreement that I agreed to.

Mr. HUNTER. Let me just ask my friend if he had a misimpression. I said I would withdraw one amendment, not that I would offer one.

Let me say further that was not—at least it was apparent to me—that the agreement that the gentleman entered into as a representative of the Committee on Armed Services was not the full agreement, because the chairman of the committee voted in fact for the first Hunter amendment that was offered.

Mr. MAVROULES. And the chairman of the committee has made many mistakes before.

Mr. HUNTER. Let us give him another opportunity.

Mr. KYL. Mr. Chairman, will the gentleman yield to me?

Mr. MAVROULES. I yield to the gentleman from Arizona [Mr. KYL].

Mr. KYL. I think I can clear this up.

The gentleman from Massachusetts will recall that two different people, one was me, asked, in a reservation of the right to object, on whether or not we would have the right to offer this particular amendment, and we are assured by the parliamentarian and by the gentleman that this particular amendment could be offered. So we should all understand that it was always contemplated that this amendment would in fact be offered.

Mr. MAVROULES. As a matter of fact, any amendment could be offered, but I thought we had an agreement. Now let us put that aside for a moment, let us just put it aside.

The gentleman from Arizona personally was very effective in coming forth with his amendment, and he carried the House. No argument, no argument whatsoever. I did not support him. Although I believe in what he was doing and what he was saying, I could not support him because I had an agreement with the chairman of the subcommittee.

The point is now that we have given to the Secretary of Defense more than enough cover, more than enough cover.

You know, we have to think of the business people in our country. We are no longer the champion, the heavyweight champ of the world. If you believe that, you are mistaken.

There are other countries throughout the world who have good high technology. If they do not get it from the United States, if we do not help our own people, they will buy it from other countries.

In the meantime, we have given the cover that we requested. We have agreed to, they have agreed to. I do not know why we are trying to come in the back door now so that the Secretary of Defense has the sole power within 20 days to make a recommendation.

In my judgment, it is wrong. It is going overboard, in my opinion.

Mr. KYL. Mr. Chairman, will the gentleman yield briefly?

Mr. HUNTER. That is not what the amendment says.

Mr. MAVROULES. I yield to the gentleman from Arizona.

Mr. KYL. I thank the gentleman for yielding further.

No, it does not say that. There is exactly equal authority between the Department of Defense and Commerce. Because the gentleman said there is a matter of honor here, I just want to make it very clear that from the very beginning it was clear, from our parliamentary request, that this amendment was going to be offered.

So I would hope the gentleman would appreciate that that was never in doubt.

Mr. MAVROULES. It is my understanding that it was the other one that Mr. HUNTER offered before and was defeated. This is a second amendment.

However, bottom line, when Mr. GEJDENSON got up before and he articulated for the House and all those who might be listening or who are listening and watching the action on the floor, the responsibility ultimately is not Commerce, it is not Defense, it is the President of the United States. That ultimately is the power as to whether or not an export is going to take place. That is the bottom line.

My goodness, they certainly have enough coverage here. I do not know why we have to overkill.

Mr. HUNTER. Mr. Chairman, will the gentleman yield just briefly?

Mr. MAVROULES. I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding further.

Mr. Chairman, I just want to ask the gentleman to yield me 1 minute to close debate for my amendment and let us have a vote on it. I want to assure the gentleman that what I related to him was my understanding of our deal.

Mr. MAVROULES. I will yield 30 seconds to the gentleman so that I can close debate.

Mr. HUNTER. That is fine.

Mr. MAVROULES. Go ahead.

Mr. HUNTER. I say to my friend that we had this debate several years ago. And having had that debate and talking about how important it was to sell overseas and how we really have a pretty good security system and to have that absolutely revealed as a sham in the Persian Gulf war, with all of this

equipment coming back at American young people, should change this House in the sense that we should realize we have to change things, we have to give the Secretary of Defense more power. All he is doing in this amendment is sharing the power with the Secretary of Commerce.

The CHAIRMAN. The time of the gentleman, the 30 seconds, has expired.

The gentleman from Massachusetts has 30 seconds remaining.

(On request of Mr. GEJDENSON and by unanimous consent, Mr. MAVROULES was allowed to proceed for 1 additional minute.)

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield to me?

Mr. MAVROULES. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman from California: This provision has been in law since 1988. Can the gentleman give me one example where the Secretary of Defense has had a problem?

Mr. HUNTER. If the gentleman will yield, I can give an example of missile systems that were sent to Iraq.

Mr. GEJDENSON. No, no, no, that is not the issue here. The gentleman is confusing the issue.

What came off the list since 1988, when this has been law, that has troubled the Secretary of Defense?

Mr. HUNTER. Furnaces came off the list, and that was the first item that the gentleman talked about.

Mr. GEJDENSON. The Secretary of Defense agreed to the furnaces coming off the list. It is, frankly, not accurate. The Joint Chiefs of Staff agreed to it.

Mr. HUNTER. If I might tell, remind the gentleman he is the guy that said that the furnaces came off the list.

Mr. GEJDENSON. It was agreed to by the Secretary of Defense and the Joint Chiefs of Staff. How much inclusion do you want?

Mr. MAVROULES. Mr. Chairman, may I reclaim my time? These gentlemen have been fighting all afternoon. Let me just finish it off here.

The CHAIRMAN. The House will suspend. The gentleman from Massachusetts has the time, he has 30 seconds remaining.

Mr. MAVROULES. Mr. Chairman, I think both the gentlemen have talked out quite frankly, and I think they have done a good job. I am going to finish it off.

Mr. Chairman, you really want to make some changes in this House? Let us not refer to Commerce, let us not refer to DOD; let us refer and be accurate and change some attitudes within the administration, whether it be Democrat or Republican. That is where you are going to make a change. And until you make that change, this will not be effective. Your amendments are not going to be effective, whatever we are doing here today will be effective. You change attitudes.

Mr. MINETA. Mr. Chairman, I rise in oppostion to the amendment.

The only reason for controlling dual-use technology is to prevent the technology from being put to military use—not to prevent it from being put to civilian use.

Overbroad and unilateral export controls by the United States serve only to harm industry.

The Omnibus Export Amendments of 1991 provides for a presumption of approval for items to be exported. Yet, the bill continues to give the Department of Defense the opportunity to weigh-in if there is the potential for diversion of a technology. The bill continues to give DOD the ability to hold up a license if they deem necessary.

By further enhancing the role of the Department of Defense beyond the provisions of the bill, the amendment fails to recognize the need to change United States export control policy to respond to the political reforms on Eastern Europe and what used to be the Soviet Union.

It is time to follow the advice of the recent National Academy of Sciences report, "Finding Common Ground," and replace the denial regime that has existed for more than 40 years with an approval regime based on mutually agreed and verifiable end-use conditions.

I strongly urge my colleagues to oppose the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. HUNTER].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 270, not voting 28, as follows:

[Roll No. 357]

AYES—135

Andrews (ME)
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barton
Bateman
Beilenson
Bennett
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Coble
Coleman (MO)
Combest
Condit
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
Davis
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
Evans
Ewing
Fawell
Gallegly
Gekas
Gilman
Gingrich
Goss
Gradison
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kaptur
Kasich
Kyl
Lagomarsino
Lancaster
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Myers
Oxley
Packard
Pallone
Panetta
Patterson
Paxon
Payne (VA)
Peterson (MN)
Rhodes
Riggs
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Sangmeister
Schaefer
Schiff
Shaw
Sisisky
Skeen
Slattery
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Vander Jagt
Vucanovich
Walker
Waxman
Weldon
Wilson
Wolf
Wylie
Young (FL)

NOES—270

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Barrett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Bruce
Bryant
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Engel
English
Erdreich
Espy
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Parker
Pastor
Payne (NJ)
Pease
Penny
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roberts
Roe
Roemer
Rose
Roth
Roukema
Roybal
Russo
Sabo
Sanders
Santorum
Sawyer
Saxton
Schroeder
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)

Smith (OR)	Thornton	Waters
Solarz	Torres	Weiss
Spratt	Towns	Wheat
Staggers	Traficant	Whitten
Stallings	Unsoeld	Wise
Stark	Upton	Wolpe
Stokes	Valentine	Wyden
Studds	Vento	Yates
Sundquist	Visclosky	Yatron
Swett	Volkmer	Young (AK)
Swift	Walsh	Zeliff
Synar	Washington	Zimmer

NOT VOTING—28

Boxer	McDade	Schulze
Brown	Montgomery	Schumer
Dorgan (ND)	Mrazek	Shuster
Edwards (CA)	Murphy	Slaughter (VA)
Glickman	Pelosi	Tanner
Goodling	Rostenkowski	Traxler
Hopkins	Rowland	Weber
Jefferson	Sarpalius	Williams
Lent	Savage	
Lloyd	Scheuer	

□ 2127

Mr. HOAGLAND and Mr. EWING changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take the floor at this time to indicate that, when we return to the full House I will offer a straight motion to recommit this bill to the Committee on Foreign Affairs.

This does not mean that I am against reforming our export laws. Far from it. I believe that we need fundamental changes in our export control system.

The problem with this bill is that it does not represent a comprehensive change in the current law. Instead, it is a partial, piecemeal approach that would not result in any real benefit.

Industry is not united behind this bill. This is because although it would liberalize East-West trade, it would also add sweeping new unilateral controls on exports to certain Third World countries.

The administration is strongly opposed. In fact, the Statement of Administration Policy identifies three major items that would result in a Presidential veto. These include: Liberalized exports of telecommunications equipment to the Soviet Union; a new, unilateral nuclear control program; and removal of controls on commercial computer software.

In addition, the administration has stated its opposition to several other provisions. Subject to the order of the House of Representatives, I ask that the Statement of Administration Policy be made part of the RECORD at this point.

The issues addressed by this bill are big issues that deserve serious consideration. They need to be thought out again by the Committee on Foreign Affairs.

Failure to act realistically at this time will simply mean that Congress has again failed to make a meaningful input into this process. Export controls will continue in effect under Executive order.

We need to do a better job, one that will lay a basis for future changes. I urge Members to join me in opposing this bill.

Mr. Chairman, I include a copy of the Statement of Administration Policy for the RECORD.

STATEMENT OF ADMINISTRATION POLICY

The Administration supports enactment of legislation renewing the Export Administration Act, and will continue to work with Congress to craft a mutually satisfactory bill. It is essential that such legislation provide flexibility if the United States is to continue its role as a leader in a changing world. This is particularly important as we work to strengthen non-proliferation export controls and shape the response of the Coordinating Committee on Multilateral Export Controls (COCOM) to the changes in the Soviet Union and Eastern Europe.

However, H.R. 3489 contains several seriously objectionable provisions. If they are retained in a bill presented to the President, his senior advisers would recommend he veto it. These include:

Controls on Telecommunications (section 108), which are intended to require the United States to propose to COCOM that certain controls on telecommunications technology exported to the Soviet Union be removed. The intent of this provision is to undo control levels the United States and its COCOM partners recently agreed are necessary to protect critical security interests. At a time of great turmoil and unpredictability in the Soviet Union, there must be flexibility to determine the control levels that will satisfy continuing national security concerns while supporting the democratization movement in that country.

Nuclear controls (Title III), which would effectively block nuclear safety cooperation with certain East European countries, the Soviet Union, and Mexico, and would limit nuclear-related dual-use exports to U.S. friends, such as Israel. It would also impose sanctions against foreign nations for carrying out nuclear commerce that is fully compatible with existing multilateral nuclear control regimes. Title III would undermine multilateral efforts to control dual-use exports to nuclear-related end-users and would weaken, rather than strengthen, International Atomic Energy Agency (IAEA) safeguards.

Section 107, which includes a provision that prohibits controlling mass market software with encryption under the Arms Export Control Act. This provision is of particular national security concern and would micromanage a vitally important Executive branch process.

The Administration also opposes a number of provisions in H.R. 3489 that dictate internal Executive branch procedures and decision processes. (The Administration would oppose any similar amendments.) These include provisions on: exports of satellites for launch by the PRC (section 125), commodity jurisdiction (section 107), terrorist countries (section 119), exports to Eastern Europe (section 105), items intended for civil end-use (section 105(b)), the Commerce Department representative to COCOM (section 116), supercomputers (section 104(b)), and control list review (section 111). These provisions interfere with the President's ability to conduct foreign policy or enter into international agreements, and in some instances are incompatible with important national security interests.

In addition, the Administration opposes, as disruptive and unnecessary: section 123(b), which would create the right to appeal export licensing and commodity classification decisions to an Administrative Law Judge; and earmarking of the International Trade Administration (ITA) appropriation authorization, which would further limit funds for export promotion programs (section 206). Further, the Administration strongly opposes Title IV, relating to economic cooperation projects in China and Tibet, which will undermine our efforts to seek Chinese cooperation and willingness to address our concerns and develop procedures for investigating allegations of prison labor exports.

The Administration also opposes those provisions which intrude on the President's constitutional authority by purporting to mandate or restrict negotiations with foreign governments or countries.

SCORING FOR THE PURPOSE OF PAYGO AND DISCRETIONARY CAPS

H.R. 3489 would increase receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this proposal may deviate from this estimate. If H.R. 3489 is enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all legislation on direct spending and revenue will be issued in monthly reports transmitted to Congress.

Estimates for pay-as-you-go

[Receipts in millions of dollars]

1992	1.9
1993	2.9
1994	2.9
1995	2.9
1991–95	10.6

□ 2130

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

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding to me. I rise to support the gentleman's motion to recommit.

Mr. Chairman, I rise in support of the motion to recommit H.R. 3489 by the distinguished ranking Republican member of our committee, the distinguished gentleman from Michigan [Mr. BROOMFIELD] and for his work on the export administration authorization bill. I would also like to associate myself with the comments made by our distinguished ranking Republican member in acknowledging the good efforts of Chairman GEJDENSEN and Ranking Republican Member ROTH, the two principal members of the Subcommittee on International Economic Policy and Trade.

We are all aware of the need to make American business more competitive. Some of our Members have already pointed out the need to remove as many impediments as possible to U.S. business competing in the emerging world market. The emerging Democracies of Eastern Europe represent fertile, untapped resources for our business community.

It is clear that the political sea-change in Eastern Europe has necessitated the need to reduce the list of controlled items to the nations of Eastern Europe.

Simultaneously, other concerns have developed over the last few years, particularly those noted most eloquently by the gentleman from

Michigan—namely the need to prevent the proliferation of technologies of mass destruction. For 4 years I have reminded our colleagues of the need to combat the scourge of chemical weapons in the Middle East, and only now, have I been assured that some strong legislation may be considered by the Ways and Means Committee.

The realities of Iraq's nuclear program speak to the issue of the spread of nuclear technology.

As on many other issues, the Congress and the administration do not agree on precisely how to adapt our export control laws. I believe we must work closely with our Cocom allies to reconcile any differences we may have, either between branches of our Government, or within that important technology control regime.

Mr. Chairman, as Mr. BROOMFIELD has enumerated, the President has threatened a veto of this bill on three separate provisions. Since it is highly doubtful these issues will be resolved this evening, let me join with my colleague, the gentleman from Michigan, in calling for a recommittal of the export control laws. The prospects for this bill are not good, accordingly, Mr. Chairman I must urge our colleagues to oppose it.

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

Mr. BROOMFIELD. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I have the greatest respect for the gentleman from Michigan. American industry is for this bill, as it originally came out of committee: the American Aerospace Industry, American Business Conference, the American Electronic Association, the AFL-CIO, the Computer Communication Industry, the Computer Business Industry.

This is a prowork, probusiness bill that takes care of national security. It ought to pass.

The CHAIRMAN. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—EXPORT PROMOTION

SEC. 201. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) MINISTER-COUNSELORS.—Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "20".

(b) REPORT ON TRAINING.—The Secretary of Commerce shall, not later than 6 months after the date of the enactment of this Act, submit to the Congress a report on the adequacy of the training of officers and employees of the United States and Foreign Commercial Service in the following areas: writing of commercial reports, language skills, cultural awareness, and public speaking.

(c) USE OF PERSONAL SERVICES.—The following offices of the International Trade Administration in the Department of Commerce may acquire personal services by contract to assist such offices in their export promotion programs and in their automation efforts: the Office of Trade Development, the Office of International Economic Policy, and the Office of the United States and Foreign Commercial Service.

(d) INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.—The Secretary of Commerce shall increase the number of Commercial Service Officers in Taiwan, Japan, and Canada by 3 over the number of such officers assigned to each of such countries in calendar year 1989.

SEC. 202. MARKET DEVELOPMENT COOPERATIVE PROGRAM.

(a) QUALIFICATIONS FOR PROGRAM.—Section 2303(c)(2) of the Export Enhancement Act of 1988 (15 U.S.C. 4723(c)(2)) is amended by striking "and computer data bases" and inserting "computer data bases, and methods of distribution of goods and services".

(b) REPORTS ON THE PROGRAM.—Section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723(c)(2)) is amended by adding at the end the following:

"(e) REPORTS TO CONGRESS.—The Secretary of Commerce shall report every 6 months to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the progress the Department of Commerce has made in implementing the Market Development Cooperator Program.".

SEC. 203. COUNTRY REPORTS ON TRADE PRACTICES.

Section 2202 of the Export Enhancement Act of 1988 (15 U.S.C. 4711) is amended in the first sentence by striking "January" and inserting "May".

SEC. 204. REPORT ON EXPORT POLICY.

(a) IN GENERAL.—The Secretary of Commerce shall submit to the Congress, not later than May 31 of each year, a report on the international economic position of the United States and shall, not later than June 30 of each year, appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in such report.

(b) CONTENTS.—(1) Each report under subsection (a) shall address the following:

(A) The state of United States international economic competitiveness, focusing, in particular, on Department of Commerce efforts to—

(i) encourage research and development of technologies and products deemed critical for industrial leadership;

(ii) promote investment in and improved manufacturing processes for such technologies and products; and

(iii) increase United States industrial exports of products using the technologies described in clause (i) to those markets where the United States Government has sought to reduce barriers to exports.

(B) The current Department of Commerce export development strategy, including the implementation of the United States and Foreign Commerce Service Strategic Review and the activities of the Trade Promotion Coordinating Committee.

(C) Other specific Department of Commerce recommendations to improve the United States balance of trade.

(2) The first report provided under this section shall also address Government export financing programs and actions planned or underway to improve them.

(3) Portions of each report under this section may be based upon relevant reports and testimony produced by the Department of Commerce or other agencies, but the policy views shall be those of the Secretary of Commerce.

SEC. 205. TRADE PROMOTION COORDINATING COMMITTEE.

(a) ESTABLISHMENT AND PURPOSE.—The President shall establish the Trade Promotion Coordinating Committee (hereinafter in this section referred to as "TPCC") which shall be chaired by the Secretary of Commerce. The purpose of the TPCC shall be to unify and streamline international trade promotion activities of the United States Government.

(b) DUTIES.—The TPCC shall be responsible for the following activities:

(1) The collection, analysis, and dissemination to United States businesses of information on foreign markets for United States goods and services.

(2) Providing to United States businesses information on export financing.

(3) Representing United States business interests with foreign governments, international banks, and other international organizations.

(4) Providing to United States businesses information on potential joint venture partners in foreign countries.

(5) Counseling United States businesses on foreign standards, testing, and certification requirements and procedures.

(6) Coordinating international trade events, including trade shows and trade missions.

(7) Identifying trade agents and distributors in foreign countries to distribute United States goods and services abroad.

(c) MEMBERSHIP.—Members of the TPCC shall include representatives of the Departments of Commerce, State, Treasury, and Agriculture, the Office of the United States Trade Representative, the Small Business Administration, the Trade and Development Program, the Overseas Private Investment Corporation, and the Export-Import Bank of the United States. Representatives of other departments or agencies may be included in TPCC as necessary, at the discretion of the Chair.

(d) REPORT TO CONGRESS.—The Comptroller General of the United States shall prepare and submit to the Congress, not later than June 30, 1992, a report analyzing the ability of the TPCC to carry out its duties under subsection (b), and describing what additional resources, if any, the TPCC needs to carry out such duties effectively.

SEC. 206. REPORT ON EXPORT PROMOTION.

The Comptroller General shall, not later than June 30, 1992, prepare and transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report that analyzes the—

(1) progress made in strengthening coordination of Federal export promotion efforts,

(2) efforts made to improve coordination of Federal export promotion activities with the States,

(3) efforts made to improve export promotion coordination and cooperation with private industry groups, and

(4) adequacy of Federal, State, and private sector export financing programs.

SEC. 207. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce—

"(1) to carry out export promotion programs, $166,000,000 for the fiscal year 1992; and

"(2) to carry out section 2303 of the Omnibus Trade and Competitiveness Act of 1988, $5,000,000 for fiscal year 1992.".

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—NUCLEAR NONPROLIFERATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Nuclear Proliferation Prevention Act of 1991".

SEC. 302. PURPOSE.

It is the purpose of this title to strengthen both domestic and international controls over the transfer of facilities, materials, equipment,

and technology which may contribute to nuclear proliferation by—

(1) prohibiting all nuclear commerce (except that authorized under general license) by the United States with non-nuclear-weapon states which do not maintain international safeguards on all of their nuclear facilities and in cases in which there is no agreement for nuclear cooperation under which such commerce would be conducted;

(2) restricting United States exports of weapons-useable, highly enriched uranium;

(3) mandating negotiation of a multilateral mechanism for assuring that no facilities, materials, equipment, or technology which may contribute to nuclear proliferation are transferred by any nation or group of nations to any non-nuclear-weapon state which does not maintain international safeguards on all its nuclear facilities, that exports of highly enriched uranium are curtailed, and that all nuclear commerce is halted with those non-nuclear-weapon states which pose significant threats to regional or global peace and security;

(4) assuring that meaningful and appropriate trade sanctions are imposed by the United States on any foreign entity that engages in nuclear trade in contravention of the principles described in this section, and on any nation or group of nations which does not subscribe to such principles; and

(5) providing for the United States to enter into negotiations with other nations and groups of nations to improve significantly the effectiveness of the safeguards of the International Atomic Energy Agency.

SEC. 303. RESTRICTIONS ON NUCLEAR EXPORTS.

(a) RESTRICTIONS.—Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 and following) is amended by adding at the end the following:

"SEC. 134. FURTHER RESTRICTIONS ON EXPORTS.—

"a. (1) In addition to any other requirement of this Act, none of the following actions may be taken until the conditions set forth in paragraph (2) are met:

"(A) Issuing a license required under the Export Administration Act of 1979 for the export of any item or related technical data which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978, could be of significance for nuclear explosive purposes, if the item or technical data—

"(i) is intended for use in connection with the physical construction, operation, or maintenance of a nuclear production or utilization facility, or

"(ii) is intended for an unreliable end user, as specified on a list developed and maintained by the Secretary of Commerce, so that the export would result in a likelihood of diversion of the item or technical data for use in a production or utilization facility, or for research on, or for the design, development, or fabrication of or other use in, any nuclear explosive device.

"(B) Issuing a license under section 109b. for the export of any component, substance, or item that is subject to such license requirement under such section.

"(C) Approval by the United States, as required under the Export Administration Act of 1979 or section 109b.(3), of the retransfer of any item, technical data, component, or substance described in subparagraph (A) or (B).

"(D) Authorizing, as required by section 57b.(2), any person to engage, directly or indirectly, in the production of special nuclear material.

"(2) The conditions referred to in paragraph (1) are the following:

"(A) If the export, retransfer, or activity involves a non-nuclear-weapon state, such state—

"(i) maintains International Atomic Energy Agency safeguards on all its peaceful nuclear activities, or

"(ii) is a party to—

"(I) a regional agreement providing for International Atomic Energy Agency safeguards on all of its peaceful nuclear activities, or

"(II) a regional, bilateral, or multilateral agreement providing for safeguards, that are verified by the International Atomic Energy Agency, on all of its peaceful nuclear activities, and such safeguards are certified by the President to the Congress to be substantially equivalent or superior to the safeguards regime implemented by the International Atomic Energy Agency for nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(B) An agreement for cooperation arranged pursuant to section 123 is in effect which governs nuclear activities in the recipient nation.

"(3) Nothing in this subsection shall preclude an export, retransfer, or activity for which a general license or general authorization has been granted by the Commission, the Department of Commerce, or the Department of Energy.

"(4) The condition referred to in paragraph (2)(B) shall not apply for a period of 24 months after the effective date of this section to any nation which, within 6 months after such effective date, has entered into, or has initiated negotiations to enter into, an agreement for cooperation with the United States.

"(5) The President may waive any condition required by paragraph (2) (except as provided in clause (iii)) for an export, retransfer, or activity—

"(A) if the President determines that—

"(i) the export, retransfer, or activity involves radiation protection or health physics, decontamination, or other assistance needed solely to prevent or correct imminent radiological hazards that pose a danger to the public health or safety at an operating nuclear reactor;

"(ii) the export, retransfer, or activity is essential for the achievement of United States nuclear nonproliferation objectives and the export, retransfer, or activity would not result in any material contribution to the ability of the recipient nation to acquire a nuclear explosive device; or

"(iii) only in the case of a waiver of the condition required by paragraph (2)(B), the export, retransfer, or activity is so remote or inconsequential from the standpoint of nuclear proliferation as to make the application of the condition required by paragraph (2)(B) unnecessary;

"(B) the government of the recipient nation has provided a guaranty to the United States Government that the item, technical data, component, or substance described in paragraph (1) (A) or (B), or the special nuclear material described in paragraph (1)(D), will be used only for peaceful purposes;

"(C) if the item, technical data, component, or substance described in paragraph (1) (A) or (B) is used in a production or utilization facility, or if the special nuclear material described in paragraph (1)(D) is produced or used in a production or utilization facility, the government of the recipient nation has provided a guaranty to the United States Government that such facility is under safeguards described in paragraph (2)(A) (i) or (ii), and adequate physical security will be maintained in the facility so that the item, technical data, component, substance, or special nuclear material will not be used for nuclear explosive purposes;

"(D) the government of the recipient country has provided a guaranty to the United States Government that the prior approval of the United States Government will be obtained for any retransfer of the item, technical data, component, or substance described in paragraph (1) (A) or (B) or the special nuclear material described in paragraph (1)(D);

"(E) the United States has the right to require the return of the item, technical data, component, or substance described in paragraph (1) (A) or (B), or the special nuclear material described in paragraph (1)(D), if the recipient country detonates a nuclear explosive device or if the production or utilization facility described in subparagraph (C) ceases to be under safeguards described in paragraph (2)(A) (i) or (ii); and

"(F)(i) before the waiver takes effect, the President submits the proposed waiver, together with a report containing the reasons for the waiver, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

"(ii) a period of 30 days of continuous session (as defined in section 130g. of this Act) has elapsed and the Congress has not, during that 30-day period, adopted a joint resolution, which is thereafter enacted into law, stating in substance that it does not favor the waiver.

Any such proposed waiver shall be considered pursuant to the procedures set forth in section 130i. of this Act, except that for purposes of such section each reference to an agreement for cooperation submitted under section 123 of this Act shall be deemed to be a reference to the waiver under this paragraph.

"(6) For purposes of this subsection—

"(A) the term 'non-nuclear-weapon state' means any nation that is not a nuclear-weapon state within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons; and

"(B) the term 'unreliable end user' means an end user with respect to whom there is clear and convincing evidence of prior or potential diversions by that end user to prohibited end uses.

"b. (1) The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

"(A) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

"(B) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

"(C) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

"(2) As used in this subsection—

"(A) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

"(B) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235; and

"(C) a fuel or target 'can be used' in a nuclear research or test reactor if—

"(i) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(ii) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.

"c. The President shall, as soon as possible after the enactment of this section, undertake negotiations with those foreign nations which participate in the Nuclear Suppliers Group to—

"(1) establish a list of those facilities, materials, equipment, and technology of significance for nuclear explosive purposes which, when they are intended or likely to be diverted for a nuclear end use, may not be transferred to any non-nuclear-weapon state unless such state—

"(A) maintains International Atomic Energy Agency safeguards on all its nuclear facilities, or

"(B) is a party to—

"(I) a regional agreement providing for International Atomic Energy Agency safeguards on all of its peaceful nuclear activities, or

"(II) a regional, bilateral, or multilateral agreement providing for safeguards that are verified by the International Atomic Energy Agency on all of its peaceful nuclear activities,

and such safeguards are substantially equivalent or superior to the safeguards regime implemented by the International Atomic Energy Agency for nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

"(2) prohibit the export of uranium enriched to greater than 20 percent or more in the isotope U-235 under conditions less stringent than those set forth in subsection b.;

"(3) with respect to those non-nuclear-weapon states which are determined to pose significant threats to regional or global peace and security—

"(A) terminate all exports to such states of any item or related technical data which could be of significance for nuclear explosive purposes and—

"(i) is intended for use in a nuclear production or utilization facility, or

"(ii) is likely to be diverted for use in such a facility, or for research on, or for the design, development, or fabrication of or other use in, any nuclear explosive device;

"(B) terminate all exports to such states of any component, substance, or item which is determined to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes;

"(C) terminate all retransfers to such states of any item, technical data, component, or substance described in subparagraph (A) or (B);

"(D) terminate all authorizations for any person to engage, directly or indirectly, in the production of special nuclear material in such states;

"(E) terminate all exports or retransfers to such states of any production or utilization facility or of any source material or special nuclear material; and

"(F) refuse to negotiate any proposed agreement for cooperation or approve any subsequent arrangement with such states; and

"(4) institute appropriate procedures for that Group under which the participating nations may raise and satisfactorily resolve questions related to any proposed export, retransfer, or activity which, if authorized, might be inconsistent with the principles set forth in paragraphs (1) through (3).

For purposes of this subsection, the term non-nuclear-weapon state has the meaning given that term in subsection a.(6).

"d. (1) Subject to paragraphs (2) through (6), if the President determines that a foreign person, after the date of the enactment of this section, knowingly—

"(A) exports, transfers, or otherwise engages in the trade of any nuclear facilities, materials, equipment, or technology in contravention of measures adopted pursuant to paragraphs (1) through (3) of subsection c.;

"(B) conspires to or attempts to engage in such export, transfer, or trade, or

"(C) facilitates such export, transfer, or trade by any other person,

then the President shall, for a period of not less than 2 years, prohibit the export from the United States to such person of all nuclear facilities, materials, equipment, and technology.

"(2) Paragraph (1) does not apply to any export, transfer, or trading activity that is authorized by the laws of a nation participating in the Nuclear Suppliers Group and adhering to all measures adopted pursuant to paragraphs (1) through (3) of subsection c., if such authorization is not obtained by misrepresentation or fraud.

"(3) Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if a nation participating in the Nuclear Suppliers Group is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of a nation participating in the Nuclear Suppliers Group to be innocent of wrongdoing with respect to such acts.

"(4) Upon the request of any person, an agency or official responsible for carrying out any measure adopted pursuant to paragraphs (1) through (3) of subsection c. may, in consultation with the Secretary of State and the Secretary of Defense, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

"(5) Not later than 15 days before imposing sanctions under this subsection, the President shall notify the Congress of the actions to be taken.

"(6) The President shall not be required to apply or maintain sanctions under this subsection to—

"(A) spare parts;

"(B) component parts, but not finished products, essential to United States products or production;

"(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available; or

"(D) medical or other humanitarian items.

"(7) For purposes of this subsection—

"(A) the term 'foreign person' means any person other than a United States person;

"(B) the term 'United States person' has the meaning given that term in section 16 of the Export Administration Act of 1979;

"(C)(i) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

"(ii) in the case of countries where it may be impossible to identify a specific governmental entity referred to in clause (i), the term 'person' means all activities of that government relating to the development or production of any nuclear facilities, materials, equipment, or technology; and

"(D) the term 'otherwise engaged in the trade of' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

"e. (1) If the President determines that any foreign nation or group of nations, whether or not participating in the Nuclear Suppliers Group has, on or after the effective date of this section, permitted any nuclear-related export, retransfer, or activity which would contravene any prohibition, restriction, or other measure adopted by the Nuclear Suppliers Group, including, but not limited to, any measure adopted pursuant to paragraphs (1) through (3) of subsection c., the President shall immediately take one or more of the actions described in paragraph (2), depending upon the degree of proliferation risk associated with the act by the nation or group of nations involved.

"(2) The actions referred to in paragraph (1) are to—

"(A) terminate some or all nuclear-related exports, retransfers, authorizations, and activities to, for, in, or with the foreign nation or group of nations,

"(B) terminate some or all assistance to that nation or group of nations under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products,

"(C) terminate—

"(i) some or all sales to that nation or group of nations under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

"(ii) some or all licenses for the export to that nation or group of nations of any item on the United States Munitions List,

"(D) terminate some or all foreign military financing for that nation or group of nations under the Arms Export Control Act, and

"(E) use the authorities of section 6 of the Export Administration Act of 1979 to prohibit some or all exports to that nation or group of nations of other goods and technology (excluding food and other agricultural commodities and products).

"(3) Not later than 15 days before taking the actions required under paragraph (2), the President shall notify the Congress of the actions to be taken.

"(4) The President may waive the imposition of any sanction under paragraph (2) if—

"(A) the President determines that to impose the sanction would be seriously prejudicial to the achievement of United States nonproliferation objectives or would have a serious adverse effect on vital United States interests;

"(B) before the waiver takes effect, the President submits that determination, together with a report containing the reasons for the determination, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

"(C) a period of 60 days of continuous session (as defined in section 130g. of this Act) has elapsed and the Congress has not, during that 60-day period, adopted a joint resolution, which is thereafter enacted into law, stating in substance that it does not favor the determination.

Any such determination shall be considered pursuant to the procedures set forth in section 130i. of this Act, except that for purposes of such section each reference to a proposed agreement for cooperation submitted under section 123 of this Act shall be deemed to be a reference to the determination submitted under this paragraph.".

(b) CLERICAL AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 11 the following:

"Sec. 134. Further restrictions on exports.".

SEC. 304. NEGOTIATIONS.

Section 203 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3243) is amended—

(1) by inserting "(a)" after "SEC. 203."; and

(2) by adding at the end the following:

"(b) In order to improve significantly the effectiveness of the safeguards of the IAEA, the United States shall seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

"(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating weapons-capable nuclear materials;

"(2) facilitate the exercise by the IAEA of its right to conduct special inspections of facilities

capable of producing, processing, or fabricating weapons-capable nuclear materials, including those facilities in which nuclear materials may not yet have been introduced or have not been declared to the IAEA;

"(3)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

"(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

"(4) apply the IAEA's mandatory safeguards to tritium and natural uranium concentrate and increase the scope of such safeguards on heavy water; and

"(5) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out this subsection.

"(c) The President shall report to the Speaker of the House of Representatives and the President of the Senate—

"(1) within 6 months after the date of the enactment of this subsection, on the steps he has taken to implement subsection (b), and

"(2) annually thereafter, on the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in subsection (b).".

SEC. 305. REPORTS TO CONGRESS.

Section 601(a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)) is amended—

(1) in paragraph (4) by striking "and" after the semicolon;

(2) in paragraph (5) by striking the period and inserting a semicolon; and

(3) by adding after paragraph (5) the following:

"(6) a summary and analysis of the particular arrangements made by the IAEA for the application of safeguards on specific nuclear materials and equipment;

"(7) a summary and analysis of the results of individual inspections by the IAEA of nuclear materials and equipment subject to IAEA safeguards, including measurements of materials subject to such safeguards;

"(8) an analysis of the problems encountered by the IAEA in the implementation of safeguards, such as failures of IAEA safeguards equipment and lack of cooperation by operators of nuclear facilities and recipient nations, including those problems set forth in the Safeguards Implementation Report of the IAEA; and

"(9) a description of the implementation of nuclear and nuclear-related dual-use export controls in the preceding calendar year, including a description of—

"(A) each transaction for which—

"(i) a determination was made under section 134a.(1)(A) of the 1954 Act that the controlled item or technical data was not—

"(I) intended for use in a nuclear production or utilization facility, or

"(II) intended for an unreliable end user, as described in section 134a.(1)(A)(ii) of the 1954 Act;

"(ii) an export license was issued under section 109b. of the 1954 Act;

"(iii) approvals were issued under the Export Administration Act of 1979, or section 109b.(3) of the 1954 Act, for the retransfer of any item, technical data, component, or substance to which section 134a. of the 1954 Act applies; or

"(iv) authorizations were made as required by section 57b.(2) of the 1954 Act to engage, directly or indirectly, in the production of special nuclear material;

"(B) each instance in which a waiver of a condition was made under section 134a.(5) of the 1954 Act; and

"(C) each instance in which a sanction has been imposed under subsection d. or e. of section 134 of the 1954 Act, a sanction has not been imposed by reason of paragraph (3) or (6) of subsection d. of such section, or a waiver of a sanction has been made under subsection e.(4) of such section.

Portions of the information required by paragraph (9) may be submitted in classified form, as necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 shall be submitted in classified form.".

Mr. SCHUMER. Mr. Chairman, I rise in strong support of this bill and especially its title III provisions to inhibit the scourge of nuclear proliferation. I commend my colleagues Mr. GEJDENSON, WOLPE, MARKEY, FASCELL, BROOMFIELD, and ROTH, and their staffs, for their great effort on this important bill. I would also like to thank them for incorporating, during committee consideration, the legislative provisions of my bill H.R. 3527, the Bomb-Grade Uranium Export Restriction Act of 1991. I submit the "Findings" section of that bill—which was not included in the bill before us—to be printed at this point in the RECORD.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bomb-Grade Uranium Export Restriction Act of 1991".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Highly enriched uranium exported for civilian research purposes readily can be utilized to make nuclear weapons, if diverted for such purposes or intercepted by terrorists.

(2) It has been the stated policy of the United States since 1978 to reduce exports of highly enriched uranium to the maximum extent possible in order to reduce this risk.

(3) At least one foreign reactor operator has applied for a United States export of highly enriched uranium fuel despite the fact that the reactor can use non-weapons-grade, low-enriched uranium.

(4) The Reduced Enrichment Research and Test Reactor (RERTR) Program, created in 1978, has developed high-density low-enriched uranium fuels that have enabled the United States to reduce exports of highly enriched uranium from six hundred kilograms annually to less than one hundred fifty kilograms annually.

(5) Remaining annual United States exports of highly enriched uranium are still sufficient for at least five nuclear weapons if diverted for such purposes.

(6) The RERTR Program is likely to develop low-enriched uranium fuels and targets capable of replacing remaining exports of weapons-grade uranium within approximately five years, if adequately funded during that time, which would allow the United States to terminate all exports of highly enriched uranium.

(7) Long-standing United States nuclear nonproliferation policy dictates the United States should export highly enriched uranium only if a low-enriched alternative does not exist, the recipient has committed to convert to such an alternative when it does become available, and the United States is actively developing such an alternative.

Mr. Chairman, if there is one lesson we should have learned from Iraq, it is just how potent and dangerous bomb-grade uranium is. A mere 20 to 40 pounds is all that stood between Saddam Hussein and a nuclear weapon, according to a U.N. report released last week. We can only imagine how differently the gulf war might have gone if Saddam had obtained this small cache of explosive material.

The lesson from Iraq is clear: bomb-grade uranium is not steel, it's not corn, it's not Wheaties—it is not a routine commodity that should be shipped willy-nilly thousands of miles around the world where it is vulnerable to diversion or interception by terrorists.

Incredibly, Mr. Chairman, despite this object lesson, the United States remains the world's No. 1 exporter of bomb-grade uranium, shipping more than 250 pounds overseas every year, for use as fuel in research reactors. That's enough bomb-grade uranium for at least six nuclear weapons annually, if diverted for such purposes.

Mr. Chairman, let there be no doubt in anyone's mine as to whether this material can be fabricated into a nuclear weapon. Manhattan Project physicist Luis Alvarez gave a chilling assessment of the threat in his 1987 memoirs, writing: "With modern weapons-grade uranium, the background neutron rate is so low that terrorists, if they had such material, would have a good chance of setting off a high-yield explosion simply by dripping one half of the material onto the other half. Most people seem unaware that if separated [bomb-grade uranium] is at hand it's a trivial job to set off a nuclear explosion * * * even a high school kid could make a bomb in short order."

Mr. Chairman, some will claim the dangers of such commerce can be eliminated by requiring physical security measures. Certainly, such measures can mitigate the threat in the short term, but does anyone believe they are 100 percent foolproof? Didn't we learn from the Marine barracks in Lebanon and from a Pan Am flight over Lockerbie that physical protection measures can be defeated? Mr. Chairman, this bill makes clear, once and for all, that bomb-grade uranium is simply too dangerous to continue shipping overseas for nonmilitary purposes.

This is not a new idea. As early as 1978, the United States recognized that civilian commerce in bomb-grade uranium should be phased out. Throughout the 1980's, we developed alternate, nonweapons-usable fuels, and managed to reduce bomb-grade exports by 80 percent, from 1,500 pounds annually down to the current level. But several years ago, the progress stopped. Development of alternate fuels halted. And every year, since the administration has tried to shutter the program that converts overseas reactors to safer fuels, only to be rebuffed by Congress.

Mr. Chairman, the bill now before us would jump start the Alternate Fuel Program and put into law what was, until recently, longstanding policy of both Democratic and Republican administrations—banning bomb-grade exports unless three conditions are met:

First, no alternate fuel is available;

Second, the reactor operator has committed to use alternate fuel when it does become available; and

Third, the United States is actively developing alternate fuel.

Under these provisions, Mr. Chairman, the United States should be able to phase out all exports of bomb-grade uranium within 5 years. Such a historic step will go a long way toward making the United States—and the rest of the world—less vulnerable to the next Saddam who comes along.

REMAINDER OF TITLE III

I would like to turn for a few moments to the rest of title III. Mr. Chairman, as the principal authors of this section will agree, title III is not a panacea for the problem of nuclear proliferation. Rather, it is a first step, intended to take lessons from our past mistakes, and to close loopholes that actually have been used by countries to proliferate.

From Iraq, which acquired its massive nuclear weapons program while remaining a member in good standing of the Nuclear Non-Proliferation Treaty and submitting to international "safeguards" inspections—we learned that today's safeguards are not worth the paper they are written on. In response, the bill directs the President to push for meaningful improvements at the International Atomic Energy Agency, including provisions for "snap" inspections of facilities that may not even have been declared to the Agency.

From Pakistan, which successfully developed a nuclear bomb relying mainly on equipment and technology supplied from European companies—which went largely unpunished—we learned that meaningful sanctions against outlaw companies are needed as an effective deterrent to further proliferation. Accordingly, this bill for the first time imposes sanctions on foreign companies and countries that violate international nuclear export controls.

Finally, to prevent any further U.S. contribution to nuclear proliferation, the bill bans U.S. exports of nuclear technology, nuclear components, and dual-use items intended for nuclear end-use to any country that fails to submit to international inspections on all its nuclear facilities. Hopefully, this baseline requirement will serve as an example to the world's other nuclear suppliers.

As I said, Mr. Chairman, this bill is only a first step. Much of it merely directs the President to negotiate improved safeguards and international export control standards. Congress will be watching very closely in the months after its enactment to see what progress the President and his State Department are making to meet the mandates of this bill. If progress is slow or nonexistent, you can be sure we will be back with legislation that leaves the President much less discretion to decide which sanctions to impose and which exports to restrict.

In closing, Mr. Chairman, I again congratulate the authors of title III and Mr. GEJDENSON for their fine work and dedication in shepherding this legislation through committee to the floor.

The CHAIRMAN. Are there amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—ECONOMIC COOPERATION PROJECTS IN CHINA AND TIBET

SEC. 401. STATEMENT OF PRINCIPLES.

(a) PURPOSE.—It is the purpose of this title to create principles governing the conduct of United States economic cooperation projects in the People's Republic of China and Tibet.

(b) PRINCIPLES.—It is the sense of the Congress that any United States economic cooperation project in the People's Republic of China or Tibet should adhere to the following principles:

(1) Seek to ensure that decisions concerning employment in the United States economic cooperation project do not entail discrimination based on sex, religion, ethnic or national background, political belief, nonviolent political activity, or political party membership.

(2) Ensure, through consultation with relevant government authorities where appropriate, that methods of production used in the United States economic cooperation project do not pose an unnecessary physical danger to workers, to neighboring populations and property, and to the surrounding environment.

(3) Ensure that no convict or forced labor under penal sanctions is knowingly used in the United States economic cooperation project.

(4) Ensure that no goods that are mined, produced, or manufactured, in whole or in part, by convict or forced labor under penal sanctions are knowingly used in the United States economic cooperation project.

(5) Undertake to protect freedom of assembly and association among the employees of the United States economic cooperation project, and to foster positive and constructive consultation between employees and management of the United States economic cooperation project.

(6) Promote the training of employees of the United States economic cooperation project, in particular the training of Chinese employees in managerial positions in the principles of market-oriented business management.

(7) Undertake to protect freedom of expression for the employees of the United States economic cooperation project, including the freedom to seek, receive, and impart information and ideas of all kinds.

(8) Discourage compulsory political indoctrination on the premises of the operations of the United States economic cooperation project.

(9) Attempt to raise with the relevant agencies of the Chinese Government those individuals detained, arrested, or convicted since March 1989 solely for nonviolent expression of their political views, and to urge the officials concerned to release publicly a list of the names of those individuals.

(c) PROMOTION OF PRINCIPLES TO OTHER NATIONS.—The Secretary of State shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

SEC. 402. REGISTRATION REQUIREMENT.

(a) IN GENERAL.—The United States parent company of each United States economic cooperation project in the People's Republic of China or Tibet shall register with the Secretary of State and indicate whether the United States economic cooperation project will implement the principles set forth in section 401(b). No fee shall be required for registration under this subsection.

(b) EFFECTIVE DATE.—The registration requirement of subsection (a) shall take effect 6 months after the date of the enactment of this Act.

SEC. 403. REPORTING REQUIREMENT.

(a) REPORT.—The United States parent company of each United States economic cooperation project in the People's Republic of China or Tibet shall report to the Department of State describing the United States economic cooperation project's adherence to the principles set forth in section 401(b). The United States parent company providing such report shall do so by completing and submitting a reporting form furnished by the Department of State. The first report shall be submitted not later than 1 year after the date on which the United States economic cooperation project registers under section 402 and not later than the end of each 1-year period occurring thereafter.

(b) REVIEW OF REPORT.—The Secretary of State shall review each report submitted under subsection (a) and determine whether the United States economic cooperation project which is the subject of the report is adhering to the principles. In order to verify the information submitted, the Secretary may request additional information from the United States parent company submitting the report and from other sources.

(c) ANNUAL REPORT.—The Secretary of State shall submit to the Congress and to the Secretariat of the Organization for Economic Cooperation and Development a report describing the level of adherence to the principles by United States economic cooperation projects subject to the reporting requirement of subsection (a). Such report shall be submitted not later than 2 years after the date of the enactment of this Act and not later than the end of each 1-year period occurring thereafter.

(d) ASSISTANCE FROM PRIVATE PARTIES.—The Secretary of State may use funds otherwise available to the Secretary for such purposes to enter into contracts with one or more private organizations or individuals to assist the Secretary in carrying out this section.

SEC. 404. DEFINITIONS.

For purposes of this title—

(1) the terms "adhere to the principles", "adhering to the principles" and "adherence to the principles" mean—

(A) agreeing to implement the principles set forth in section 401(b);

(B) implementing those principles by taking good faith measures with respect to each such principle; and

(C) reporting accurately to the Department of State on the measures taken to implement those principles;

(2) the term "United States economic cooperation project" means—

(A) an enterprise legally incorporated in the People's Republic of China or Tibet—

(i) which is either—

(I) a wholly owned subsidiary of a corporation, partnership, or other business association organized under the laws of the United States; or

(II) a joint venture undertaken by 2 or more persons, at least 1 of which is a wholly owned subsidiary of a corporation, partnership, or other business association organized under the laws of the United States; and

(ii) which employs more than 50 individuals in the People's Republic of China or Tibet; or

(B) a branch office or representative office of a corporation, partnership, or other business association organized under the laws of the United States, which employs more than 25 employees in the People's Republic of China or Tibet;

(3) the term "United States parent company of a United States economic cooperation project" is a corporation, partnership, or other business association organized under the laws of the United States, of which—

(A) the United States economic cooperation project, or (in the case of a United States economic cooperation project that is a joint venture) 1 of the persons undertaking such project, is a wholly owned subsidiary; or

(B) the United States economic cooperation project is a branch office or representative office; and

(4) the term "organized under the laws of the United States" means organized under the laws of the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

SEC. 405. ENFORCEMENT OF CURRENT LAW.

Beginning 3 months after the date of the enactment of this Act, and every 12 months thereafter, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing—

(1) enforcement procedures with respect to the implementation of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307);

(2) steps taken to investigate which goods, wares, articles, or merchandise are mined, produced, or manufactured, in whole or in part, by convict labor or forced labor in the People's Republic of China and Tibet; and

(3) the results of such investigations.

The CHAIRMAN. Are there amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SOVIET MILITARY ASSISTANCE TO CUBA.

It is the sense of the Congress that—

(1) continuing Soviet military assistance provided to Cuba remains a serious problem in United States-Soviet relations; and

(2) the Soviet Union or any successor confederation or entity should, in reexamining its relationship with Cuba, cease military assistance to the Castro regime and take all other possible steps to further the policies of Glasnost and Perestroika by adopting policies supporting the political, economic, and human rights of the Cuban people.

SEC. 502. ATTACKS AGAINST ISRAELIS AND ILLEGAL ACTIVITIES IN THE UNITED STATES.

(a) REPORT ON IMPACT OF ATTACKS AGAINST ISRAELIS ON PEACE EFFORTS.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Congress an analysis of the impact on efforts to achieve peace in the Middle East of the following recent attacks against Israelis:

(1) On May 28, 1989, an attack by the Popular Front for the Liberation of Palestine and the Palestine Liberation Front, both PLO-affiliated organizations, in which a one-year-old Israeli was injured by a Katyusha rocket.

(2) On August 7, 1989, a rocket attack on the settlement of Maoz Haim by members of the PLO-affiliated Popular Front for the Liberation of Palestine.

(3) On September 6, 1989, a rocket attack by the PLO-affiliated Popular Front for the Liberation of Palestine aimed at Kibbutz Tel-Katzir that fell on Kibbutz Sha'ar Hagolan.

(4) On October 7, 1989, an attempted raid on Kibbutz Misgav-Am by a squad of terrorists armed with machine guns and anti-tank missiles from the PLO-aligned Palestine Liberation Front.

(5) On January 26, 1990, an attack on an Israeli Army patrol by at least three terrorists of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for Kibbutz Misgav-Am.

(6) On February 4, 1990, an unprovoked ambush by the Popular Front for the Liberation of Palestine-General Command on an Israeli tour bus in Egypt that killed 9 and wounded 15 Israelis.

(7) On April 13, 1990, an attempted infiltration into northern Israel by boat by four terrorists of Yasser Arafat's Al-Fatah, equipped with machine guns and grenades.

(b) REPORT ON ILLEGAL ACTIVITIES IN THE UNITED STATES.—Not later than 60 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report, based on information available to the Director—

(1) outlining illegal activities being undertaken in the United States by the Palestine Liberation Organization or on behalf of the Palestine Liberation Organization, including such activities as illegal drug trafficking, money laundering, weapons purchases, and arms shipments;

(2) estimating the amount of funds associated with such activities; and

(3) describing the extent to which members of the Executive Committee of the Palestine Liberation Organization, the Central Council of the Palestine Liberation Organization, and the Palestine National Council are aware of or are involved in such illegal activities.

Information contained in the report required by this subsection, including information based on reports of foreign law enforcement agencies, shall protect intelligence sources and methods and may be classified to the extent necessary, consistent with existing law, to prevent the public disclosure of such information.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida: Add the following at the end of title V:

SEC. 503. PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES SUBSIDIARIES AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. SMITH] for 5 minutes in support of his amendment.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield for a parliamentary inquiry.

Mr. SMITH of Florida. Mr. Chairman, I will not yield for a parliamentary inquiry.

The CHAIRMAN. The Chair recognizes the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, this is probably the only bipartisan amendment we are going to get this evening. We are seeking to restore the law as it was when the original law was passed in 1960 by the gentleman from Florida [Mr. FASCELL], chairman of the Committee on Foreign Affairs. This closes the loophole that has existed in the law for a number of years that should not be there, especially now.

It allows, under the Trading with the Enemy Act, only one of the four countries listed, Cuba, to be serviced by foreign subsidies of United States corporations who last year sold over 700 million dollars' worth of goods by virtue of taking advantage of this loophole. This needs to stop.

The gentleman from Florida knew what he was doing back then. Since the time that the loophole was opening up, Castro has been able to hold on longer and longer by virtue of the fact that he was being supplied these foreign goods.

The interesting thing is that much of the foreign goods are being shipped but never get to the Cuban people. I will give my colleagues an idea of what we are talking about.

Seagram's liquor, they do not have the money, nor do they have the capability to buy it as average Cubans. Air-conditioning, it goes to the tourist hotels, but it does not go to the average Cuban. Assorted soft drinks, which they cannot buy in their own stores. Naphtha, which may press Castro's fatigues in the dry cleaning store but never gets to the average Cuban. And 4-door GM sedans which come out of Canada but which never wind up being driven by average Cubans.

This is the right thing to do. Let us close the door once and for all and get rid of the last Communist dictator on the face of the Earth and in our own hemisphere. This is absolutely right.

Ms. ROS-LEHTINEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentlewoman from Florida.

Ms. ROS-LEHTINEN. Mr. Chairman, despite a long-standing United States trade embargo, American companies have increased trade with Cuba through their foreign subsidiaries, and this has helped Fidel Castro survive catastrophic losses. The Department of the Treasury indicates that trade with Cuba by over 190 United States subsidiaries increased from $332 million in 1989 to $705 million in 1990.

In 1963, the original language of the Trading with the Enemy Act prohibited all United States subsidiaries to trade with Cuba. Due to the illegal seizure and nationalization of all United States properties in Cuba and other hostile actions, the United States initiated a series of actions which implemented the embargo. Embargo sanctions included: a freeze on Cuban assets in the United States; prohibitions on imports and exports; and the ending of financial and transportation-related transactions.

In 1975, however, a loophole in the embargo allowed trade through U.S. subsidiaries. The erroneous Cuba assets control regulations allows subsidiaries of United States corporations to apply with the Office of Foreign Assets Control, in the Department of the Treasury, for a license to trade with Cuba. Ironically, of the four countries that the United States has a trade embargo with, under the Trading with the Enemy Act, Cambodia, Vietnam, North Korea, and Cuba—only Cuba benefits from the subsidiary trade loophole. Does this make sense?

Just where did these ridiculous gestures of goodwill and diplomatic efforts get us? Castro became a major player in the international terrorist network and the international drug network. And, Castro was instrumental in desta-

bilizing governments in this hemisphere, and other areas throughout the world. For years and countless dollars, the United States has worked to correct the damages that Castro has created.

The U.S. Congress has overwhelmingly supported ending this trade loophole to stop this practice since 1989. Last year, the United States Senate passed the Mack amendment with a 87 to 13 vote, which aimed at tightening the Cuba assets control regulations by eliminating the subsidiary loophole and returning to the original language and intent of the embargo. This is nothing new. Time and time again, Members of Congress have spoken loudly to correct this horrible loophole that was created.

If raising the ante has worked in other countries, why can't it work for Cuba? We must raise the stakes and make it more expensive than Castro can afford.

The United States should also encourage those trading nations used by U.S. subsidiaries to assist in this effort. The Department of Treasury lists 21 nations used by United States subsidiaries to conduct trade with Cuba, primarily Switzerland, Argentina, England, and Canada. Each one of these nations gains very little from either direct trade, or by allowing subsidiary trade, with Cuba. Castro's regime, with an external debt owed to Western creditors at an estimated $7 billion, has never been a worthwhile investment or trading partner. It would stand to reason that our allies would not want to risk their very substantial economic relationship with the United States and would be willing to cooperate with our efforts to eliminate Cuba's tyrannical dictatorship.

In the interest of human rights and ensuring security of the Western Hemisphere, we must reinforce the message. For the first time in many years, the fall of Castro is a reality.

The moment has come to further isolate the inhumane regime of Fidel Castro. In a hemisphere of almost all freely elected democratic leaders, Castro remains a fossil, a leftover dinosaur who is ruthless in his treatment of anyone who would dare to speak out for democracy, for human rights, for freedom, and for liberty.

How can we allow this loophole to remain open? How can we stand silently as U.S. companies use a technicality to get around the embargo? We have the ability, we have the tool, to stop propping up Castro in power. We can do it and we can do it today.

Please help in bringing democracy to my native homeland.

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

Mr. SMITH of Florida. I yield to the gentleman from Florida.

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

Mr. Chairman, I rise in support of the amendment offered by my colleagues from Florida, and I commend them on their tireless efforts to bring this motion to the floor.

As democracy takes hold throughout our hemisphere, and the world, Castro's repressive totalitarian regime 90 miles off our coast remains a lonely throwback to an obsolete economic and political system. This amendment is about taking responsible, economic steps toward ensuring that this regime doesn't last a day longer than it has to, and more importantly, to ensure that any crutch holding it up isn't American made.

With the previous steady stream of Soviet aid slowing to a trickle, Castro's regime is becoming increasingly isolated from international trading partners. Who will he turn to now? Will he turn to the Chinese hardliners? Or, perhaps the North Koreans?

The United States has rightly been committed to making sure that he can't turn to the United States or U.S. corporations since 1961, and this amendment will go a long way toward shoring up and reaffirming this effort to economically isolate Castro. By prohibiting United States firms from allowing their subsidiaries abroad to trade with Cuba, we do two things: We deprive Cuba a great source of hard currency, and we get a little closer to the day where the United States and a Cuba without Castro at the helm can begin a prosperous economic relationship. I urge my colleagues to support this amendment.

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

Mr. SMITH of Florida. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, the most brutal and resilient dictatorships left in the world, outside of Africa and the Middle East, can be counted on our fingers: China, Burma, Afghanistan, North Korea, Serbia, Vietnam, Laos, and, of course, Cuba.

The agony continues in Cuba because Castro continues to rule. Castro's communism has wrought severe damage and evil in this hemisphere and in Africa. The time for Castro to pass from the scene in Cuba has come. The democratization of Latin America which occurred during the Reagan administration and the collapse of communism in Eastern Europe and the Soviet Union has left Castro isolated.

Conditions are worsening in Cuba, and Castro is beginning to feel the heat. Castro's barter arrangements with his former Communist conspirators are no longer possible. He can't get cheap oil from the Soviet Union and he can't trade his sugar to Czechoslovakia for Semtex.

Let's give courage to our friends in Mexico and Venezuela to not give in to Castro's demand for oil because of his threats of terrorism. Let's not allow what the Vietcong termed "the Third Current of Revolution," namely resources from the West that sustain tyranny in Cuba.

Let's not let the loophole, which enables foreign subsidiaries of United States firms to engage in trade with Cuba, keep Castro in power longer than necessary. We must cut it off every foreign currency earner Castro has.

Castro is the head of the Communist snake in Cuba. We must cut it off—now. Support the amendment of the gentlewoman from Florida.

Mr. SMITH of Florida. Mr. Chairman, reclaiming my time, I just want the Members of this House to know that this does not create any problem for any country where there is a host country law that conflicts with ours. I urge my colleagues to vote for the amendment.

Mr. GUARINI. Mr. Chairman, along with my distinguished colleagues Mr. SMITH of Florida and Ms. ROS-LEHTINEN of Florida, I rise in support of our amendment to prohibit foreign subsidiaries of United States firms from trading with Cuba.

Currently, the United States enforces an embargo on all trade with Cuba. Some countries are getting around this embargo by routing their goods through their foreign subsidiaries. If we are serious about ensuring that Fidel Castro will not be a threat to our national security and will not violate human rights, we must close this gaping loophole in our export laws.

With the former Communist regimes of the Soviet Union and the Eastern bloc cutting back on their exports to Cuba, more and more United States companies are taking advantage of this loophole. This is not an activity that the U.S. Government should encourage. Rather, we should block all efforts to aid the Cuban regime as long as Fidel Castro maintains his iron grip on the freedoms of Cuban citizens. This includes doing business with his government.

Just as we should not be giving trade preferences or aid to the Soviets while they are aiding Castro, we should not allow subsidiaries of United States firms to trade with the Cuban regime. It is outrageous to think that American companies are able to thwart the clear intent of Congress on trade with Cuba by sneaking in through the back door using their foreign subsidiaries.

Mr. Chairman, perhaps these United States firms do not realize the role they are playing in propping up the tyrannical regime of Fidel Castro. With the loss of many Soviet and East European suppliers, Castro is relying more than ever on trade with foreign subsidiaries of United States firms. Since the exports are coming from foreign countries, we have no way of monitoring what kinds of high technology may be falling into Castro's hands. This is a risk we cannot afford to take.

Fidel Castro's military-oriented economy has lowered the standard of living of the Cuban people. As everyone knows, he has no regard for internationally accepted human rights standards or the promotion of democratic values, and has instigated guerrilla activities in Latin America and other parts of the world for years. Mr. Castro allows no freedom of the press, no religious activities, no workers' rights, and no criticism of his regime.

The Cuban people who live under this despot yearn for freedom. They endure harsh prison sentences merely for seeking the same fundamental human rights that people in most nations take for granted. Each year, thousands of Cubans risk their lives crossing by boat or on home-made rafts to Florida to escape this ruthless dictator, while millions more continue their daily drudgery, working for a failed system.

We must learn a lesson from history. This same man is far more desperate today than

he was in the 1960's. He is cornered, he has ruined the economy, and he is increasingly isolated in a world that has all but abandoned a fatally flawed Communist ideology.

Over the past few years, we have watched one Communist government after another being swept aside, giving rise to democracy, freedom, human rights, and economic opportunity. Eastern Europe is now free. The Baltic States are free. The Soviet Union is collapsing into loosely associated republics with newfound rights and economic opportunities for their citizens.

But, unfortunately for the Cuban people, Fidel Castro stubbornly clings to his repressive Communist ideology. Cubans are no closer to true freedom today than they were in 1960, and Mr. Castro, a die-hard Marxist, is trying to keep it that way.

Mr. Chairman, every day that this tyrant stays in power, thousands of innocent Cubans languish in prison for no crime other than the desire to be free. Millions more suffer under the yoke of totalitarianism. If Congress does not seize every opportunity to effect change in Cuba, the pain and suffering of an entire country will be on our hands.

As long as this ruthless dictator clings to his repressive and outdated ideology, we must not assist him in any way, and we certainly must not permit American firms to assist him. For this simple reason, I implore all of my colleagues to support this vital amendment.

Mr. BUSTAMANTE. Mr. Chairman, I rise in support of this amendment.

If we are truly sincere in our commitment to impose an effective trade embargo against Fidel Castro's Cuba, then the Smith-Ros-Lehtinen amendment deserves our support.

America has imposed trade embargoes against four countries under the Trading With the Enemy Act: North Korea, Vietnam, Cambodia, and Cuba. But only Cuba benefits from a loophole that allows foreign subsidiaries of United States companies to engage in trade with Cuba.

We were unwavering in our resolve to defeat communism in the Soviet Union. Our resolve should be no less steadfast when it comes to fighting tyranny in Cuba. This amendment restores consistency in our policy with Cuba, and I urge its support.

Mr. ENGEL. Mr. Chairman, I rise in strong support of the Smith amendment. According to press reports, trade between foreign subsidiaries of American companies more than doubled in 1990, jumping from $332 million in 1989 to $705 million in 1990.

At a time when Soviet and Eastern European subsidies to Cuba are ending, and the Cuban economy is experiencing tremendous problems, the United States must not open up a loophole in its embargo. The embargo, combined with the inherent inefficiency of the Cuban command economy, have brought Castro's economy to its knees. If we do not pass the Smith amendment and the activities of foreign subsidiaries of American companies are not subject to our embargo of Cuba, this loophole will let Castro off the hook.

Castro is not someone the United States wants to let off the hook. His human rights record is atrocious and has been the target of criticism of human rights monitors for years. His abuse of psychiatry is well-documented and the results of the recent Communist Party Congress in Cuba gave no indication that Castro has any desire to change his dictatorial ways.

Other countries that we embargo, such as Cambodia, Laos, and North Korea, are not allowed to trade with foreign subsidiaries of American companies. I strongly believe that Cuba should be treated in a manner consistent with our treatment of these other outlaw nations and urge my colleagues to support the Smith amendment.

Mr. RAMSTAD. Mr. Chairman, among the many anticompetitive effects of this amendment, it puts subsidiaries of U.S. companies right smack in the middle between the laws of two countries. On the one hand, we are saying that our foreign subsidiaries cannot do this business. On the other hand, the foreign country where they are located is saying it's OK.

Moreover, this amendment would indeed force subsidiaries of U.S. companies to choose between the law of their host country and the law of the United States. Despite what has been suggested in a "Dear Colleague" letter you may have seen, there is a substantial conflict of laws problem posed by this amendment.

In addition, the Canadian Government's blocking law, which has been specifically designed to prevent application of this amendment to U.S. subsidiaries operating in Canada, makes a violation of that law an indictable offense, complete with penalties of up to 5 years in jail and $10,000 in fines.

The Canadian Government, Switzerland, the European Community, and the United Kingdom have all made clear to the United States Government their strongest objections to this provision. The amendment constitutes a violation of their sovereign right to control the actions of companies doing business within their borders.

If some other country were to try to impose its will on businesses operating inside our borders, this body would know no limits to its outrage. That is exactly the principle at stake here.

The President last year vetoed this bill with this provision, and he objected then that this provision constitutes an extraterritorial application of U.S. law that forces foreign subsidiaries of U.S. companies to choose between violation of U.S. or host country laws.

I urge my colleagues to vote down this well-intentioned but misguided provision. It will not hurt Fidel Castro. It will not hurt communism. It will only hurt the competitiveness of United States companies. We have been talking all evening about the need to eliminate barriers to trade. This amendment would have the opposite effect. I urge a "no" vote.

Mr. BEREUTER. Mr. Chairman, this Member wants Members to be informed about problems the Smith amendment causes foreign subsidiaries of U.S. companies before they cast their vote on it. The Smith amendment would prohibit such foreign subsidiaries of United States firms from obtaining a license to trade with Cuba. While this amendment may sound like a great opportunity to cause Fidel Castro difficulties, it will harm U.S. businesses and Members should be aware of that fact.

American experience with unilateral sanctions shows that they almost inevitably backfire against U.S. interests, often against U.S. agriculture. We saw it happen when President Carter imposed the grain trade embargo on the Soviet Union in 1980. All we did then was to sacrifice market share to foreign competitors. Now, we are being asked to sacrifice additional market share for U.S. business' foreign subsidiaries through this amendment.

Cuba can sell its sugar through foreign-owned firms and certainly do so to the exclusion of United States subsidiaries. If foreign subsidiaries of United States companies are denied the opportunity to compete for this business, our foreign competitors will once again be happy to step in and replace us in that share of Cuban business. That may be what Members desire, but they ought to do it with eyes wide open. However, in commodities trade, the implications go much further than just a ban on business transactions with Cuba. The mere chance that Cuban products could be part of a string of commodities transactions forces United States traders out of the marketplace altogether.

Furthermore, the Smith amendment would also place U.S. companies in the untenable position of having to choose between two countries' laws. U.S. subsidiaries operating overseas are subject to their host country's laws. For example, last year Canada adopted a blocking law that forbids United States companies operating in Canada from honoring a provision such as the Smith amendment. In addition, the Canadian Wheat Board has the authority to require United States companies operating in Canada to ship wheat to Cuba. The United Kingdom and France have similar laws to this Canadian measure. As another example, a refusal to trade with Cuba by an American subsidiary doing business in Switzerland would similarly violate Switzerland's constitutional neutrality.

In addition, the administration has indicated its strong opposition to the Smith amendment. In a recent letter to the congressional leadership, Deputy Secretary of State Lawrence Eagleburger made the following statement:

> The Administration strongly objects to the provision on exports to Cuba. As the President recently made clear, we are committed to placing the strongest appropriate pressure on Cuba to embrace reform. However, this provision would place U.S. owned, foreign-based corporate subsidiaries in the untenable position of choosing to violate U.S. law or a host country's law. These firms should not be punished because of the "catch 22" of this provision.

The feel-good but draconian approach against Cuba proposed by the Smith amendment will only hurt United States businesses in the international marketplace at a time when Congress has been urging United States companies to be more competitive in the face of global competition. Members should focus on whether the adoption is really effective in its intended impact on Cuba or only hurts United States businesses, and whether it is, therefore, good or bad public policy. This Member will vote "no" on the Smith amendment and suggests, without much hope, that his colleagues will also vote against the Smith amendment.

AMENDMENT OFFERED BY MR. GEJDENSON TO THE AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. GEJDENSON. Mr. Chairman, I offer an amendment to the amendment, and I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The text of the amendment is as follows:

Amendment offered by Mr. GEJDENSON to the amendment offered by Mr. SMITH of Florida: In the text proposed to be inserted by the amendment, strike the period at the end and insert following: ", unless a license may be issued for such transaction if undertaken by a firm organized under the laws of any of the States of the United States, except that the prohibition contained in this section—

(1) shall not apply to a foreign subsidiary or affiliate to whom section 515.559 of title 31, Code of Federal Regulations applies to the extent such prohibition is inconsistent with the laws of the country in which the foreign subsidiary or affiliate is located; and

(2) shall apply only with respect to the export or import activities of such a foreign subsidiary or affiliate in the interstate or foreign commerce of the United States.

Mr. GEJDENSON. Mr. Chairman, this amendment simply says, if we have a law in Canada, that for a Canadian company that cannot comply with the boycott, we cannot force that Canadian company to be in conflict of both American law and Canadian law.

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

Mr. GEJDENSON. I yield to the gentleman from Nebraska.

Ms. ROS-LEHTINEN. Mr. Chairman, I object. I object.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON to the amendment offered by Mr. SMITH of Florida: In the text proposed to be inserted by the amendment, strike the period at the end and insert following: ", unless a license may be issued for such transaction if undertaken by a firm organized under the laws of any of the States of the United States except that the prohibition contained in this section—

(1) shall not apply to a foreign subsidiary or affiliate to whom section 515.559 of title 31, Code of Federal Regulations applies to the extent such prohibition is inconsistent with the laws of the country in which the foreign subsidiary or affiliate is located; and

(2) shall apply only with respect to the export or import activities of such a foreign subsidiary or affiliate in the interstate or foreign commerce of the United States.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I yield to the gentleman from Nebraska.

Mr. WALKER. Regular order, Mr. Chairman.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] to the amendment offered by the gentleman from Florida [Mr. SMITH].

The Chair will state the Chair did not hear an objection earlier to dispensing with reading.

Ms. ROS-LEHTINEN. Mr. Chairman, I objected at various times.

The CHAIRMAN. However, as soon as it was called to the Chair's attention that the gentlewoman from Florida had objected in a timely fashion the Clerk read the amendment in its entirety.

The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] to the amendment offered by the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I ask unanimous consent to speak out of order for 30 seconds.

The CHAIRMAN. Under the rule, all time has expired.

Mr. SMITH of Florida. Mr. Chairman, I ask unanimous consent to speak out of order for 30 seconds.

Mr. BEREUTER. Mr. Chairman, reserving the right to object, under my reservation I want to say to the gentleman from Florida [Mr. SMITH] that this gentleman, as a matter of comity, did not offer an amendment which I could have offered as member of the committee and precluded the gentleman from offering his amendment. But I did want to put that in the RECORD.

The CHAIRMAN. The gentleman from Nebraska must suspend.

Under the rule adopted by the House, the House established the time for consideration of all amendments to this measure. The Committee cannot extend that time and the time has now expired.

However, the Committee will proceed with votes on the amendments that have been offered. The limitation was on the consideration of amendments and debate on amendments, and the Committee will now proceed with the vote on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, could I ask a parliamentary inquiry?

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] to the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

Mr. KOLBE. Mr. Chairman, I rise in support of H.R. 3489—the reauthorization of the Export Administration Act, which significantly reduces the controls on exports to the newly democratizing East European countries and to a lesser extent, the Soviet Union. Its passage is ever more important today now that the cold war is over and the Berlin Wall has come down.

I supported the bill when it came before the House last year and will support it again today in an effort to provide our industries with export opportunities that will bring money and jobs into the United States.

Commercial and national security interests today are probably more closely entwined than they have been at any other time since the end of World War II. Economic health and one's ability to trade competitively in the world market may be the single most important component of anyone's national security. The new war internationally—at least at present—is economic. The weapons are products, services, and finances. That is why I feel strongly about the rules and regulations under which we operate. They must work for us—not against us.

In the past, our export control policy has placed undue burdens on industry. The result has been confusion, delays, and lost sales. While adequate safeguards are essential to our national security interests, they should not be carried to such an extreme as to become an impediment to American competitiveness. The law should help remove barriers not place more in the path of industry. I believe this legislation does that.

Briefly, the bill recognizes the worldwide movement to democracy and free enterprise. It will allow goods and technology to flow to Poland, Hungary, Czechoslovakia, the Baltics and what used to be the Soviet Union, that have been restricted in the past. I would point out that this legislation presents us with a unique opportunity to provide assistance to the Soviet Union without costing American taxpayers a penny.

H.R. 3489 makes it easier to export goods and technology to our NATO allies and terminates the requirement for re-export licenses for same countries. It puts safeguards in place to prohibit sales to Iran, Iraq, Syria, and Libya. It restricts the sale of nuclear equipment and technology to safeguarded nuclear facilities.

H.R. 3489 limits bureaucratic infighting and inefficiency by distinguishing between dual use items controlled by the Department of Commerce and munitions controlled by the Department of State. It also includes a process for resolving disputes, with the President the final arbiter. This is important when businesses have lost untold millions because of turf battles, bureaucratic red tape and unjustified restrictions. In my book, this is not the way to gain a competitive edge.

If the equipment is out there and accessible, why should we restrict our industries from being the ones to close the sale? The relaxation of our export control laws will mean more jobs for the Americans and fewer going to the Japanese and other producers of advanced technology.

The time is now, not tomorrow, to make it easier for American companies who provide our foreign exchange to compete effectively in

the new world. Let's let exports continue to lead the way out of our recession. Let us pass this legislation to advance American's industrial opportunities beyond our own shores.

Mr. MINETA. Mr. Chairman, I rise today in strong support of Omnibus Export Amendments of 1991.

As a Representative from Silicon Valley, I am fully aware of the need to create an export control system that balances national security concerns with trade and economic opportunity.

The competitive position of U.S. industry, especially the U.S. high-technology industry, will depend on our ability to adapt export policy to reflect the political climate in Eastern Europe, the Baltics, and what used to be the Soviet Union.

The future of U.S. industry also depends on our ability to streamline a problematic U.S. export control policy.

The current export control system has become a model of inefficiency and bureaucratic wrangling for high-technology exporters.

Export license approvals for U.S. manufacturers take as long as 120 days. This time lag is unacceptable in high-technology industries that can witness the next generation of technology in as little as 6 months.

Of particular importance to electronics add aerospace industries is language in the Omnibus Export Amendments of 1991 that defines defense articles and technologies, and provides for a balanced commodity jurisdiction process within the executive branch. Currently, there are no clear standards to determine which agency has jurisdiction over items that fall between the commercial and munitions lists. Nor does a clear process to resolve disputes between agencies exist.

By distinguishing between dual-use items and munitions, the omnibus export amendments will limit bureaucratic disputes and simplify the decision-making process. By providing for indexing procedures, this bill also recognizes the rapid advancement of high-technology exports.

The Omnibus Export Amendments of 1991 will liberalize the system of export controls but still will allow for sufficient protection of U.S. national security. It recognizes the need to rebuilt the Baltics and Eastern European countries trying to make a successful transition to democracy.

Mr. Chairman, the Omnibus Export Amendments of 1991 will give U.S. industry the chance to go toe-to-toe with challengers in a fair fight.

Mr. MILLER of Washington. Mr. Chairman, I rise tonight in support of H.R. 3489, the Omnibus Export Act of 1991. This act brings timely and important improvements to our export control laws by acknowledging the enormous changes that have taken place throughout the world since we last considered our export control laws. This is very important: last year U.S. exports were responsible for 88 percent of the increase in our GNP. This is an act that will help our exporters bring growth back to our economy.

For our exporters to continue to compete, U.S. laws must catch up with rapid changes throughout the world. Our export control laws must reflect the failed coup in the Soviet Union this past August. This act begins to make those changes. For instance, the act liberalizes export controls to Eastern Europe, the Baltics, and the Soviet Union.

This act recognizes other dangers in our world. For instance, the bill tightens export controls for terrorist countries, such as Iran, Syria, Iraq, and Libya. The act also includes a provision I offered in committee, establishing a set of human rights principles for U.S. companies operating in China.

But for all this act's merits, we should remember that this is a short-term effort. Its intent is to help us now while we prepare to comprehensively rewrite our export control laws. The result is a slightly schizophrenic act. On the one hand, this act liberalizes exports to the Soviet Union and former Eastern bloc countries. On the other, it restricts exports to the Middle East and other dangerous regions.

Moreover, the act wants to make our export controls multilateral, and succeeds at this on an East-West basis, but fails on a North-South basis. This contradiction is a result of history: Our export controls were built around the cold war.

But the cold war has faded. While the fading of the cold war does not end the need for export controls, it does mean that our export controls must be reshaped from top to bottom. Cocom, the major multilateral export control mechanism designed for East-West controls, is rapidly losing its relevance. Congress and the administration must strive to establish effective multilateral export control regimes for the new world order. I believe a new, long-term approach is needed.

This act contains a provision that I worked on in subcommittee establishing a time-line for decontrolling the Baltic countries of Lithuania, Latvia, and Estonia. First, within 30 days after enactment of the act, the United States must ask Cocom to give the Baltics the status that Poland, Hungary, and Czechoslovakia had as of September 1990. That is, liberalization of telecommunications equipment and technology. second, the Baltics will be even further decontrolled once they meet these three conditions: First, implement an effective export control system; Second, adopt arrangements for end-use assurances and on-site inspection and verification; and third, terminate intelligence cooperation with other controlled countries; for instance, the remaining Soviet Union. Third, the act further directs the administration to provide technical assistance to aid the Baltics' in meeting these three conditions. Finally, 120 days after enactment of the act, the President must determine whether Latvia, Lithuania, and Estonia should be removed completely from the list of controlled countries.

We must move quickly to allow greater exports to the Baltics, both to help those countries, and to help our exporters. Without modern telecommunications equipment, it will be difficult for other United States, Baltic, and foreign countries to do business. If a company cannot call an employee in Lithuania, or send a fax from Latvia, or communicate to Estonia, they will not be able to do business in today's world. Without such business, the Baltics cannot hope to achieve the economic reform they are striving for. And in today's highly competitive world, we cannot penalize our exporters merely because it took us too long to change our export laws.

Some have urged caution in allowing exports to the Baltics and Eastern European countries. They are apparently worried that these countries will turn over technology to the Central Government of the Soviet Union. However, these countries are more likely to exercise care than our other European allies. The Baltics are more suspicious of the Soviet Union and rogue countries than we are ourselves.

Liberalizing our export controls to these countries will contribute to further democratization and free-market reforms there. Many have argued that we cannot afford to give aid to these countries. But allowing our exporters to do business in these countries is aid we can afford. It costs the taxpayers nothing, and, in fact, helps the American taxpayer. It helps American exporters who are the engine driving the U.S. economy.

This act also includes a provision I offered during the Foreign Affairs Committee's work on the act. My provision establishes a set of human rights principles for U.S. companies operating in China. The principles include asking U.S. companies not to use goods produced by forced labor and asking U.S. companies to raise the issue of political prisoners in their contacts. The United States has the power to influence positively events in China. My amendment does this by enlisting the powerful tool of U.S. businesses in the struggle for freedom and democracy in China. My amendment is based on legislation I introduced and is cosponsored by, among others, the cochairs of the Congressional Human Rights Caucus, Mr. LANTOS and Mr. PORTER.

Mr. Chairman, I am pleased to have helped keep the Levine language regarding mass-market software in the act. The Levine language stipulates that mass-marketed software is to be moved off the munitions list to the commodity list, which is overseen by the Commerce Department.

The Levine language benefits our software exporters because the Commerce Department must approve or deny export applications within 30 days. As a munitions item, overseen by the State Department, a decision on a license often takes much, much longer.

A software feature known as encryption is at the heart of the Levine language. Encryption is an increasingly popular software feature which scrambles the contents of a computer file for everyone but the designated user. Under present law, software with an encryption feature is treated as a munitions item.

Mr. Chairman, I could leave the floor now and be back within an hour having purchased and sent overseas, to any country in the world, via a computer modem, encryption software.

When a munitions item can be purchased at any retail software outlet anywhere in the country, by anyone, and transferred by phone anywhere in the world, then it clearly has become futile to consider this software a munitions item. Without helping national security, we are doing great harm to our exporters.

Mass-marketed software, by its very nature, is widely available and difficult, if not impossible, to control. This is a case where our export controls have become anachronistic. The Levine language cures this problem.

Mr. Chairman, this is a good act, worthy of passage. But for the sake of our economy, we must soon revisit this issue in a comprehen-

sive manner. Fortunately, we have in the chairman of the subcommittee, Mr. GEJDENSON, and the ranking Republican, Mr. ROTH, leadership up to the task. Washington State is the most trade-dependent in the Union; one in every five jobs is trade related. Washington State will be depending on our subcommittee's good work in the future.

Mr. ENGEL. Mr. Chairman, I rise in strong support of H.R. 3489, which reauthorizes the Export Administration Act. The threats that the United States now faces are very different than the ones we faced the last time the Export Administration Act was reauthorized. The bill we have before us today changes the focus of our export control policy away from what once was the Soviet Union and concentrates more on threats from terrorist nations like Iraq and Syria.

I believe this is entirely appropriate. The Soviet Union and its former satellites in Eastern Europe are now potential markets for many American products. We cannot forget, however, that these are also potential markets for our trade competitors and that getting in on the ground floor could have dramatic positive effects on our exports in the future. While there are aspects of this bill which I feel do not go far enough in relaxing our trade laws, it is a step forward and will allow American companies to help us out of the recession we are currently experiencing.

There are particular sections of this bill which I believe are of particular importance.

First, terrorist nations: Section 119 dealing with the export of items that are of use to both civilian and military end users to terrorist countries is intended to ensure that acquisition of militarily valuable dual-use items by terrorist countries is a thing of the past. Iraq's ability to obtain dual-use items virtually up to the day Saddam Hussein invaded Kuwait should never be repeated and many of us on the Foreign Affairs Committee are concerned that the administration is currently adopting a policy toward Syria that looks like its policy toward Iraq before the gulf war.

On September 1 of this year the administration changed its dual-use export policy toward Syria, making it easier for Syria to obtain these items, which can be used for military purposes. While Syria is a key player in the upcoming regional peace conference, this should not blind us to the fact that Syria remains on the State Department's list of countries supporting terrorism. It makes no sense to send a terrorist country items that could be useful militarily. Section 119 is not as strong as I would like it to be, but it does make it more difficult to send these items to Syria.

At the subcommittee level, I offered an amendment, which was unanimously adopted, directing the administration to urge our allies to adopt similar restrictions on exports to terrorist nations. This provision will not only strengthen U.S. sanctions, it will also help to ensure that our exporters are not frozen out of markets open to their international competitors.

Second, in addition, I authored the provisions in the bill concerning indexing of technologically obsolescent products. When a product is no longer on the cutting edge of technology it generally becomes less important to control its export. In the past, the administration has left items on the control list that were of no concern for national security reasons. The indexing provisions I offered to this bill will correct this problem and allow American manufacturers to export items as soon as their export poses no threat to our national security.

Mr. DICKS. Mr. Chairman, I want to commend the chairman and the members of the Foreign Affairs Committee for the excellent work they have done on this legislation. These amendments are a critical step in recognizing that the nations of Eastern Europe stand at the threshold of becoming constructive partners in the world market economy. Achieving this potential, and avoiding economic stagnation that could undercut the revolutionary collapse of Communist dictatorship, will depend on a reassessment of the balance between security risks associated with trade of high technology, and the mutual economic benefits that increased exports of such technologies can provide both to these nations and to the United States.

I am especially pleased that the committee has included as Title III of this bill, the Nuclear Proliferation Prevention Act of 1991. As a cosponsor of this legislation, I also want to commend the hard work performed by the gentleman from Massachusetts, Mr. MARKEY, and the gentleman from Michigan [Mr. WOLPE] in developing this balanced approach to a more aggressive fight against nuclear proliferation.

The courageous efforts of U.N. inspectors affiliated with the International Atomic Energy Agency to uncover the unsettling progress that Iraq had made toward developing a nuclear weapons capability are an inspiration to all of us. But the difficulties they have faced, and the fact that Iraq was able to get so close to acquiring nuclear weapons under the current antiproliferation regime, is a clear illustration that international controls of technologies that could be used to develop nuclear weapons need to be strengthened.

Iraq is not alone as a nation with the deadly potential combination of a renegade regime and the financial resources to acquire such weapons capability. North Korea is increasingly a focus of proliferation concerns. And it is also resisting efforts to apply inspections of its developments. Pakistan has been a continuing concern, and has in fact been subject to specific restrictions on foreign assistance provided by the United States based on its nuclear program. Reports in today's Washington Post highlight the ongoing efforts of Iran to develop this capability. Finally, Libya and Syria have both expressed interest in developing such capabilities. And the list goes on.

This concern has produced a reevaluation of the necessity for a limited strategic missile defense system, and a growing consensus that meeting the third nation threat should be the focus of our strategic defense research efforts. But while strategic defenses may play a role in countering what could be a new and unprecedentedly dangerous international arena, efforts to make certain that rogue nations do not acquire these capabilities through export controls is even more important.

Enacting the Nuclear Proliferation Prevention Act is an important first step toward this goal. It will apply to nuclear components, nuclear technology transfers, highly enriched uranium and dual use nuclear materials and technologies—the same controls that currently apply only to exports of nuclear fuel and facilities. Specifically, such exports would be banned to countries that have not placed all of their nuclear facilities under international safeguards and concluded nuclear cooperation agreements with the United States. This will provide a strong incentive for nations, including those in Eastern Europe, to conclude nuclear cooperation agreements.

It also directs the President to negotiate with the nuclear supplier group nations to adopt similar controls and to terminate all nuclear trade with nations seen as major security threats. This is critical if the restrictions we are placing on our own exports are to be effective. And I reject the argument that by taking a strong stand ourselves we will somehow undercut these negotiations.

Finally, the legislation places real sanctions on any nation or group of nations that engage in nuclear-related exports in contravention of any prohibition, restriction or other measure adopted by the nuclear suppliers group. These sanctions, which could include ending all nuclear trade, cutting off all nonhumanitarian foreign assistance, or terminating arms sales, will for the first time provide real incentives for others not to simply look the other way when firms seek to go for the quick profit over international safety and security.

The President would retain authority to waive specific restrictions, but only after findings that it does not undermine nonproliferation policy, and only after notification and review by Congress.

Curbing proliferation of weapons of mass destruction could well be the most important international security issue of the next decade. This act is an important first step that complements arms control efforts which can reduce the incentive to develop these weapons. It demonstrates that we are serious about the issue, and willing to back up our rhetoric with real action.

Ms. PELOSI. Mr. Chairman, today the House is considering the reauthorization of the Export Administration Act. I support this bill and support the provisions in this bill that seek to improve U.S. export controls. I believe, however, that this legislation does not go far enough in reforming U.S. export policy.

For this reason, I am introducing the Nonproliferation And Export Control Act Of 1991. This legislation would provide for a more thorough review in the export of dual-use items.

Dual-use items are those items that are primarily designed for civilian uses, but can be instrumental in the design and construction of weapons of mass destruction. Examples are; very high speed computers, electronic components, high-tech ovens and more. It is these dual-use items that played an instrumental role in Iraq's ability to advance their weapons programs beyond our estimates.

Under current U.S. law, the Department of Commerce has the sole responsibility on approving dual-use export licenses. Since the Department of Commerce is responsible for promoting U.S. trade, it is contradictory to also require them to restrict goods on the basis that they may have military significance.

My legislation would require the Commerce Department to consult with experts in the State Department and the Department of De-

fense on the granting of dual-use export licenses. This more thorough review would only apply to countries of concern—countries that do not have a bilateral or multilateral agreement with the United States on the item in question.

The Senate passed Export Administration Act contains language requiring increased review of U.S. export licenses for biological, chemical and missile dual-use items. My bill includes these items, but also adds dual-use nuclear goods to the list of items that would be subject to increased review.

Mr. Chairman, the United States must ensure that expert and thorough review is made on export decisions that have very real implications for our national security.

I urge my colleagues to support this reasonable and logical change in U.S. export policy by cosponsoring my bill, the Nonproliferation and Export Control Act.

Mr. SMITH of Florida. Mr. Chairman, I—along with the gentlewoman from Florida and the gentleman from New Jersey—offer this amendment to prohibit foreign subsidiaries of United States companies from trading with Cuba.

This amendment seeks to return the embargo on Cuba to its original language of 1961—its principal author then was the present chairman of the Foreign Affairs Committee. It would give the Office of Foreign Assets Control [OFAC] in the Treasury Department the enforcement power originally intended.

This amendment is especially timely, since the trade of subsidiaries of United States firms with Cuba has reached a whopping $705 million for 1 year—1990—an increase of 112 percent over the previous year. Any cutback in this trade would hasten Castro's demise.

The issue we are addressing here is the closing of a loophole to an embargo that has been in place since 1961.

The Trading With the Enemy Act includes four countries that have full United States trade embargoes: North Korea, Vietnam, Cambodia, and Cuba. Of these, Cuba is the only country to which a loophole enabling trade with foreign subsidiaries of United States firms was offered. The loophole resulted from an effort during the Ford administration to provide Cuba with an incentive to improve its relationship with the United States by allowing foreign subsidiaries of United States firms to apply for a license with OFAC to trade with Cuba.

But, during the ensuing years, Cuba continued its hardline, anti-United States policies. In 1976 it began to send troops to Angola. In 1978, it increased its military aid to the Sandinistas. These are hardly attempts to take advantage of a unilateral gesture by the United States to improve bilateral relations.

Worse, the past decade has seen only a further hardening of Cuba's totalitarian hardline and may be summed up with the phrase Castro is so apt to repeat these days, "Socialism or death." The loophole without question no longer serves any legitimate foreign policy purpose. Our amendment recognizes that and takes the adequate measure of closing the loophole.

Our amendment would not prevent any foreign subsidiary of a United States-based company from obtaining a license to trade with Cuba from its host country. All we are seeking is a consistent policy: United States-based firms are not allowed by United States law to trade with Cuba. Foreign subsidiaries of these firms also should not be allowed under United States law to trade with Cuba.

Mr. Speaker, there is a simple solution to the so-called Catch-22 these subsidiaries will experience if our amendment should pass: Don't trade with Cuba. Stop propping up an entrenched dictator of 32 years. But I would like my colleagues to understand something very clearly: No foreign country can force any company on its soil to trade with Cuba. Canada can't do it. Great Britain can't do it. To suggest otherwise is just plain wrong.

Only North Korea, China, and Vietnam remain Cuba's Communist brethren. Castro's revolution is at an historical low. His former allies have practically abandoned him, and the Soviets are about to end their economic subsidization. The Cuban people in record numbers are escaping the island's political persecution and economic misery in handmade rafts. As international communism breathes its last breaths, we should not try to keep it afloat in the Caribbean.

Some may argue that the ultimate beneficiaries of this subsidiary trade are the Cuban people. Denying the people of Cuba these goods are benefits of trade, they argue, hurts the very people we want to free. With all due respect, do these people have any idea of the absolutely miserable conditions that the majority of the Cuban people are now enduring? If you want some indication, just consider that this year alone the U.S. Coast Guard has already picked up more than 2,000 Cubans off the shores of Florida escaping their homeland in flimsy homemade rafts. And those are the ones that were lucky enough to make it.

Such an argument is irrelevant anyway. This amendment is consistent with the provisions of the embargo under American law. That embargo and this amendment seek to penalize the dictatorial Castro government, not the people that it subjugates.

The following goods constitute part of the trade we oppose via the amendment. The Cuban people certainly have no access to these goods:

Seagram's assorted liquors: The average Cuban has trouble enough getting Cuban rum, which is now rationed. Only the party elite or tourists can buy Chivas Regal.

Air-conditioning provided by the Carrier Corp. Dollar-toting western tourists and party bigwigs benefit—not the Cuban people.

Assorted soft drinks from the Del Monte Corp.

Naphtha, a chemical used for dry cleaning, is imported by Dow Chemical and then re-imported into Cuba. It may be used to press Fidel's fatigues, but certainly is not used by people who cannot even get laundry detergent.

A four-door GM sedan from General Motors Switzerland is for the use of the Permanent Mission of Cuba to the United Nations in Geneva.

Let us send this strong message to Castro. We certainly came close in may, 1990, when the House Foreign Affairs Committee unanimously passed this same subsidiary amendment as part of the fiscal year 1990–91 State Department authorization bill. The House Foreign Affairs Committee has also convincingly passed other pieces of Cuba-related legislation this year.

The subsidiaries may conduct their trade elsewhere in the international market. A free and independent Cuba would provide them better opportunity tomorrow. A free Cuba also will remember who traded with Castro today. That is why we should protect future trade by plugging up the loophole that allows subsidiaries to trade with Castro.

I urge my colleagues to support this amendment.

Mr. FIELDS. Mr. Chairman, I rise today in support of comments that I heard expressed by the Congresswoman from Kansas [Mrs. MEYERS], about a funding limit in title II for the Commerce Department's International Trade Administration. In short, title II includes a $5 million earmark for a program called the Market Development Cooperator Program.

I would not comment on the merits of that program. However, I do want to point out that the Commerce Department's appropriations bill, already passed by the Congress and signed by the President, did not include any funds for this program. This means that ITA will be forced to cut $5 million from its base export promotion programs.

I, for one, am surprised that the Congress is interested in restricting ITA's programs at a time when exports are the only thing that have been driving the economy.

Recently, I attended a national export seminar in Houston where Secretary Mosbacher highlighted the many resources and programs available through the Department of Commerce for small- and medium-sized businesses interested in exporting. This is just one way the International Trade Administration is helping people with exporting. If we lower ITA's spending today, ITA may not be able to continue to offer some of these valuable services I heard about at this seminar.

Countless times I hear from business men and women in my district that the United States does not do enough to help American firms export their products. I have heard this from large companies, but in particular I hear if from the smaller companies who really are the ones that need the assistance.

And, Mr. Chairman, I note that I have heard it in this Chamber time after time that our competitors spend several times as much as the United States does to help its manufacturing and service companies get their products onto shelves overseas.

Mr. Chairman, $5 million means a lot in an agency the size of the International Trade Administration. And it means a lot to the businesses—especially small businesses—who need help in exporting their products.

I—and I think the American business community would agree—believe that we need more staff in ITA's Foreign Commercial Offices overseas. The Congress has agreed with this and given the United States and Foreign Commercial Service almost $3 million in fiscal year 1992 to increase staff in the Far East—such as Japan and Taiwan—in Eastern Europe and the Soviet Union, and In Latin America. This increase will be negated, wiped out, by this $5 million earmark.

I would also like to see ITA's domestic offices, 47 of them all across the United States,

and its foreign commercial offices have the technological capability to transmit trade data and information back and forth, to give trade leads to U.S. companies looking for new markets. The Congress has agreed with this and has given the United States and Foreign Commercial Service several million dollars to outfit each office with computer systems to give them access to the National Trade Data Bank. This increase will be negated, wiped out, by the $5 million earmark.

Mr. Chairman, I urge our colleague, the distinguished chairman of the Foreign Affairs Subcommittee on Trade, to think again on the merits of this remark. This is a time when we should be giving more money to the agency that provides the principal support for small businesses across the country who are trying to export.

To cut the International Trade Administration now would be wrong.

Mr. FEIGHAN. Mr. Chairman, I want to commend our subcommittee chairman, Mr. GEJDENSON, our ranking minority member, Mr. ROTH, as well as the other minority members of the committee in working to put together an excellent bill.

H.R. 3489 strikes the appropriate balance between national security concerns and improving America's ability to compete in a global marketplace. I think our success in finding that balance can be measured in the overwhelming support that we had for the earlier version of this bill which passed overwhelmingly in the House last fall.

As the gentleman from Connecticut noted, those items that were on the President's veto list have either been revised or taken up in other legislation, and other obsolete provisions have simply been removed—all in an effort to make sure that we produce a consensus document that will become law.

Let me just highlight a few aspects of the bill that go right to the heart of the debate over making America more competitive, yet ensuring our national security.

First, we call for the establishment of a license-free zone among our Cocom allies. This reform reflects two primary changes in the international landscape: First, we must realize that the basis for Cocom—keeping sensitive technology out of the hands of the Soviets and the Eastern bloc—has largely been overtaken by events, the Soviet coup being the latest example of those changes. Second, we face a dramatically different situation in Europe with the movement to a unified market by 1992.

These changes call for a dramatic reevaluation of our export controls to these countries. The bill before us represents a major step in retooling our export control regime so that it focuses more on problem countries and less on those countries who are now our closest allies and trading partners. The result will be vastly expanded trade opportunities without compromising safeguards that protect our national security.

In similar fashion, the bill takes into account the changes that have taken place in Eastern Europe and the Soviet Union. Embedded in this bill is the philosophy that the free flow of ideas is the engine of democracy. And that every fax machine, every telephone system and every home computer that we export assists the transformation of these former Communist states into more responsive, more representative democracies.

This bill represents a win-win situation for us—by opening doors for U.S. exports; by protecting our national security; and by putting U.S. technology in the service of the democratic revolutions that continue to unfold across the globe.

I urge my colleagues to support H.R. 3489.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BONIOR) having assumed the chair, Mr. THORNTON, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee, having had under consideration the bill (H.R. 3489) to reauthorize the Export Administration Act of 1979, and for other purposes, pursuant to House Resolution 259, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROOMFIELD. Yes, I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROOMFIELD moves to recommit the bill, H.R. 3489, to the Committee on Foreign Affairs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FIELDS. Mr. Speaker, I was unavoidably detained. Had I been here, I would have voted in favor of the Hunter amendment (Sec. 120. Review of licenses) to H.R. 3489, the Export Administration Act reauthorization.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I was unavoidably detained and was unable to vote on several amendments pertaining to H.R. 2508, the reauthorization of the Export Administration Act.

Had I been present, I would have voted as follows: Rollcall No. 355, "yea"; rollcall No. 356, "yea"; rollcall No. 357, "yea."

AUTHORIZING THE CLERK TO MAKE CORRECTION IN ENGROSSMENT OF H.R. 3489, OMNIBUS EXPORT AMENDMENTS ACT OF 1991

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3489, the Clerk be authorized to make technical and conforming changes.

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

There was no objection.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on H.R. 3489, the bill just passed.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the vote on the motion to suspend the rules and pass H.R. 2454 will be postponed until tomorrow.

There was no objection.

□ 2150

FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

The SPEAKER pro tempore (Mr. BONIOR). Pursuant to House Resolution 264 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6.

The Chair designates the gentleman from Michigan [Mr. CARR] as Chairman of the Committee of the Whole and requests the gentleman from Oregon [Mr. AUCOIN] to assume the chair temporarily.

□ 2151

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House

on the State of the Union for the consideration of the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, with Mr. AUCOIN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 22½ minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 22½ minutes.

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

Mr. GONZALEZ. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman, H.R. 6 strengthens the entire financial community. It opens new markets for commercial banks. It provides new regulatory approaches and it establishes protections for the public and the deposit insurance funds.

H.R. 6 gives the banking industry its long-sought flexibility. In return, H.R. 6 demands that the banks and their regulators adhere to a strong set of safeguards that ensure that the institutions will operate in a safe and sound manner and in a manner that reduces the risk of future raids on the U.S. Treasury by the industry.

The real test on this floor over the next 2 days will be whether the Members of this House will let the banking industry grab new powers and run, or whether we, as representatives of the people, will demand safeguards for the public and for the billions of dollars of the public's funds that could be placed at risk.

Mr. Chairman, the special interests are hard at work, spreading confusion, creating doubt, and seeking every possible advantage as we near a vote on the biggest single banking bill to come before this Congress since the 1930's.

I hope that the Members of the House will be able to cut through these special pleadings and exhibit the courage to place the interests of the public up front.

The American Bankers Association wants the industry flexibility provided in H.R. 6. It just doesn't like the idea that its banks should be required to pay attention to something called public responsibility. Flexibility without responsibility is a fast and straight route to financial disaster.

It is not surprising that the ABA wants only the benefits. That's their job—to walk up here and demand the maximum for their dues-paying members. Congress' job, I hope, is regarded differently.

It is very unfortunate, Mr. Chairman, that the Bush administration told the banking industry earlier this year that it could create subsidiaries to deal in securities without requiring any statutory firewalls to separate insured deposits from volatile securities activities. The administration suggested that the Federal Reserve could worry about this later, not the Congress.

Mr. Chairman, the Banking Committee rejected this new emergence of laissez-faire and constructed a series of high, tight and solid walls between the insured banks and the securities operations. The Energy and Commerce Committee added an identical set of firewalls on the securities side and the combined approach provides the American public, the deposit insurance funds and, most of all, the U.S. Treasury with the maximum protections.

It is these protections that have now sent the ABA and its big banks into a near panic and a massive lobbying campaign. The industry says public protections are just too onerous and too costly. So, "forget the public or drop the idea of securities subsidiaries" is the message from the industry and the administration. That's why we'll be seeing those amendments to strike titles from H.R. 6. If its not their ballgame, their rules, and their umpires, the industry just says "forget it"—well, at least forget the safeguards.

There is another big force behind the strike-the-title advocates—a desire to preserve special treatment for banks that have slipped around the Glass-Steagall prohibitions through regulatory loopholes and laxness. H.R. 6 would sweep all those operations—approved by the Office of the Comptroller of the Currency and the Federal Reserve Board—under regulation and behind firewalls. The ABA and the banks operating under these loopholes are trying to hide the true reasons behind their later and much-ballyhooed support for striking title IV.

So, my colleagues, watch out for those benign reasons being peddled for striking title IV. The real reasons are, first, a hope that the safeguards can be defeated in some future securities powers bill; and second, an effort to preserve special treatment for some big operators who used loopholes to escape Glass-Steagall. The effort to strike has special interest written all over it.

In the 1980's, the savings and loan industry was up here on Capitol Hill with many of the same messages. "Give us lots of new powers, don't mess with regulation, and we'll make lots of profits and everyone will live happily ever after" was the theme of the U.S. Savings and Loan League and its bigger members. President Reagan was delighted with the idea and when the deregulation bill was signed at the White House, he declared it a jackpot for the American people.

That jackpot is now costing the taxpayers between $500 billion and $750 billion. And we'll have the same wonderful reverse jackpots if we let banks operate securities subsidiaries and enter other nonbanking activities without firewalls and other protections. If we don't vote safeguards, as contained in the joint Banking Committee-Energy and Commerce Committee proposal, then the only question remaining will be the size of President Bush's banking jackpot. The American people really can't afford too many of these Presidential jackpots. They're bankrupting the country.

Mr. Chairman, we need to deal with the issues now, not postpone the hard decisions. The proponents of so-called narrow bills may forget that these measures leave many present activites—volatile activites—unregulated. While much of the discussion has revolved around title IV and the securities powers, H.R. 6 deals with a broad set of issues and among other things:

First, refinances the Bank Insurance Fund [BIF]—allowing $30 billion of borrowings from the U.S. Treasury to keep the bank deposit insurance system solvent.

Second, installs an early intervention regulatory system which requires regulators to take action when the condition of a bank deteriorates—no more regulatory wishful thinking and wringing of hands while the costs rise for the insurance fund and the taxpayers.

Third, provides uniform accounting standards and greatly improved internal controls of banks—a major step for safety and soundness.

Fourth, upgrades regulation of foreign banks operating in the United States no more free-wheeling entities like BCCI and BNL allowed to launder money and engage in other criminal activity.

Fifth, requires that resolutions of failed institutions be carried out at the least cost to the taxpayers.

Sixth, allows banks to extend their operations interstate in an effort to stabilize the industry and provide access to new markets.

Seventh, establishes criteria for the use of the Federal Reserve discount window, preventing secret and expensive bailouts of banks at the taxpayers' expense.

Mr. Chairman, four other committees, in addition to Banking, have worked on sections of this bill through sequential referrals. The energy and Commerce Committee, under the leadership of Chairman JOHN DINGELL, worked with us closely to develop the compromise on title IV. JOHN DINGELL's cooperation was magnificent and the compromise is a strong public interest plank in this legislation.

I also want to thank the other committees that worked on parts of the bill—Judiciary, Ways and Means, and

Agriculture. They are all part of the successful effort to bring this legislation to the floor.

In closing, Mr. Chairman, I want to remind the Members of the House that the banking industry—now knocking on our doors for new benefits—will almost certainly be up here next year asking for a major multi-billion dollar bailout of banks. Some in the industry are in bad shape and there is little chance that we will be able to escape taxpayer-financed bank bailouts down the road.

When the bank bailout legislation arrives on Capitol Hill and becomes headlines across the Nation, Members are going to be asked how they voted on H.R. 6. Did they insist on safeguards for the insurance funds? Or did they vote the ABA line and let deregulation go forward without protections? The questions will be asked—that is a certainty. No Member will escape scrutiny or the spotlight when the taxpayers learn they will be forced to reach into their pockets again—this time to help out the banks.

Congress accepted the savings and loan industry's demand a decade ago for new powers without crafting a stronger regulatory structure or demanding safeguards for the American public. The result was a financial disaster that is costing the taxpayers from $500 billion to $750 billion.

The lobbyists for the American Bankers Association and the big banks are singing the identical song today "deregulation without safeguards". They are asking the House of Representatives to roll the dice once more with the public's money on the table.

Mr. Chairman, I hope the Members of this House will resist the temptation to accept the gamble. There is already one tombstone in the financial graveyard marked Garn-St Germain. There's room for another if the Congress is foolish enough to eliminate regulatory protections in H.R. 6.

□ 2200

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

Mr. Chairman, I favor H.R. 6, the bill which was reported from the Banking Committee that was a comprehensive reform and modernization banking bill, which I thought the Banking Committee had really done a splendid job on.

For nearly a decade now, Congress and our committee has been struggling with some major issues which we addressed in that bill. With bipartisan support and with administration support, we reported out a comprehensive bill, which as I say, I thought was a good bill.

Secretary Brady submitted the administration's legislative recommendations back in March and we had reported the bill out of the Banking Committee by July 4. We acted on it promptly and in good fashion.

The bill as reported out of the Energy and Commerce Committee was changed in some very serious aspects in title IV, and subsequently was changed by the Dingell-Gonzalez compromise, and deletes key provisions of the bill which I thought were critical to the Banking Committee bill, and adds very cumbersome firewalls and negates much of the good work which I thought we had done in the Banking Committee to give banks more flexibility in financial transactions and by that process would strengthen their place in the financial world.

I regret that the Dingell-Gonzalez compromise will be made in order as original text so that we will not get a vote on title IV as we reported out of our Banking Committee.

Having said that, what this bill does in other aspects is that it recapitalizes the bank insurance fund, which has to be capitalized. The bank insurance fund desperately needs more funds. It is estimated there is about $2.2 billion in the fund right now, and by the end of the year that will be zero, and if we do not recapitalize it, the taxpayers are going to have to come forward for another bailout. This bill would allow for $25 billion in recapitalization.

Beyond that, H.R. 6 makes key reforms that are much needed so that we will not repeat some of the mistakes of the past. For example, H.R. 6 will authorize early intervention procedures for the regulators if a bank is in trouble, annual exams by the regulators, annual outside audits for banks, market value disclosure of bank assets, and elimination of the too-big-to-fail policy after 1994.

With respect to some of these reforms which were contained in an amendment which was sponsored by the gentleman from Texas [Mr. GONZALEZ] and myself and also supported by the gentleman from Georgia [Mr. BARNARD] who I see here on the floor, the Comptroller General of the United States, Mr. Bowsher sent me a letter today and he said,

> I want to emphasize the importance of the accounting and auditing reforms contained in H.R. 6, title I. As you know, these safety and soundness reforms were sponsored by you and Chairman Gonzalez and added by unanimous vote to the bill. Our studies of failed banks have shown repeatedly that weak internal controls contribute significantly to bank failures.

So we need those provisions that are in the bill.

Also we would limit Federal Reserve discount window lending and require the FED to share losses with the FDIC.

We limit brokered deposits to level 1 and level 2 institutions.

□ 2210

That is an improvement as far as deposit insurance coverage is concerned. We have no deposit insurance coverage for foreign deposits. Risk-based deposit insurance assessments are provided for banks. The FDIC has veto authority over risky State bank activities. Insured State banks and their subsidiaries cannot underwrite insurance. I think all of these reforms in titles III and IV of H.R. 6 could provide the means for greater stability and flexibility and profitability in our banking system.

Title III will permit nationwide banking and branching in 3 years. I strongly support title III of our bill. I believe that if we had nationwide banking throughout the 1980's, we might not now be facing the need to recapitalize the bank insurance fund. And I say this seriously. Banks and thrifts would have been able to diversify their risks. They would have been insulated from regional economic problems in Texas and New England. My own home State of Ohio was one of the first States to permit nationwide banking. Currently, Ohio has one of the strongest and healthiest banking systems of any of the States. By permitting banks to expand interstate by branching, it is estimated that billions of dollars can be saved through the elimination of duplicative costs.

Currently, all bank expansion is conducted through separate corporate entities. Each bank has to have its own board of directors, back-office operations, overhead, paperwork requirements, and so forth. Branching is easier and less costly. Moreover, it makes it easier for the consumer to take advantage of nationwide banking.

Chairman GONZALEZ and I have filed an amendment to limit the number of insured accounts an individual can have at any one institution. Under our amendment, an individual could have two insured accounts per institution, one a regular savings or checking account and one a $100,000 IRA account. This is a very important amendment, and I hope that we can have this adopted.

When the Treasury Department proposed this bill, this was part of their recommendations for deposit insurance changes. Regrettably, this was struck from our bill.

Deposit insurance was created to protect the small saver, not the rich investor. In 1933, deposit insurance coverage was $2,500. Now it is $100,000, a fourfold increase when adjusted for inflation, in deposit insurance coverage. Ninety-seven percent of America will not be affected by permitting only $200,000 of Federal deposit insurance coverage at any one institution.

Mr. Chairman, in conclusion, this bill reforms the banking system. I emphasize the word "reform." This bill is truly an improvement over the present law. I do hope that we can make some changes, as I suggested a little earlier, in title IV. I hope that before the end of the day on Friday we can pass a good banking bill.

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

Mr. GONZALEZ. Mr. Chairman, I yield 8 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the chairman very much for yielding this time to me.

I do appreciate that at this particular hour of the evening, as we discuss a very, very important piece of legislation that comes before us.

Mr. Chairman and Members of the House, I am very pleased with the product of the House Banking Committee. We worked long and hard. The product that we produced came after 18 months of study of the deposit insurance industry and the financial services marketplace.

And as we proceeded to pass the six titles of the bill, we came out at the end with a positive vote of the committee, thinking that we had done a pretty good job. Unfortunately, since we have passed our bill, certain provisions of it, referred to the Committee on Energy and Commerce, have been drastically changed.

We expected that when we came to the floor with H.R. 6 that we would have a reason to be supporting our bill and, hopefully, in opposition to the amendments against it from the Committee on Energy and Commerce.

But lo and behold, we did not have that opportunity. A compromise was worked out in the meantime. Mr. GONZALEZ, Mr. DINGELL, Mr. MARKEY, Mrs. COLLINS and the staffs of both committees got together and they reached an agreement about the House Banking Committee bill and the Energy and Commerce bill.

The Banking Committee passed out a brochure this morning which I think is very interesting. It itemizes the differences between the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs, and then it indicated what the decisions of the agreement were.

In those instances, Members of Congress, those instances which were somewhat different, I would like to indicate to you that in not one instance where there was a difference of opinion did the Banking Committee's proposal prevail.

Now, I want to say that again because I want to be understood: In not one instance where there was a difference did the House Committee on Banking, Finance and Urban Affairs prevail. In every instance where there was a difference of opinion, the compromise included the language of the Committee on Energy and Commerce.

Consequently, the hard work that had been devoted to the banking bill has now gone down the drain. We will not even be able to offer title IV of the House Banking Committee as an amendment to the original language which will be the agreement worked out by the very distinguished people, very capable people, people for whom I have a lot of respect, but unfortunately their agreement did not come back to the Committee on Banking, Finance and Urban Affairs for approval, not did it go back to the Committee on Energy and Commerce for approval.

Now, my friends, as hard as I have worked for structural reforms, which I think have been reasonable, I have not in one instance given banks any more powers, not in one instance have I promoted or suggested that banks have additional powers. But, my friends, for banks to survive in this environment, they have got to be profitable, they have got to have strong capital. That is what we tried to do in title IV, provide them profitability, provide them an opportunity to make it.

Since that is not going to be possible under the bill that will come before us, I very reluctantly, very reluctantly will introduce amendments to strike title IV.

You are going to hear a lot about that. The chairman of the committee has already referred to that, that this is no way to go, it is a copout, that we will not get our way so therefore we want to withdraw it.

That is not the reason. The reason is that a narrow bill is the best for us at this time. I do not think that many of us are real comfortable with these issues at the present time. It is better to deal with those areas in which there is general agreement: BIF recapitalization, early intervention, least-cost resolution, and the other titles which our distinguished chairman spoke about. Those are very important. Titles V and VI are very importation to this bill. But where the reform process has gone astray with, I might say, great assist from the media, is in the search for the causes for bank failures.

We have a tremendous number of explanations: Oil prices, bad regulation, bad accounting, brokered deposits, fraud, and, finally, the old standby when all of these other explanations fail.

So, my friends, in this environment, I think it is only best that we step back and take another look at what we are doing because what we are doing today is turning the clock back with title IV.

Yes, I do not know why, but it seems that some in Congress are offended because the fact is the Federal Reserve saw fit to interpret the Bank Holding Company Act, especially paragraphs 23 and 28, which prevent bank holding companies, by friends, not banks, but bank holding companies to do those things closely related to banking.

So, when the Federal Reserve permits some bank holding companies to underwrite mutual funds and to underwrite commercial paper, underwrite municipal revenue bonds, all of a sudden we are aghast because of the fact that these profits are now coming in. All of that is reversed in title IV.

□ 2220

We not only stretch higher and bigger and more fierce firewalls, but we are saying, "Oh, no, you can't do that which the regulators have already permitted you to do. That's bad."

But I want my colleagues to know that there is not a single bank that is owned by a bank holding company yet that has these powers that have gone under. So, what we have done; we have not been reckless. We are not just giving away the store with the financial services holding company, but we are permitting the banking industry for once in many, many years to address the real financial services marketplace.

What does it look like today? The financial services marketplace today is more than just commercial loans. Where is the best credits going today? It is going to the investment houses. It is going to the underwriting of commercial paper. That is nothing more than a commercial loan. It is going into underwriting of corporate debt, which is nothing more than a commercial loan, and yet banks cannot reach it.

So, my colleagues, I will just close by saying that now is not the time to move backwards. If we want another bank bailout, let us move backwards. Let us restrict them more and more and more, but, if we will give them an opportunity to make a profit, they will attract private capital, and we will not have to subsidize a banking industry, and that is what it is with government guaranteed taxpayers deposit insurance. We need to wean the banks away from it, as well as our customers, and I thank the gentleman from Texas [Mr. GONZALEZ] very much for this time.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I thank the gentleman from Ohio [Mr. WYLIE] for yielding, and let me just say that by background to the House that this is a very extraordinary bill brought before the House in an unusual way, and I stress the background of banking legislation, particularly this legislation, reflects on the committees of jurisdiction.

Mr. Chairman, the Committee on Banking, Finance and Urban Affairs in particular is kind of a refereeing committee, as is the Committee on Energy and Commerce. As the bill came out of the Committee on Banking, Finance and Urban Affairs, we were, quite frankly, as a committee, a little too generous, in my opinion, to the powers we grant America's commercial banks, and it is one of the reasons this gentleman voted against the bill. Particularly I thought it was a mistake that we integrated commerce and banking, something that was unprecedented in the history of this century. When the bill went over to the Committee on En-

ergy and Commerce, the Committee on Energy and Commerce corrected one of the errors that I thought was in the Committee on Banking, Finance and Urban Affairs' bill, but then it went a little bit too far, and it in effect had the end result of taking the American commercial banking industry actually backwards, taking away powers that currently existed and, in the guise of repealing Glass-Steagall, has produced a Glass-Steagall son that in some ways is more powerful than Glass-Steagall itself.

So, Mr. Chairman, it is my own personal view that, as we look at this in a congressional setting, that given the fact that somewhat extraordinarily the Committee on Rules did not even allow the Committee on Banking, Finance and Urban Affairs to offer their amendment at least for an up or down vote, that this Congress would be wise simply to say that neither the Committee on Banking, Finance and Urban Affairs, nor the Committee on Energy and Commerce's approach is the appropriate one at this time and that we ought to vote in effect to simply recuse judgment on title IV and eliminate it.

Now, coming back to the rest of the bill, it is this gentleman's judgment that, as we move toward consolidation in banking, move toward interstate banking, with or without legislation, one of the great problems is: Is it going to be with or without adequate capital to protect the taxpayer? so, I will be offering an amendment that will increase capital standards in those situations where interstate banking occurs and possibly in the event that Glass-Steagall reform takes place and title IV is kept for banks that want to enter into the investment banking business. I would hope that the Congress would look sympathetically on this kind of approach because in my judgment, unless we pay closer attention to capital, we are going to have a system in which there will be many larger American banks, more thinly capitalized, and instead of a too-big-to-fail system, we are going to have a much-too-big-to-fails system with the taxpayer put in even more grievous jeopardy.

Mr. GONZALEZ. Mr. Chairman, I yield 6 minutes to the gentleman from Kentucky [Mr. HUBBARD], a distinguished member of the Committee on Banking, Finance and Urban Affairs.

Mr. HUBBARD. Mr. Chairman, I would first like to thank Chairman GONZALEZ for allowing me the time to give my remarks. While we may not happen to agree on every issue, your exhaustive efforts in bringing this bill to the floor in an expedient manner are to be commended.

The bill we consider today, tomorrow and Friday—the Financial Institutions Safety and Consumer Choice Act of 1991, H.R. 6—has been called the most significant piece of legislation affecting our Nation's financial services industry since the Great Depression. Indeed, in the 17 years I have been a member of this body, no legislation considered on the floor of the House of Representatives has proposed changes in the way American financial institutions are operated and regulated to the extent that H.R. 6 does.

However, rather than reviewing the countless changes embodied in this legislation, I believe it is of the utmost importance that we take note of one area of current law that H.R. 6 does not make significant changes to—the level of deposit insurance coverage.

At the outset, I would note that the absence of significant changes to current deposit insurance coverage cannot be attributed to a lack of effort by opponents of current law. This legislation, as originally proposed, would have restricted deposit insurance coverage. However, these provisions were stricken from the bill by an amendment I offered during subcommittee markup. Subsequent attempts to alter current deposit insurance coverage were repeatedly—and, I would emphasize, overwhelming—defeated 4 times by my colleagues on the House Banking Committee.

There is a simple reason why a significant majority of my colleagues on the House Banking Committee have rejected changes in this area—altering deposit insurance coverage is bad public policy.

The fact of the matter is the reduction of deposit insurance coverage would be ineffective at best. At worst, it would be a tragic mistake that would result in significant, nationwide harm to our already fragile economy. Nonetheless, amendments may be offered during floor consideration of H.R. 6 that would restrict deposit insurance coverage.

I urge my colleagues to oppose any such amendment for three reasons: First, any such amendment will not reduce losses experienced by the Federal deposit insurance funds; second, any such amendment will heighten public anxiety; and third, it will destabilize financial institutions and be detrimental to the American economy.

I urge my colleagues to oppose the Wylie amendment to restrict deposit insurance coverage.

What do the New York Times, the Washington Post, the American Association of Retired Persons, the U.S. Chamber of Commerce, and the National Association of Home Builders have in common? Each opposes new restrictions on existing deposit insurance coverage.

Their opposition is based on the fact that to reduce deposit insurance is ineffective at best. At worst, it would be a mistake that would result in significant, nationwide harm to our already fragile economy.

Consider, if you will, the following quotes:

"I don't think changing the amount of deposit insurance will make a big difference as to what the liability is that the Federal Government is looking at," said Comptroller General Charles Bowsher. Restricting coverage would cause nothing more than an inefficient shuffling of funds between institutions—without reducing the risk to the deposit insurance funds.

In an article entitled "Banking Reform Proposals Are Already Rattling The System and Making The Credit Crunch Worse," the Wall Street Journal noted:

> Even the chance of change is prompting many businesses and individuals to reduce the amount of deposits they are holding * * * Some small banks say the departure of their largest deposits is crimping their ability to make loans—and, as a result, hindering the economic recovery.

What's why U.S. Chamber of Commerce President Richard Lesher wrote in a recent letter:

> Restricting the number of accounts covered by deposit insurance or simply cutting back federal deposit insurance guarantees would make the banking industry far less viable than it is today.

I challenge my colleagues to name one bank that's failed because of multiple accounts.

Jerry Knight in last Sunday's Washington Post wrote an article about the banking industry problems:

> The banking industry is in trouble because of a series of ill-fated decisions over the last decade to lend money to Third World countries, corporate takeover artists and real estate developers who ended up not being able to repay their loans. Those bad loans have caused nearly 1,000 banks to fail, left hundreds more on the brink of failure and badly eroded the capital reserves of another 2,000 banks.

It's universally agreed that the banking industry is not in trouble because of multiple accounts. It's in trouble because of ill-fated decisions to lend money to Third World countries, corporate takeover artists and real estate developers who cannot repay their loans.

What will happen if you restrict multiple accounts? Many will take their money out of the banking system entirely, which means less money for loans to small business and consumers, and will add to our economic problems. My constituents in western Kentucky will possibly consider moving their money to banks that might be considered too big to fail, and let me add there are no too-big-to-fail banks in western Kentucky.

Let me conclude by sharing a portion of an editorial from the Washington Post entitled "Don't Cut Deposit Insurance":

> While many things need to be changed in the American banking system, the basic system of deposit insurance is not one of them. As Congress goes to work on the banking bill this week, it would be wise to leave deposit insurance alone. The purpose of this bill is to produce stronger and more stable banks.

Cutting back the insurance of depositors would do just the opposite.

I again urge my colleagues to vote against the Wylie amendment to restrict multiple accounts.

□ 2230

Mr. LEACH. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from North Carolina [Mr. MCMILLAN], one of the leading authorities on financial issues in the House.

Mr. MCMILLAN of North Carolina. Mr. Chairman, as a former member of the Banking Committee, I am no stranger to the subject of banking reform. And in my former life as investment banker and the financial officer of a major corporation, I know firsthand the critical role banks play in financing U.S. business growth, particularly the needs of small- and medium-sized businesses, as well as providing consumer services. To best meet these needs it is crucial at this point in time to create a national environment, like that which exists in my State of North Carolina, where strong diversified financial services providers compete statewide and nationally.

North Carolina offers a perfect example of the advantages of competitive financial services resulting from functional and geographical diversification. North Carolina has a long history of intrastate branching, which subsequently led to regional interstate branching. As larger banks grew more competitive and profitable in this regulatory climate, smaller independent banks not only survived, but new independents started up and thrived. Strong diversified banks meant more competitive choice for consumers and business.

North Carolina's State-chartered banks have the power to underwrite and sell insurance. They have limited securities powers and do a hefty discount brokerage business, private capital placements, mergers and acquisitions, and municipal underwriting. Yet, independent insurers and securities firms have flourished in the middle of the largest regional banks in the nation.

That is the issue before us today—the future competitiveness and effectiveness of U.S. financial institutions.

Competitiveness means the capacity to attract adequate capital in public markets to enable banks and financial institutions to finance domestic business growth, while at the same time providing broader consumer services.

Competitiveness means allowing other businesses to invest in failing banks to meet tighter capital standards.

Competitiveness means being able to logically respond to business and consumer needs without artificial legal barriers which do little other than protect someone else's turf.

Competitiveness means being able to diversify those risks inherent in banking—geographically and economically.

Competitiveness means the ability to attract stronger management.

Finally, competitiveness means enabling financial service providers to create more diversified entities competing directly with one another across the country, rather than through a multiplicity of units protected by arbitrary geographic and functional lines.

The proposal made to Congress by the administration earlier this year and H.R. 6 were designed to enhance competitiveness by reforming America's financial services. That reform would create a national financial services marketplace similar to that which has excelled in my State of North Carolina for years. It was this competitive strength which allowed North Carolina banks to rescue troubled banks in other States which did not allow such geographic and functional diversification, most notably in the cases of NCNB's acquisition of First Republic in Texas and First Union's acquisition of South East Bank in Florida.

Mr. Chairman, this legislation, although badly weakened, is a step in the right direction. It strengthens regulation and the insurance fund, and allows interstate branching. But the Dingell-Gonzalez compromise falls short in expanding insurance-securities powers in title IV, actually weakening current law. In addition, the Rinaldo amendment will allow commercial investment in failing banks should be approved to protect the American taxpayer.

Mr. Chairman, North Carolina does not have some magical secret which has allowed its financial services market to thrive while others fail. Rather, the experience of North Carolina shows that the fewer barriers to competition, the more likely it is that banks will deliver consumers the greatest choice of financial services at the lowest prices, and at the lowest risk to the taxpayer.

I urge my colleagues to support this crucial legislation, if properly amended.

The CHAIRMAN. The Chair would announce that the rule gives control of the time to the ranking minority member. Without objection, control of the time will be transferred to the gentleman from Iowa [Mr. LEACH].

There was no objection.

Mr. LEACH. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], one of the most thoughtful Members of this body, and particularly of the Committee on Banking, Finance and Urban Affairs.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 6 the Financial Institutions Safety and Consumer Choice Act of 1991.

I want to commend the Treasury Department, and Secretary Brady, for working so long and hard on the development of basic banking reform and for keeping the process moving forward.

I also want to congratulate the chairman of the Banking Committee for his perseverance and persistence in seeking this final debate on this banking reform bill.

PURPOSE OF BANKING REFORM

Mr. Chairman, up until recent years, our Nation's banking system has been a safe and reliable place to keep the hard-earned savings of the American people. The banking laws of the 1930's have served the system well, and depositors have slept well knowing their money was secure.

However, as we witnessed in the savings and loan crisis, times have changed and, for the first time in almost 50 years, record numbers of bank failures have occurred exposing the American taxpayer, who is already overwhelmed with the cost of the S&L bailout, to substantial losses through the Federal deposit insurance guarantee.

As Secretary Brady stated in submitting the administration's banking proposal earlier this year:

> A sound, competitive banking system is critical to the Nation's economic vitality and the financial well-being of our citizens.
>
> But, the federal safety net has been overextended, and the taxpayers are now exposed to substantial losses through federal deposit insurance. * * * In the end, the most effective way to minimize taxpayer exposure is through a strong, competitive, well-capitalized banking system.

This, my colleagues, means that real banking reform must be adopted by the Congress. And, real banking reform means that:

Deposit insurance reforms must restrain excessive bank risk, and insurance premiums should be assessed on risk;

There must be better supervision;

There must be better incentives to maintain strong capital positions;

There must be increased market discipline;

There must be direct restrictions on excessively risky activities; and,

Where practical, there must be incentives to assist bank competitiveness and profitability.

Financial services modernization, with appropriate safeguards, will make banking organizations stronger, better capitalized, and less likely to create costly failures for the deposit insurance fund and the taxpayer.

H.R. 6 accomplishes this by addressing four fundamental goals.

THE FOUR FUNDAMENTAL REFORMS

1. BIF RECAPITALIZATION

The BIF is currently at its lowest level in history as a percentage of insured deposits—approximately $4 billion. It was predicted that the BIF could become insolvent by the end of 1991 if bank failures continued at their current rate or if a few additional failures the size of the Bank of New England took place.

H.R. 6 authorizes the FDIC to borrow up to $30 billion from the Treasury to

be repaid by increases in deposit insurance premiums. It authorizes short-term borrowing from Federal Financing Bank with funds secured by assets taken over from failed banks and removes the cap on insurance premiums the FDIC can charge to replenish the BIF. Current rate is $.23 per $100.

2. BASIC DEPOSIT INSURANCE REFORM

In addition to higher capital requirements for banks, as established by the Basel Accords, the legislation:

Rolls back the doctrine of "too-big-to-fail" by prohibiting the payment of uninsured accounts over $100,000.

Authorizes risk-based premiums.

Limits pass-through deposit insurance for pension funds to only the highest capitalized banks.

Limits brokered deposits to only the highest capitalized banks.

Prohibits the FDIC from covering foreign deposits after 1992.

3. STREAMLINED REGULATORY SYSTEM

The Administration felt that a streamlined, efficient regulatory system would further supplement market discipline and apply prompt, decisive corrective action to weak and unsound institutions.

Although the Financial Institutions Subcommittee created a special task force to come up with a new regulatory scheme, the committee could not agree on any new regulatory structure.

However, the bill does adopt several regulatory measures designed to strengthen the ability of the Federal regulators to act promptly when trouble develops. It does this by:

Requiring annual on-site examinations and reforms auditing standards;

Mandating prompt corrective actions for problem banks;

Requiring early intervention with failing banks;

Limiting direct investment of insured deposits and limits risky State powers;

Granting additional powers to monitor activities of foreign banks in this country.

In the wake of the Bank of New England and BCCI scandals, these have become more important.

4. RESTORING COMPETITIVENESS

The administration argued that nationwide banking and branching would make banks safer through diversification and more efficient through substantially reduced operating costs.

The administration also felt that commercial and financial firms must be allowed to affiliate and that banks should be permitted to engage in the full range of financial services—securities, insurance—as long as it was outside the bank itself and not covered by the Federal safety net.

H.R. 6 permits highly capitalized banks to diversify into new powers such as securities and insurance subject to strict firewalls such as the creation of separately capitalized financial services holding companies, restrictions on loans to affiliates and underwriting of affiliate securities, and restrictions on cross marketing and tie-ins.

I have always supported the repeal of Glass-Steagall so long as adequate fireballs were developed to protect insured deposits. This legislation accomplishes that. It is a shame that the banks don't see it that way and are complaining that the firewalls established to protect the deposit insurance fund and the taxpayer are too tough. But just let me remind my colleagues that it was precisely our failure to err on the side of toughness which gave us the S&L debacle.

Insurance activities were restricted to the sales of insurance by the bank in towns of 5,000 or less and existing activities were rolled back. Now, I have felt that insurance sales are not a threat to the deposit insurance fund and should not be restricted. However, insurance underwriting is risky and should only be done through a separate affiliate, if at all.

Finally, the bill authorizes interstate banking and branching within 3 years. I support this effort.

SUMMARY

Overall, I believe H.R. 6 represents a strong effort to effect banking reform.

It is regrettable that of all the positive reform initiatives contained in this bill, most of which meet the original intent of this legislation—to recapitalize the BIF; reduce taxpayer exposure; and to make deposit insurance reforms—that the industry, the administration, and many of the Members of this body are now opposing the bill based on three provisions, including:

The elimination of the mixing of banking and commerce.

The adoption of additional firewalls on securities activities, and

The additional restrictions on insurance activities.

Mr. Chairman, my colleagues should realize that too much work went into this bill and too much is at stake with the future of the Nation's banking industry to turn down this legislation now.

I urge passage of H.R. 6.

Mr. LEACH. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM], one of the distinguished leaders of this Congress in financial matters.

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

Mr. Chairman, it has been indeed a pleasure working with the gentleman from Iowa [Mr. LEACH] and other Members, including the gentleman from Texas [Mr. GONZALEZ], on this bill in this committee. A lot of hours have been put into this matter, and many words will go under the bridge, I suppose, in the next few days about it.

But I think the perspective that I would like to bring to this tonight is where we were and what we were trying to do, and what I think all of us wanted to do with this.

Mr. Chairman, I think there were really two things. One of them was to replenish the Deposit Insurance Fund, which we do in this bill by expanding the borrowing capacity to some $70 billion, which we all hope is never needed, and we do it without taxpayer funds being used. We do it with a guarantee program involving bank contributions to this fund.

The second thing we were trying to do, which I think is the onerous burden of all of this, is to expand the competitive position of banks to allow capital to come into those institutions at a greater amount than it has been, to make those institutions in this Nation, that are so important to the functioning and well-being of our country, sound in a way that will not require in the future the contribution of American taxpayers into failing institutions, as has tragically occurred with our savings and loans.

Mr. Chairman, when we put it in perspective, I think it is important to contrast the status of commercial banks today with the status of savings and loans. They are not comparable institutions. They have not been. We do not have the same kind of threat to the commercial banking world that we had to the thrift industry, because the thrift industry was never designed to compete in the world's marketplace and to compete in today's age.

Commercial banks have been designed that way, and as a general rule, are quite healthy today, but they are threatened, and are going to continue to be threatened, unless we do something about it, which is what the bill is about.

For example, in terms of today's modern competition, we can look back in 1960 and be reminded of the fact that the value of banks' industrial loans was nearly 10 times that of commercial paper outstanding in this country.

Today, at least by 1989, and I think still today, the ratio is roughly equal. The same amount of money is involved in an industry financing itself with respect to commercial paper as it is with loans.

□ 2240

Banks today need to be assisted in the sense of broadening the base and going out into the future. Title IV of the bill we drafted was designed to do that, to expand that, to have a financial holding company, and then above that, to have a diversified holding company, to let industry come in to be able to own banks with firewalls and so forth.

Unfortunately, the compromise version of the Committee on Energy and Commerce not only destroys the symmetry that the Committee on Banking, Finance and Urban Affairs creates in

this area, they have indeed set up a situation in which virtually the existing structure of the banking community would be adversely affected and we would not see the kind of competition increase. Instead, in my judgment, it would decline.

Sadly, I do support the efforts of the gentleman from Georgia that we will make to strike title IV from this bill.

That leaves us with interstate branching. I urge my colleagues to sustain that against the attacks that will occur on it. It is important, and it will not threaten the small banks, as some of them fear. It will allow for banks to diversify the regions in which they operate and hopefully bring more stability into the entire process by doing that.

I think that is exceedingly important.

In addition to that, we will have an opportunity, I hope, after the debate over title IV is completed or perhaps even in the first title of the bill before that, to vote on a very narrow area where failed banks can be acquired by commercial institutions, when they are failed or failing. It seems to me that is a sensible approach, although it is a small approach that does protect the taxpayer. We do not have to get into that situation we might otherwise go into.

All in all, I think the bill is moving in the right direction in terms of what we were attempting to do, but it is going to wind up, in my judgment, being a much narrower bill, much more specific bill, but I hope when it is finished here on the floor in the next 2 days, it will be a good bill.

I urge my colleagues to consider it in that light.

Mr. LEACH. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. MCCANDLESS], one of the most prescient observers of finance on the west coast.

Mr. MCCANDLESS. Mr. Chairman, can you imagine running a business in 1991 the same way that you did in 1936?

Yet, as we head into the 21st century, our banks must operate under laws that were passed during the Depression.

Fifty-five years ago, when people looked for a place to invest their savings, they basically had two choices—a savings account or the stock market.

Today, there are literally hundreds of alternatives, many of which banks cannot offer because of Depression era laws.

The world has changed since then. Advances in technology, changes in lifestyles, and many new financial products and services make the marketplace of the 1990's very different from that of the 1930's.

As a result of outdated laws, our banking system has become weak, inefficient, and uncompetitive, especially when it comes to competing in the international market.

In FIRREA, we asked the Treasury Department to review our banking laws and make recommendations on how they could be improved and strengthened.

As a result, Treasury proposed legislation that had six major objectives:

First, to maintain the solvency of the FDIC;

Second, to make the regulatory structure more effective;

Third, to allow banks to attract domestic capital;

Fourth, to allow banks to diversify their products and geographic location;

Fifth, to reform the deposit insurance system; and

Sixth, to increase consumer choice and convenience.

The Banking Committee's version of H.R. 6 retained most of those objectives. While I was disappointed by the lack of real deposit insurance reform, the Banking Committee produced a bill worthy of support.

The bill would strengthen the Bank Insurance Fund, create a more effective regulatory structure, and provide financial institutions with the opportunity to better serve their customers and compete in the world economy.

Banks that are financially healthy should be able to offer their customers additional financial services, provided that those services are offered through a separate subsidiary so that federally insured deposits are not at risk.

Some have attempted to characterize this as deregulation. Nothing could be further from the truth.

Strengthening the regulatory structure, modernizing financial services, and moving more risky activities out of a bank and into a separately capitalized subsidiary, is not deregulation.

One of the lessons we learned from the S&L crisis is that financial institutions should be diversified.

Because strict Federal laws limited the activities of S&L's to making long-term fixed-rate mortgages, S&L's could not keep pace with outside economic pressures, such as high interest rates, falling real estate prices, and weaknesses in regional economies.

Diversification of assets and location would have greatly reduced the number of failures and the cost of the S&L crisis.

The importance of having a diverse market was demonstrated by the recent failure of the Bank of New England.

By only having branches in New England, the bank was not able to withstand the effects of a weak regional economy, and failed.

Had the bank been geographically diversified, it would have been better able to withstand a regional economic downturn.

The same was true of financial institutions in the Southwest which were heavily dependent on the oil industry boom of the late 1970's.

When it comes to interstate banking and branching, there seems to be a tremendous fear of the unknown.

In the spirit of Halloween, some community banks see interstate banking as a bogey-man that can only be killed by driving a stake through the heart of this bill.

Such a view is unfortunate and extremely short-sighted.

In my State of California, small community banks are competing head-to-head with large banks, and are doing quite well.

The secret of their success is, in reality, no secret.

Most small community banks offer a level of customer service that is unmatched by the larger banks.

When you foster competition, the marketplace will provide the highest level of consumer choice.

Another lesson we have learned from the S&L crisis is that financial institutions must increase their capital.

Depression era laws lock 80 percent of our Nation's available capital out of our financial institutions.

The Banking Committee version of the bill addresses that problem.

In contrast, the Energy and Commerce version will mean that our financial institutions will not have access to adequate domestic capital, and that they will have to continue to rely on foreign investment.

Many of us in Congress have strongly advocated and worked for fundamental banking reform legislation for several years.

Unfortunately, in the past, the legislation has been derailed by special interests. We cannot afford to squander the opportunity that we now have to produce comprehensive reform legislation.

We have three options: First, we can turn the hands of time back to the 1930's; second, we can continue to do nothing except watch an increasing number of financial institutions collapse; or third, we can reform the system and enable it to meet the needs of the 21st century.

Of the three, the first is impossible, the second is irresponsible, and the third is essential.

Because they have not kept pace with the times, our current laws have brought our financial industry to the brink of disaster. The status quo of the Energy and Commerce bill will push them over the edge.

We need real banking reform and restructuring. We need the Banking Committee bill.

Mr. LEACH. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. BAKER], the extraordinary new leader of the South.

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

I am very concerned that our economy does not provide an opportunity for every American to have a decent

and profitable job. Many of us in the Congress have spent many hours concerning ourselves with how we can encourage domestic economic recovery. Small businesses in the United States were responsible for over 89 percent of employment opportunities, but yet small businesses today are being told that credit for business purposes is simply not available.

The reason is not a mystery. Higher regulatory standards, a slowing economy makes lenders very cautious about expanding their business scope. In fact, many are now shrinking in order to meet new regulatory requirments.

What is the solution to our domestic economic problems and providing opportunities for new employment and making our banks once again the sources of credit for business purposes? We simply have to find a way for our banks to survive in today's marketplace.

The current regulatory quagmire ensures that banks will not succeed in the future.

Banks now face even tougher competition from nonbank, nontraditional lending sources. For instance, many large corporations who were once the most significant customers of commercial banking activity now sell their own commercial paper, and the banks have lost the revenue from those transactions. We simply have to find a way to replace the lost revenue that reasonable and sound banking practices must engage in.

If we do allow a broader base of business activity, it does not correspondingly mean that taxpayers should be responsible for the risk associated for those new busines ventures. We must limit taxpayer exposure through the Federal Deposit Insurance Fund to only those essential banking services that make our financial system sound and safe for each of us.

Simply expanding the scope of business activity while limiting taxpayer exposure is not enough. For some we must find new ways to spread the risk geographically. For many, in my region of the country, who are limited to the oil patch and their lending practices, if they had the opportunity to engage in financial activities in other regions of the country perhaps they would have not found themselves in a condition of insolvency.

Finally, that may not be the last step. Commercial ownership of financial institutions should not be precluded. We simply cannot find ways for banks to sell stock in a depressed economy. We simply cannot tell banks who are struggling to increase their retained earnings, make more profit in a market which simply will not allow it. Commercial ownership of banking institutions is the way to bring new capital into financial institutions that are troubled rather than continuing to return to the taxpayer.

Outside investors can protect taxpayers from losses. The bill as reported unfortunately by the Committee on Rules tonight does not allow progressive reform of our banking industry. It says to the banking community of 1992, "You cannot engage in activities you engaged in in 1991. We are going to raise your regulatory requirements. We are going to add to the number of regulators who will be looking over your shoulders. We are going to increase your costs to do business. We are going to say you must engage in more community and social service activities and spend dollars and perhaps extend credit where you know loans will not be repaid."

□ 2250

Unfortunately, the bill we will have before us tomorrow, purported to be the solution to our Nation's economic problems, may well be responsible for even greater financial difficulty in the coming months. It may well result in making the credit crunch of 1991 look like cereal. We will find ourselves in financial jeopardy, going back one more time to the taxpayers for additional dollars and pointing the finger at each other saying, "How is this possible?" It is simply a fact of life. Congress cannot properly legislate and we certainly should not make it illegal.

Mr. LEACH. Mr. Chairman, I yield 1½ minutes to the thoughtful gentleman from California [Mr. CAMPBELL], who may well be one of the standard bearers for the Republican Party in the not too distant future.

Mr. CAMPBELL of California. Mr. Chairman, I thank my colleague for his kind words.

Mr. Chairman, in the bill we will consider tomorrow, one critical point is important and worth consideration. Let us not stampede the depositors. Consumer confidence right now in the United States is at a very serious ebb. We just saw that reported.

I am concerned that if we touch the level of insurance on depositors we might stampede depositors out of the system at a time when we cannot afford a further shrinking of the capital available to investment in our country. Therefore, I rise to urge opposition to the amendment to be offered by my colleague and friend, the gentleman from Ohio, [Mr. WYLIE] the ranking member for whom I have the highest esteem. If we remove the $100,000 per deposit insurance and instead make it $100,000 per deposit per institution, we will set off a fear in depositors' minds that Congress is messing around with deposit insurance. And who are we uncovering, who are we exposing by this action? Someone who is both wealthy and stupid, wealthy enough to have a more than a $100,000 account, and stupid not to figure out that all you have to do is put each $100,000 account in a different bank.

This is a serious mistake. It could result in an erosion of consumer confidence at a critical time, and I urge my colleagues to oppose it.

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

In these last few seconds, Mr. Chairman, I simply would like on behalf of the distinguished ranking member, the gentleman from Ohio [Mr. WYLIE] to extend our appreciation to the majority and say that the gentleman from Texas [Mr. GONZALEZ] in our judgment is frankly the fairest chairman that I can conceive of working with. Also, as this may be the last principal bill that the gentleman from Georgia [Mr. BARNARD] works with, I would like to say that we will miss him. DOUG has been one of the truly fine lights in the House Committee on Banking, Finance and Urban Affairs and one of the distinguished Members that all of us have enjoyed working with for all of his time here.

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

Mr. GONZALEZ. Mr. Chairman, I yield my remaining 4½ minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 6 as it is presented to the House this evening. I ask Members to carefully consider in the days ahead the amendments that will be offered on this floor.

Frankly, I think the issue that we have today is one of crisis. It is one of great concern for the American people and the American economy. Basically it hearkens back to the problems with the deposit insurance system and the commitment that was made some 50 years ago to try and meet the needs and to insure the deposits of people across this country.

That deposit insurance system today, in my judgment, has been turned on its head. That which was intended to protect depositors has been used as a basic insurance tool for whole segments of our economy and for the largest of the largest banks. Clearly during the decade of the 1980's there were a series of things that led to this: the lack of adequate regulation, the dearth of commercial industrial property that makes up the portfolios of banks. There are a lot of things the Congress can do in terms of public policy, in terms of trying to gain back the control that the regulators have had over the banks and try to set the banks on a policy path that is profitable.

But what we cannot do is we cannot legislate, we cannot legislate or regulate away the problems that are inherent in banking portfolios as we stand here today in 1991. Those problems are a combination of tax and policy issues that simply are going to be with us for some time.

What the Committee on Banking, Finance and Urban Affairs tried to do,

and I think tried valiantly to do, and has finally succeeded in an agreement that we have before us in H.R. 6, is to try and gain back some real regulatory reforms to deal with the problems of "too big to fail," to deal with the problem of least cost resolution, and to of course provide the borrowing authority for the bank insurance fund, some $70 million in borrowing authority so we will be able to meet the needs. That is important.

First of all I want to suggest that the process that has been followed here is exactly the process that has been followed throughout the tradition of this House when one or more committees, in this case four committees were working on a bill and the leaders of those committees, in this case the gentleman from Texas, Mr. GONZALEZ, and the gentleman from Michigan, Mr. DINGELL, of the leading or two principal committees met and resolved differences that they had where there was shared jurisdiction.

We are quick to point out the integration of the financial marketplace. We should also recognize the integration of our jurisdiction that occurs during these circumstances. What they did is came before us and ironed out their differences in a way that I think is satisfactory.

Quite candidly, I think that much of what the administration has proposed as solution here is sort of the consequence of chasing rainbows and looking for the pot of gold at the end of that rainbow.

Does anyone believe that if banks are not going to be profitable that somehow we are going to be able to get businesses to buy banks to put their money in these banks so that they can lose it? I do not believe that, and I do not believe that the combination of commerce and banking, for that reason, will work. If they are a profitable entity, they can put out stock and raise money on that basis. That is what call the marketplace, the free enterprise system. It works. A lot of people give speeches about it, but apparently they do not like to practice what they theorize about.

Does anyone really believe that we can merge our way out of this particular issue? I do not. I do not see anyone buying these franchises. We tried that with the S&L's, and it failed, and surely it would fail in this particular instance.

I know the grass always looks greener on the other side of the fence. So if banks are not making money in banking, perhaps they can make money in insurance and other types of activities. But clearly these areas which are losing money in some instances in 1990 are not likely to turn around and help the banks pull themselves out. No, my friends, there is no magic in this, and I would hope that we would uphold the version of the bill as it has been presented to us, and work hard in the days ahead to resolve and address this problem.

Mr. Chairman, I want to urge my colleagues to pay close attention to the amendments and the debate during our consideration of H.R. 6 in the days ahead. The legislation currently under consideration by the House could well affect the lives of virtually every American for well into the 21st century by determining how financial services will be provided to the American people as well as setting in place the foundation for a financially solvent deposit insurance fund. The House will have to consider and vote on amendments that will determine the basic direction under which the reforms in H.R. 6 will proceed.

The House will have to determine what new services, if any, a bank may offer; what firewalls will be in place to protect the deposit insurance fund and the American taxpayer; what the appropriate role for the State will be with the implementing interstate branching; and who may own a bank. These decisions are crucial and I urge all Members to carefully consider the ramifications of our actions.

As a member of the House Banking Committee, I voted against reporting H.R. 6 from the committee. I believed that when considered in total, the measure went too far in deregulating our financial services industry without adequately protecting the bank deposit insurance fund and the American taxpayer from a major future bail-out of the fund.

In my view, the major flaw of the administration's legislation was that it failed to come to grips with the reality of the marketplace. The proposal continued the policy path of private gain and profit with the public, the taxpayer, bearing the risk. The President offered a deregulation solution for the banks in the hopes that they would grow out of the problems. Mr. Speaker, that is simply chasing rainbows. The Bush administration urges a policy that would facilitate megabank mergers, combined with new and riskier activities for banks. Those policies, combined with the merger of commerce and banking would, for all practical purposes, stretch the bank deposit insurance safety net to cover all the assets and the new activities. With the bank insurance fund already running on empty, the failure of banks owned by businesses will leave the taxpayers at risk with even bigger bills to pay. There is no pot of gold at the end of this rainbow, only an I.O.U. that will unfortunately be another bill sent the taxpayer. The way the Bush administration behaves the free enterprise system apparently is only to be used as a rhetorical flashpoint in speeches and not to be seriously practiced.

They apparently like free enterprise in theory but not in practice. Amendments which hopefully will be made in order under the rule will provide the House with a voice in restoring a level of protection for the deposit insurance fund and assuring that the fund and the American taxpayer will be insulated, to the greatest extent possible, against the reality of today's and tomorrow's marketplace and the exercise of the new powers by financial institutions.

Of particular importance, I would like to call to the attention of my colleagues two amendments. The first is the bipartisan amendment that I, Congressman BEREUTER and nine other Democrats and Republicans of the Banking Committee will offer on interstate branching and interstate banking, a major compromise.

As my colleagues may be aware, H.R. 6, in its current version, provides for nationwide interstate branching with no role for the State government. Efforts in the committee by myself and other members to provide for an appropriate State role were not accepted. Following the committee's action, the supporters of a State role worked to develop a compromise approach. The bipartisan consensus amendment is the result of that effort.

The Vento-Bereuter amendment recognizes that savings for banks may be realized through interstate branching. However, the amendment importantly recognizes that branching is not a panacea as others may claim and that interstate branching does pose risks to he insurance fund, the institution, and the States and local communities and to the consumer through unfettered interstate branching.

To address these issues, the consensus Vento-Bereuter amendment restores an appropriate voice into the decisionmaking process by permitting States to opt out of any nationwide interstate branching system as well as setting responsible conditions for a bank to branch in that State.

In addition, the consensus amendment establishes a concentration limit and would prohibit acquisitions that would exceed that concentration levels. In light of the serious concerns that we all have regarding the "too big to fail" policy, the modest restrictions in our amendment are warranted. At the national level, the concentration limit in our proposed amendment and in the Senate bill is 10 percent of all insured deposits. Based on the latest information available to my office if that standard would have be in place, Citicorp, Bankamerica, Chase Manhattan could have all merged together and formed one bank. At the State level the threshold is 30 percent. That threshold only applies to acquisitions, not growth, and can be waived by the State. This concentration concern is real with the advent of interstate banking and branching. Numerous mega-mergers have been advanced and when this measure becomes law that trend will accelerate. Frankly, some guidelines and thresholds are necessary, hence, the concentration limits of Vento-Bereuter.

The issue of interstate branching is more than a regulator's turf fight. It is more than a big bank versus small bank debate. The decision that Congress makes on interstate branching will affect how financial services are provided to many of our constituents. The consensus proposal is a balanced approach that best meets the needs of the banks and the local communities. I hope that my colleagues will support this approach.

In addition, I would like to express my strong support for the work of Chairman GONZALEZ and Chairman DINGELL. The package that they have presented the committee does set in place safeguards that were sorely lacking in the banking version of H.R. 6. The incorporation of this agreement is crucial to protecting the insurance fund and the taxpayer.

Mr. Chairman, Congress must act to stop the hemorrhage of the bank insurance fund. Any action should include meaningful reforms

to the deposit insurance fund, elimination of "too big to fail" loophole and restoration of the deposit insurance fund to its original purpose of protecting the deposits of the average working American family. The improved opportunity for bank profitability must be accompanied by strong regulatory authority to insure that the insurance fund and the taxpayer are not left holding the bag for new or old megabanks. Finally, Congress must reinstall the free enterprise mentality in the financial world so that decisions are made on the basis of market discipline and private risk rather than assuming that the Government will pay for bad business decisions.

Mr. BUSTAMANTE. Mr. Chairman. I have had many calls come into my office regarding the provisions of H.R. 6. The most resounding comments I have heard are support for title III of the bill, to permit interstate banking and branching.

Interstate banking is not a controversial issue. For some years now Texas, along with 47 other States, has permitted interstate banking. Interstate branching is new in its name, however I believe that it is only an extension of interstate branching.

Interstate branching will allow multi-state banks to operate more efficiently. The need for duplicate boards of directors, computers, and audits will be eliminated, saving the industry and its customers billions of dollars. I believe interstate branching will allow banks to serve their customers more effectively through greater efficiency. Therefore, I support the provision of title III of H.R. 6 and I urge you to join me.

The CHAIRMAN. Under the rule, all time of the Committee on Banking, Finance and Urban Affairs has expired.

Under the rule, the chairman and ranking member of the Committee on Agriculture will equally divide 45 minutes. The Chair observes that the chairman and ranking minority member of the Committee on Agriculture are not present, and thus the time of the Committee on Agriculture designated under the rule is considered as yielded back.

All time for general debate under the rule has expired.

Under the rule, the Committee rises.

□ 2300

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PARKER) having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in general debate on H.R. 6, the bill just considered.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 6, FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-281) on the resolution (H. Res. 266) providing for the further consideration of the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

NAVY BABIES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. DORNAN of California. Mr. Speaker, one of the issues that the U.S. military is very loath to discuss is the rising rate of pregnancy in the military of unmarried young enlisted people and officers, I might add. It is servicewide, but the Navy is particularly resistant to really facing up to this.

I hope the conferees on the Defense bill between the House and the Senate will leave in the Senate language about a serious commission forming to determine just what happened during the gulf war in this one very unreported area.

The sole exception of good reporting was an article by Alecia Swasy, a front-page story in the Wall Street Journal of October 3.

Here are just the subheadlines:

Although sex aboard ships is taboo, births indicate rule is widely flouted. Life on board the "Love Boat."

The U.S.S. *Acadia*, 16 percent of all Navy women who go to sea end up pregnant.

Hanky-panky—hetero and homo—is a problem. Propinquity breeds romance.

Now, the statistics from the U.S.S. *Opportune* are particularly interesting and the U.S.S. *Yellowstone*.

Mr. Speaker, I hope we will have a serious commission on this serious problem. These are pregnancies, not abortions.

Mr. Speaker, I include the Wall Street Journal article as follows:

NAVY BABIES: SHIPBOARD PREGNANCIES FORCE THE MANLY NAVY TO COPE WITH MOMS—ALTHOUGH SEX ABOARD SHIPS IS TABOO, BIRTHS INDICATE RULE IS WIDELY FLOUTED—LIFE ON BOARD THE "LOVE BOAT"

(By Alecia Swasy)

SAN DIEGO, CA.—Dressed in a crisp white uniform trimmed in navy blue, Kathleen is the picture of Navy spit and polish. Except for one thing: She's wearing maternity issue because she's eight months pregnant.

While the 25-year-old petty officer from Boston, who asked that her last name not be used, is happy about the birth of her first child later this month, the Navy doesn't share her joy. Kathleen got pregnant while deployed on the U.S.S. Acadia during the Persian Gulf War.

Kathleen was one of 36 Navy women who returned home pregnant from their tour on the Acadia. The ship was dubbed "The Love Boat" in a newspaper cartoon, which showed women sailors saluting the rabbits who had sacrificed their lives as pregnancy testers during the war, and the nickname was picked up by the national media.

But to the Navy, the spate of births coming roughly nine months after the war isn't funny. Women today make up 30% of the Navy's crews, a figure that is expected to rise to 50% by 1996. And despite the Navy's strict rules against "fraternization," about 16% of the 8,600 Navy women on ship duty get pregnant each year.

"Hanky-panky—hetero and homo—is a problem," says Charles Moskos, a military sociologist at Northwestern University. "Propinquity breeds romance." Yet nobody in the macho military world "really wants to look at it," he says.

Although all branches of the military—indeed, most places where men and women work together—are crucibles for office romance, the Navy throws the sexes together in tight quarters for months at a time. Life on the floating factories is often described as drudgery. During the day, sailors jobs keep them busy, but at night there's little to do. Sailors say the food on board is so bad they call hamburgers "sliders" because they're so greasy. On some ships, sailors sleep in huge rooms stacked with tiny berths.

SIDE BY SIDE

On the Acadia, about 360 of the ship's 1,250 crew were women. Some, like Kathleen, processed paperwork, while others worked alongside men in every function, making pipes, repairing equipment and working in the foundry. Women are still not allowed on combat ships or submarines.

Although men and women used separate bunks and bathrooms on different decks of the Acadia, they ate, watched television and played cards together. And while the bunks themselves are only two feet wide and offer little privacy, there's a maze of places to hide on board.

To the Navy, a pregnant sailor represents the loss of a trained worker, sometimes in an extremely technical position, as well as a potential health problem. Once a woman's pregnancy is known, she is quickly dispatched to a job on shore. The Navy used to routinely discharge pregnant women, but now, after a six-week paid maternity leave, they are expected to come back to work. Four months after giving birth, they are expected to resume their sea duty, which typically totals three years. Many ask for discharges instead, and because it's a volunteer force, most get them.

The military's record on sex issues has long been spotty. Fifteen years after women were first admitted to West Point and the Naval Academy in Annapolis, complaints of sexual harassment still crop up. Enforcement of "no fraternization" rules isn't consistent. The military's stand against letting homosexuals serve has been challenged repeatedly in court. So far, it has prevailed.

But even more than the other branches of the military, the Navy has resisted confront-

ing women's issues and the management of a co-ed fleet, asserts Rep. Patricia Schroeder of Colorado. "It takes very strong women to go into the Navy. They're not getting any support." Rep. Schroeder also says Navy women feel they have "to have sex or you get labeled as a lesbian. So women are damned if they do and damned if they don't."

WOMEN'S PROBLEMS

In a report on women in the Navy, which was prepared in 1987 and updated last year, the service acknowledged major problems in its handling of women's issues. The report said Navy women complained about sexual harassment, rape ("seriously underreported") and lack of day care.

Yet even some women have doubts about whether motherhood and the military mix. Some privately fear the soft image of motherhood makes others take women less seriously as sailors. "Motherhood is natural, but there's a time and place for it," says Commander Darlene Iskra, the first woman commander of a naval ship, the U.S.S. *Opportune*, a rescue and salvage ship that patrolled the Mediterranean during the war. Another woman gets angry about the pregnancies. "If one female does something wrong, we all get labeled," says Kathleen Smith, a 24-year-old ensign from Buffalo assigned to the U.S.S. *Yellowstone*.

Sailors are allowed to date each other, but sex on ships is considered "detrimental to good order and discipline," says Lt. Commander Maureen Davidovich, who works on women's policy issues for the Navy. Acknowledging that many sailors will have sex somewhere, the Navy has begun offering more sex education classes and free birth-control pills and condoms. Yet the Navy report said women sailors complained of long waits to see gynecologists or to get contraception. And some women told the Navy that the pills they got were dispensed beyond their expiration date.

To enforce the no-sex rules aboard ship, watches include checks of dark corners and locked rooms. Shay Holliday is a 21-year-old sailor on board the USN *Joshua Humphreys*, an oiler that provided fuel and moved cargo in the Gulf. Men and women aboard the *Joshua Humphreys* are allowed to visit each other's private rooms until 11 p.m. But last year Ms. Holliday and her boyfriend, a civilian mariner assigned to the military sealift command, returned to her stateroom after an evening of drinking in port. "I was very drunk and he was too," she says. "And we got caught."

Her penalty for the tryst was stiff: She was restricted to the ship for a week and lost $200 in pay. In August, Ms. Holliday and her boyfriend were married.

Navy rules say that anyone who is caught in physical contact with another sailor must be punished. Sailors can lose a stripe or get kicked out of the service. Two male officers on shore duty at an East Coast base last year were fined $30,000 because of "inappropriate relations" with enlisted women, according to the Navy. But depending on the commanding officer, the sanctions can vary widely. "If they look the other way when grab-assing is going on, they'll look the other way when more serious things go on," says Ms. Iskra, the U.S.S. *Opportune's* commander.

Because of the rules, many women sailors say they try to avoid romantic relationships with people on the same ship. "I won't date somebody I work with," says Nancy Murray, an electronics technician on the *Yellowstone*. Twenty of the ship's 479 women came home pregnant from the Gulf.

Others say women have to guard against becoming targets of shipboard scuttlebutt about who's sleeping with whom. "Rumors spread like wildfire," says Monique Code, Petty Officer, 3rd Class, on the *Yellowstone*. "People get labeled as being easy."

Kathleen's relationship with her now-husband, Ed, on board ship was strictly platonic, she says during an interview surrounded by two fidgeting Navy public affairs officers and her supervisor. She sits with arms folded and answers briefly.

The Navy says most wartime pregnancies began on shore, and that's where Kathleen says hers began—on liberty in Dubai in the United Arab Emirates. When her pregnancy was revealed, she was immediately reassigned to shore duty in March. "I got on my hands and knees and begged to stay" on the ship, she says. But even though her pregnancy wouldn't seem to interfere with her shipboard job as a personnel clerk, her plea was rejected. She was sent to San Diego, where she works in the same kind of job. Ed, a 29-year-old boiler repairman and nine-year Navy veteran, stayed with the ship. The *Acadia* docked a month later.

Couples were common on the *Acadia*, Kathleen says; at least four planned to marry after the war. Indeed, statistics indicate Navy marriages have been commonplace: Dr. Moskos says three-quarters of the married women in the Navy are married to Navy men.

Some sailors suspect that some women get pregnant just to escape the drudgery of Navy life. But Kathleen says leaving the ship was traumatic. "It really upset me to see the ship come in and I wasn't on it," she says, recalling how she stood on the pier watching the *Acadia* dock in San Diego last April.

Kathleen plans to remain in the Navy after her baby is born, at least until her tour of duty is up in 1993. But that's not easy to do. Carolyn Judah, a 28-year-old electronics specialist on the *Joshua Humphreys* who is a single mother, had to leave her two-year-old daughter with friends for three months during the war. "The separation is real difficult," she says, describing herself as "lucky" to be able to call home once a month.

Meantime, Kathleen is trying to adhere to the Navy's rules on pregnancy, which are spelled out in a 35-page manual called "Management of Pregnant Servicewomen." "During the last three months of pregnancy, the servicewomen shall be allowed to rest 20 minutes every four hours," says the manual. "Sitting in a chair with feet up is acceptable."

THE FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

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

Mr. KLECZKA. Mr. Speaker, I remained in the Chamber tonight hoping to get some time on our side of the aisle on the banking rule or on the 1-hour debate that we had allotted, but because of the numerous Members who wanted to speak, the chairman did try to accommodate my request and was unable to do so, so I take this opportunity, which is rare, indeed, because I am one who thinks that after the House adjourns, it is time for Members to go home and to return fresh tomorrow and start a new day. But I think that this issue is so important that I beg the indulgence of our Speaker tonight and those who are in the Chamber to allot me 5 minutes so I can state my views on what is transpiring here on probably the most important bill we are going to face this session, and that is the banking bill, H.R. 6.

We started debate tonight at 10 p.m. when most Members, after a long day in the Chamber, were headed home, and so basically those who were allotted time under the 1 hour given to the Committee on Banking, Finance and Urban Affairs, were Banking members sitting in the Chamber who have listened to this issue ad nauseam for the last 3, 4, 5, 6 months, and the people who we want to convince and to convey our opinions to are the ones who actually went home. That is a real travesty.

However, tomorrow under the rule that was just filed, we will get more debate time and hopefully more of the Members will stick around to listen to those of us on the Committee on Banking, Finance and Urban Affairs, the Committee on Energy and Commerce, the Committee on Agriculture and other committees who dealt with this bill, to give their ideas of what is transpiring.

You will be told over the next 2 or 3 days that if we do not pass this bill in the form that the administration wants us to pass it, that we will promote a bank crisis. I will tell you today, and I told my caucus earlier this morning, and I will repeat this every time I get to a microphone, my friends, whether or not we pass this bill, the banking crisis is upon us. Whether or not we pass this bill tomorrow or the next day, the FDIC, the bank insurance fund, is broke. That is a fact we cannot change at this point.

So know full well that no matter what form this bill passes, we are already involved in a bank crisis.

We are further told by our regulators that some 300 banks per year are failing, and based on the banks that have failed today, the money that we are providing, the $70 billion Treasury loan will not be sufficient to handle the problem.

In fact, we are told that this $70 billion loan will not last the entire year 1992, and this Congress will have to come back and provide more money to it.

Well, what does that sound like to you? That sounds like something we have been going through since 1985. It is called the savings and loan bailout or crisis, and that goes back 10 years ago when this Congress deregulated the S&L's, raised deposit insurance, laid off many regulators, and then we found out that the whole S&L industry was going down the tubes.

We appropriated back, I think in 1985 or 1986 some $10.8 billion. We came

back earlier this year, we came back in the spring of this year and appropriated another $40 billion, and before we leave there on Thanksgiving we are asked to appropriate another $80 billion.

So for those who say that this problem is nothing like the S&L's, they are wrong. They are wrong. I say to you it is history revisited. It is a carbon copy.

Whether or not we pass this bill tonight, it is not going to change the fact that there is a bank crisis upon us, that the fund is broke, and that the $70 billion we are going to appropriate or loan from Treasury is going to be insufficient.

We are also told that the banks are going to pay this back. Well, my friends, let me tell you that unless we double or triple the current assessment on their premiums for deposit insurance, they are not going to pay it back. In fact, the provision provides that they have 15 years, the banks have 15 years to pay it back. They are asking for 30. But even over the 15 or 30, they are not going to pay it back.

Who is going to actually foot the bill? It is the taxpayers. Let us not kid ourselves about that whatsoever.

I approach the Committee on Rules and asked that we be permitted to vote on a narrow bill, a narrow bill which would do two or three things, No. 1, recapitalize the bank insurance fund, provide some regulatory changes like early intervention for banks which are failing and provide some meager, meager changes in the deposit insurance system. The Committee on Rules, in their wisdom, or lack thereof, chose not to permit that amendment. So the House of Representatives will not have the option of going a narrow bill or a broad bill.

The die, my friends, has been cast, and the only option that we will have in the coming days will be to debate a broad bill, a broad bill which, in my estimation, vastly expands the powers of the banks.

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I say, Mr. Speaker, that is asking for trouble, although there are ways, I think, that we could avert that trouble, if in fact we do some things, the first of which is to support the Gonzalez-Dingell substitute for compromise on title IV. Title IV deals with the new powers of banks.

We find now that the industry for the most part is violently, vehemently opposed to title IV. Why? Because it does not give them the powers they ask for? No, it does.

What they are objecting to is that it is too tough. It is too tough, and so there will be attempts on the floor to pull that title out of the bill.

The administration, I should add, also opposes it.

Well, Mr. Speaker, let me say that if we do pull title IV out, we have before us an empty shell because at that point we have current law which is a hodgepodge, which is helter-skelter, giving up powers to the major banks of this country and some 35 major banks have the power already, but it is not given to the banks by the legislature. It is given by the regulators and the courts, and that is the most serious mistake.

INTRODUCTION OF CONSTITUTIONAL AMENDMENT TO GUARANTEE ALL AMERICANS ACCESS TO HEALTH CARE

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

Mr. STARK. Mr. Speaker, I am today introducing a constitutional amendment to require that all Americans be guaranteed access to health care.

This bill will help give force of law to the President's State of the Union Address where he said that "Good health care is every American's right."

I believe that good health care ought to be every American's right—but clearly that is just a dream today. This year, over 60 million Americans will be without health insurance sometime during the year. Between 30 and 40 million Americans are without health insurance today. And we know from many detailed studies that those without health insurance are more reluctant to seek medical help when they need it. Their health and the health of their children suffers. For example, according to a just-published study of nearly 600,000 patients nationwide, the uninsured enter a hospital much sicker than insured people of the same age, sex, and race, and they were 44 to 124 percent more likely to die during their stay.

The idea of a free nation founded for life, liberty and the pursuit of happiness must seem like a mockery to those who are denied health care because of lack of money.

Actually, there is one group of Americans who already have a constitutional right to health care. Under the eighth amendment, it is unconstitutional to deny prisoners medical care, for that would be considered cruel and unusual punishment. In my county, it is easier for a prisoner to get a medical checkup than it is for a poor person on MediCal or a person without health insurance.

It is time that we ended this perverse situation: Honest, law-abiding citizens should have at least the level of access to health care that we provide prisoners in our society.

This amendment is difficult to draft in a way that answers all questions: What level of health care do we guarantee? For example, there is basic primary care to keep a cold from becoming pneumonia. And then there is a heart-lung transplant. Do we guarantee heroic measures of preserving life to everyone, or do we accept limits as the State of Oregon has proposed for its Medicaid patients? Do we cover preventive health care, maintenance of the chronically ill, or do we just cover acute care needs? Who is to ensure the delivery of care? Who is to pay for it and how?

Basically, this constitutional amendment is offered to advance the debate and to force the development of implementing legislation. Thus it contains a provision making it effective 5 years after ratification. This will give us time to pass the implementing legislation and to put the necessary programs in place. Passage of the amendment will place the legal pressure on us to come together as a society and adopt implementing legislation.

We are the only industrialized nation other than South Africa that fails to ensure its citizens health care. This is the year 1991. You want a lesson in humility? Go read Chancellor Bismarck's debates in the German Parliament in which he offered a health plan for all Germans in the early 1880's—including eyeglasses and eye care. Obviously, Germany is a highly competitive economic society and from their example—and the example of other industrialized nations—it is clear that we can provide health insurance to our citizens without threatening the economic competitiveness of our industries.

Indeed, a national program—as Medicare is now showing—can impose cost controls that our current hodge-podge system cannot. A comprehensive national health care program is the best way to slow the rate of health inflation and make our society more competitive—and our work force healthier and more productive.

Each year we consider a number of constitutional amendments—to restrict flag-burning, to make English the official language of the Nation, to give President's line-item vetoes, et cetera. Surely this amendment is of more importance to a greater number of American people than almost any other we can consider.

Hippocrates told us that wise men consider health the greatest of human blessings. One hundred and twenty years ago a British Prime Minister said that the "health of the people is really the foundation upon which all their happiness and all their powers as a state depend." It is time we acted on these basic truths, time that we end the shame of leaving so many of our citizens uninsured, and time that we move forward to implement the right to health care.

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The right of citizens of the United States to medical care shall be guaranteed.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect five years after the date of ratification.".

NLRB JURISDICTION OVER JOHNSTON ISLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK. Mr. Speaker, today I have introduced legislation to correct an unfair situation for the civilian workers on Johnston Atoll. My bill would require the National Labor Relations Board to assert jurisdiction in a labor dispute which occurs on this atoll.

Johnston Atoll is an unincorporated territory of the United States, located 171 miles southwest of the Hawaiian Islands. This atoll is used for the sole purpose of housing a Department of Defense chemical weapons incinerator, where over 1,000 military and civilian employees work with hazardous material and under potentially dangerous conditions.

Some 425 of these workers are employed by a private contractor which maintains and operates the chemical disposal system for the Department of Defense. These workers are isolated on a remote island, work with highly toxic and radioactive materials, yet have no ability to organize as a bargaining unit and seek to protect their rights as workers.

In a recent petition before the National Labor Relations Board 185 employees of the civilian contractor were denied recognition as a bargaining unit by the Board. Despite the Board's acknowledgment that they have statutory jurisdiction over the atoll, the Board turned its back on the Johnston Atoll workers, and effect, denied them the same rights provided to other U.S. workers.

Mr. Speaker, the workers on Johnston Atoll are U.S. citizens, they are employed in what is probably the most hazardous line of work, the disposal of chemical weapons, which provides a service necessary for arms reduction in the United States and the world. And yet these workers are not guaranteed the right to stand up for safe working conditions, decent wages, and adequate health benefits.

The tradition of labor law in our country has been to balance the rights of the workers with the needs of employers. Under the current situation there is no balance for the Johnston Atoll workers. They have no recognized unit to voice their concerns, no one to listen, and no way to remedy unfair and harmful working conditions.

The one entity established by the Congress to protect them has declined to examine their situation. And unlike other employees in the United States, the Johnston Atoll workers have no State or local agencies to turn to and no courts to hear their appeal.

Mr. Speaker, this is a situation that we cannot and must not allow to continue. The workers on Johnston island are entitled to the same protections assured to all other U.S. workers. I urge my colleagues to rectify this blatant violation of justice and support this bill.

DOMESTIC VIOLENCE

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

Mr. McDERMOTT. Mr. Speaker, October is Domestic Violence Awareness Month. During this month, communities all over the Nation have taken time to recognize the widespread and painful problem of domestic violence and to speak out about it. I welcome the opportunity to discuss this issue here and to promote understanding of the special nature of this problem and efforts we can undertake to address it. The most important thing we can do is to talk about this issue, because it is a silent epidemic, a hidden catastrophe, that often makes women too fearful, ashamed, and isolated to tell anyone about it.

I have cosponsored H.R. 1502, the Violence Against Women Act, introduced in the House by the gentlewoman from California [Mrs. BOXER], and I commend her for her leadership on this issue. This bill is a comprehensive proposal to improve our law enforcement and judicial efforts to prevent and to prosecute all types of violence against women. The bill also provides critical support for battered women's shelters and for education efforts to combat the plague of violence against women. I also want to commend the Congresswoman from Maryland [Mrs. MORELLA] for her important work on other reforms to help victims of violence.

Such legislation is urgently needed because domestic violence is occurring in epidemic proportions across the country. The facts are shocking: In the United States, a woman is more likely to be assaulted, injured, raped, or killed by a male partner than by any other type of assailant. Each year, an estimated 3 to 4 million women are battered by their husbands or partners. FBI data indicate that 34 percent of female homicide victims are killed by their husbands or boyfriends; other research has put this figure as high as 50 percent.

The prevalence of domestic violence places an increasing burden on our criminal justice system to protect women and to prosecute abusers. I will leave it to others better qualified than I to discuss the reforms needed in our criminal justice system. But because battering often results in serious injury, it affects our public health system as well, and I want to say a few words about the role health care professionals must play in stopping this kind of violence.

I suspect that most people would be surprised to learn that domestic violence results in more injury to women than auto accidents, rape, and muggings combined. Battering accounts for roughly one-third of hospital emergency room admissions for women. A study in my district, in Seattle, found that families in which domestic violence occurs visit physicians eight times more often than the general population; visit emergency rooms six times more often; and use six times the prescription drugs of the general population. Women who are abused by their partners are under enormous stress, and suffer debilitating stress-related disorders as well as physical injury.

Yet, our health professionals often have little or no training to recognize violence as a cause of injury, and therefore are unable to offer the guidance, referral, or understanding that could help women begin the process of stopping abuse. One study indicates that perhaps as few as 5 percent of the injuries to adult women patients resulting from domestic violence are identified correctly by medical personnel.

The emergency room or the doctor's office can be an effective point of intervention to prevent further injury or death caused by battering. Health care professionals—our doctors, nurses, social workers, and others—need to be trained to recognize, treat, and refer their patients who have been battered so that we can curb this epidemic of violence against women.

Equally disturbing to me are the effects of domestic violence that extend beyond the physical injury its victims endure. Domestic violence is associated with substance abuse, severe psychological trauma, and suicide among its victims. It happens more often than we can imagine during pregnancy. In just one hospital emergency department, 21 percent of pregnant women had been battered and these women had twice as many miscarriages as nonbattered women. It is associated with child abuse as well: Children in homes where domestic violence occurs are physically abused or seriously neglected at a rate 1,500 percent higher than the national average in the general population. It is a factor in homelessness. The Children's Defense Fund reports that "studies of homeless families in communities throughout the nation consistently find that between 25 and 50 percent of these families left home to escape domestic violence." Domestic violence has profound impacts on our society that we have only recently begun to recognize.

Many myths about domestic violence must be dispelled if we are to understand its pernicious consequences. Many men and some women respond to stories of domestic violence with some form of an obvious question: "Why does she put up with the abuse? If it's so bad, why doesn't she just leave?" Survivors of violence can answer this question much better than I, but here are a few explanations.

First of all, you must understand the very real threat to their lives these women face. Battered women often face the greatest danger when they do try to leave. Some research indicates that women who leave are at a 75-percent greater risk of being killed by their batterer than those who stay. Think about that for a moment: Women who leave must face the prospect of being killed.

Many women do try to leave. In one study of over 6,000 women living in shelters in Texas, the battered woman

had, on average, contacted 5 different sources of help prior to leaving the home. Women who want to leave have a difficult time because they often lack the resources and the support systems to do so. In my city of Seattle, I am told that one shelter turns away five to six women for each one it can admit. Additionally, if the woman has children, she may not be able to support them financially. Sometimes these women have been completely isolated by their partners, so that they do not have access to bank accounts, to transportation, to family or friends, or to any form of independence. Sometimes they are effectively held prisoners in their own homes.

Another myth we must eliminate is our tendency to think of domestic violence as a problem confined to low-income groups. The fact is that it occurs among all races and socioeconomic groups. We also tend to think it occurs among women who are somehow weak or passive, who invite abuse, or who are too submissive to fight back. There is no stereotypical victim of domestic violence. It could happen to anyone.

In my State of Washington and my district, we have developed model programs and innovative approaches to addressing this crisis. We have shelters that offer comprehensive services, but there are not enough of them. We have made important reforms in our criminal justice system, but our courts are overwhelmed. We have developed protocols for health care professionals, but they are not widely implemented. This summer, the Washington State Domestic Violence Task Force issued its final report and recommendations. It noted the extraordinary progress that has been made in recent years. But, the report concluded: "The Task Force members were reminded again what their vast experience with domestic violence had already taught them—domestic violence is deeply rooted in social institutions as well as in family life * * * to end domestic violence, we must work with all parts of the system."

A cold, conspiratorial silence has long surrounded not only domestic violence but all forms of assault and harassment against women. The walls of that fortress of silence are starting to come down. It is imperative to understand that the abuse women suffer is real, it is widespread, it is personally devastating, and it is against the law. There is no excuse for it, ever. Domestic violence represents a serious threat to the health and well-being of millions of American women. We must work actively to replace that threat with the promise of safety and well-being that is the fundamental right of all Americans, both men and women.

I thank my colleagues for joining me in this special order, and I urge them to support efforts to combat all forms of violence against women.

Ms. SLAUGHTER of New York. Mr. Speaker, tonight, during this special order on domestic violence, Members of Congress are reaffirming their commitment to help families overcome an epidemic of violence that causes more injuries in the home than any other problem.

Indeed, every day, in every major city in the country, calls for help from victims of domestic violence are going unanswered. Last year alone an estimated 250,000 spouses were turned away from shelters because of lack of space.

The pressing need to make the public aware of this problem is something that is very much on my mind these days. Earlier this year, I stood on the floor of the House of Representatives and introduced a resolution, which the House passed, designating October as National Domestic Violence Awareness Month.

And this past Friday in Canandaigua, NY, I participated in a vigil conducted by dedicated volunteers who work for the House of Hope, a nonprofit group started by the Saint Mary's Church in Canandaigua.

Mr. Speaker, for the past 6 years these volunteers have addressed the needs of scores of battered spouses and their children. They have provided food, clothing, counseling, peer support, as well as medical assistance and job referrals. For many families trying to escape a life of violence, these efforts have meant the difference between hope and despair.

While I am proud to have participated in this vigil, I am also saddened that such efforts are still necessary—not only in Canandaigua, but in every community across the Nation. The heartbreaking reality is that nearly 4 million Americans—mostly women—will be injured and an estimated 4,000 will die as a result of domestic violence this year.

And, with the holidays fast approaching, the problems are going to get worse. Every year around Christmas time, the added pressures on families too often turn the holiday season into a nightmare of anger, abuse and violence. During the 6 weeks between Thanksgiving and New Years' Day, an estimated 450,000 spouses will be abused in their own homes. Each week during this 6-week period 30 spouses will be killed.

To meet this growing problem, I have joined my colleagues in the House in cosponsoring important new legislation, the Violence Against Women Act, that would provide additional protections for victims of domestic violence, promote the arrest of abusive spouses and provide more money for battered women's shelters.

This new legislation seeks to deter abusers from learning the whereabouts of a fleeing victim and creates Federal penalties for spouse abusers who cross State lines to continue their abuse. It also authorizes $25 million for prosecutors and courts to develop special spouse abuse units. And the bill would triple funding for shelters for abused spouses.

Many Americans do not want to think about the problem of domestic violence. They are convinced it cannot happen in their homes. They prefer not to think about what might be happening next door or down the block. In addition, many abusers are sadly unaware of their own violent behavior. Many are able to convince themselves that the abuse that their families must endure each day is not all that serious.

And yet the situation is not entirely bleak. Many families have persevered and overcome the daily threat of violence in their lives. Husbands and wives have successfully grappled with and controlled abusive behavior, breaking a pattern of violence that often is passed down from one generation to the next. These domestic victories deserve our recognition and support.

In addition, we also must commend the hard work and invaluable achievements of the thousands of volunteers who support and protect local families subjected to abuse.

Standing here together tonight we affirm every American's right to live a life free of abuse and violence. And by committing ourselves to help the victims of domestic violence, we commit ourselves to undoing the cycle of violence that has become a part of so many American families.

Mr. DINGELL. Mr. Speaker, during the month of October, we focus our national attention on one of the most pernicious forms of abuse, domestic violence. The single largest cause of injury to women in this country is abuse by the men they live with and often love. The National Coalition Against Domestic Violence reports that a woman is battered by her husband or boyfriend every 15 seconds, making domestic violence America's most common—but least reported—crime.

It is a social problem that belongs in the social domain. It is no longer considered a private problem that affects only the victim and the family. The violence spills over onto the streets and into our schools. It is time to recognize the needs of the victims, and their family members. Many women feel confined to their homes, fearing widespread crime on our streets. At least home should be a safe haven. Yet for victims of domestic violence, the home is often the most dangerous place of all. Each year 3 to 4 million American women are battered by their husbands or partners and 4,000 women are beaten to death.

The United States is today making a concerted public effort to help battered women, but this issue is still surrounded by myths. Only about 10 percent of domestic violence cases result in arrests, even though there are grounds for arrest in well over half of the cases. Paradoxically, 75 to 80 percent of battered women who go to trial for killing their abusers in self-defense are convicted and sentenced to jail terms of up to 10 or 15 years. If women are to gain the strength and courage to break away from domestic violence they must have faith that the law that is there to protect them, not their abusers.

Congress is becoming acutely aware of this serious problem. Several pieces of legislation have been introduced in the 102d Congress, designed to increase public awareness of the magnitude of the problem and enhance law enforcement and prevention efforts. October is Domestic Violence Awareness Month. We, in Congress, must prove our commitment to breaking down the barriers in dealing with cases of domestic violence and show women that we do care.

Mr. SIKORSKI. Mr. Speaker, behind the welcome mats and front doors of the homes in too many of our neighborhoods is the painful and frightening reality of domestic violence. For thousands of families across our Nation,

home is not where the heart is, home is where the hurt is.

Domestic violence is a serious problem in America. It is a problem that has tremendous personal costs—indeed a cost too many have paid with their lives.

In Minnesota this past summer, the cost of domestic violence has been high. Fourteen women and children died from domestic violence. Last year, domestic abuse contributed to the deaths of 22 Minnesotans and in 1989, 18 deaths. It is estimated that between 25 to 37 percent of Minnesota women experience battering. Some believe even that horrendous number underestimates the problem because domestic violence often goes unreported. Currently, 52 of 87 Minnesota counties have no State funded battered women's advocacy programs within the county. Existing shelters and programs lack funding to assist all those who seek help. The most recent statistics report about 65 percent of the total number of shelter requests in Minnesota are denied because of lack of space.

Statistics can be impersonal—and this is a very personal issue. The bottom line is domestic abuse is real, it is here, and it hurts. Combating this widespread problem is not only possible, it is absolutely critical for our families.

That's why I have joined my friend and colleague Congresswoman BARBARA BOXER of California in sponsoring the Violence Against Women Act. This bill will help address the rising tide of violence against women in America. It creates interstate enforcement of State-protective orders for battered women, and provides Federal grants to encourage States to employ mandatory arrest procedures against abusive spouses and partners. The Violence Against Women Act also provides assistance for battered women's shelters. This is the first bill to deal with violence against women in a comprehensive manner at the Federal level. It is needed legislation addressing the tragedy of domestic abuse.

Domestic abuse must be addressed head on. We cannot slam the doors on the victims of domestic abuse. We cannot pull the welcome mat out from under their feet. We must work together to make sure home sweet home also means home safe home.

Ms. NORTON. Mr. Speaker, we have an epidemic of domestic violence in our country. We cannot go on this way. Domestic violence remains one of those dirty little secrets that we try to sweep under the rug hoping that maybe, just maybe, it will go away by itself.

Far from going away, the rate of assaults against women increased 60 percent between 1984 and 1987. One out of every four children has been sexually abused by the age of 18. In 1989 there were 94,504 rapes reported to local authorities—approximately 1 every 6 minutes. One in seven married women will be a victim of sexual assault by their husbands. Sixty percent of all rapes are committed by acquaintances.

Here, in the Nation's Capital, we have only two shelters where victims of domestic violence can turn for help—My Sister's Place and Her Space, a part of House of Ruth. My Sister's Place reported 1,500 hotline calls last year. Both shelters must turn away approximately 10 women per week due to overcrowding.

The District government has taken steps to combat domestic violence. Although there is presently no recordkeeping system, a mandatory arrest law passed the City Council last year. Because of this law, the police department will be required to keep records of domestic violence beginning in January 1992. This law also requires that police make an arrest where they have probable cause of domestic violence and can identify a perpetrator. Under the previous law, the police were only encouraged to make an arrest.

Amazingly, former Surgeon General C. Everett Koop identified violence against women by their partners as the No. 1 health problem for women in the United States. Domestic abuse causes more injuries to women than automobile accidents, muggings, and rapes combined. Physical injuries sustained in domestic violence are at least as serious as those sustained in 90 percent of all violent felonies and, often, the emotional and psychological abuse that domestic violence victims experience is even more costly.

The cost, Mr. Speaker, is not only to the victims. On a national scale, domestic violence costs employers $3 to $5 billion attributable to worker absenteeism every year. Medical costs related to domestic abuse are estimated at $100 million per year.

It is time we stop talking about this national disgrace and take action. Our women and children need our help. Some of them will not survive without it.

Mrs. BOXER. Mr. Speaker, it is my pleasure to join my colleagues in this special order to promote understanding of the pervasive and brutal crime of domestic violence.

Each year, an estimated 3 to 4 million women are battered by their husbands or partners; 2,000 to 4,000 women are beaten to death. Approximately 20 percent of all female emergency room patients are abused women.

Domestic violence is not merely a spat or a lover's quarrel resulting in a push or a shove. It is physical violence which results in serious physical injury. In fact, one-third of all spouse abuse cases would be categorized as "felonious assaults" if reported to the police.

I believe that we, as a society, must change our perception of domestic violence which encourages people to view it as private and insignificant. As the statistics show, it is neither. That is why I have authored the Violence Against Women Act in the House.

If enacted, the Violence Against Women Act would take several important steps to help both the victims and survivors of domestic violence. My bill would make it a Federal crime for an abuser to cross State lines to continue the abuse, would require all States to enforce any restraining order that a woman receives to protect her from the abuser, and would offer incentives to States to implement policies mandating the arrest and prosecution of spouse abusers.

In addition, the Violence Against Women Act provides funding to educate State and Federal judges on domestic violence and its effect on women and their families, and it more than triples existing funding for battered women's shelters and the services which they provide.

Domestic violence is a serious problem with immense consequences for the health and well-being of American women. I am proud to join in this effort to bring attention to the issue, and hope that the House will move quickly to pass the Violence Against Women Act in the coming session of Congress.

Mr. TOWNS. Mr. Speaker, today I join my colleagues in commemorating October as Domestic Violence Awareness Month. Domestic violence is believed to be the most common, yet least reported, crime in our Nation. An estimated 3 to 4 million American women are beaten each year by their husbands or partners. Every 18 seconds in the United States a woman is battered. This amounts to 200 women being battered every hour. Two-thirds of all married women are battered at least once, while a quarter of them are battered severely. National Crime Survey data show that once a woman is victimized by domestic violence, her risk of being victimized again is high. During a 6-month time period following an incident of domestic violence, approximately 32 percent of women are victimized again.

Domestic violence occurs among all races and socioeconomic groups. There is no typical batterer. Ninety percent of abusers do not have criminal records but are generally law abiding outside the home. Battering is not a small illness that can be diagnosed, but rather a learned behavioral choice. Many batterers grew up in homes where their mother was abused by their father, or where they or a sibling were physically abused.

Regardless of whether children are physically abused, the emotional effects of witnessing domestic violence are very similar to the psychological trauma associated with being a victim of child abuse. Each year, an estimated minimum of 3.3 million children witness domestic violence. Witnessing domestic violence as a child has been identified as the most common risk factor for becoming a batterer in adulthood. Children may also receive injuries indirectly when household items are thrown or weapons are used. Older children may be hurt while trying to protect their mother. In addition, children from violent homes have high risks of alcohol/drug abuse and juvenile delinquency.

Domestic violence is seen by many as a private matter between couples, one in which outsiders hesitate to become involved. Unfortunately, this perception permeated our criminal justice system where traditionally the response has been nonintervention unless severe injury or death was involved. Yet without effective early intervention domestic violence can escalate in severity and lead to death. FBI data indicates that 30 percent of female homicide victims are killed by their husbands or boyfriends.

It is an abomination for me to state that there are more dog shelters in the United States than there are shelters for battered women. The most critical function of shelter programs is to provide crisis intervention and safety provision for battered women and their children. Most programs are inadequately funded and must turn away as many women as they report.

I am just astounded to tell you that there is only one statute on the books at the Federal level which relates to domestic violence. it provides grant moneys to women's shelters and so is a very important one, but this one law is

not enough. Designating October as Domestic Violence Awareness Month rightfully focuses the attention of Congress and the country on domestic violence as the serious social, health, and criminal problem that it is.

I am proud to say that I am a cosponsor of H.R. 1502, the Violence Against Women Act. This legislation does three things: First, it makes life outside the home safe for women; second, it makes life inside the home safer; and third, it protects women's rights by making sex crimes a violation of Federal civil rights. In addition, I am a cosponsor of H.R. 2334, the Domestic Violence Prevention Act of 1991. This legislation provides grants: First, to States to assist in developing effective law enforcement and prosecution strategies to combat domestic violence; and second, to public or private nonprofit entitles to use in public information campaigns. This bill also provides victims of domestic violence with shelter and related assistance such as food, medical care, counseling, and legal assistance. I would urge my colleagues to give their full support to these legislative initiatives in an effort to combat the serious social problem of domestic violence.

Mrs. MORELLA. Mr. Speaker, 3 to 4 million American women will be battered this year not by unknown assailants but by the men who love them. Many of these women will return to live in homes of terror. Three to four thousand of them will die at the hands of their batterers. About 3.3 million children will watch their fathers batter their mothers.

Domestic violence is at epidemic proportions in the United States. It is a legal issue, a public health issue, a women's issue, and a children's issue.

Domestic violence affects all of us—no matter what our race, our ethnic background, our economic status, or our education. Battered women are blue-collar women who drive trucks and schoolbuses. They are white-collar women who carry briefcases into courtrooms, boardrooms, and schools. They are women who live in neighborhoods considered nice and in neighborhoods considered not-so-nice. They live in cities, in suburbs, and in rural areas.

For too long this country has regarded domestic violence as a private matter, to be handled at home and certainly not to be handled as a criminal matter by the police and the courts. Today, we are finally beginning to recognize domestic violence for what it is—a brutal criminal act.

There are many theories about batterers and why they resort to violence. These include career and economic stress, violence on TV and in the movies, poor socialization, and sexism in our society. Whatever the causes, battering continues because too many people—relatives, friends, neighbors, law enforcement personnel, district attorneys, and judges—have looked the other way.

Domestic violence is a means of establishing control over another human being through fear and intimidation. Generally, battering is physical, but it also includes emotional, economic, and sexual abuse and the kind of isolation experienced by prisoners-of-war and hostages.

"Why don't battered women just leave?" The question is asked over and over. Many women do leave their abusers. Yet, according to the National Woman Abuse Prevention project, battered women face the greatest danger when they try to leave and are often threatened with physical harm or with death. Most battered women are financially dependent on their abusive spouses and fear losing their homes and fear homelessness. Many battered women believe the abuse is their fault and that it is better to keep the family together no matter what.

We know that children growing up in battered homes are battered themselves, if not physically then certainly emotionally. We know that boys in these homes often grow up to become batterers themselves. These boys learn to cope through aggressive behavior and learn to use violence in school and on the streets to solve their problems. Girls who grow up in violent homes learn to cope through passive indifference and often resort to drug and alcohol abuse, pregnancy, and suicide.

October is "National Domestic Violence Awareness Month," a time to reflect on how we can put an end to terrorism in our homes. There are now 16 domestic violence bills before this Congress. These bills cover judicial and legal issues, public awareness and education programs, funding for shelter and long-term housing, and child custody.

Under our Constitution, the States have primary responsibility for family and criminal matters, and of course, domestic violence issues. However, the Federal Government, by allocating funds for prevention programs, training programs, and housing, and by focusing national attention on violence in the family can do a great deal to assist State governments.

I would like to take a few moments to tell you about the progress my State, Maryland, has made against domestic violence and how proud I am of the work of our Governor, William Donald Schaefer, who has made Maryland a national model.

With the support and assistance of the Governor, the Maryland General Assembly passed two bills this spring that will have long-term effects on the lives of women and children in our State. Maryland judges will be able to consider evidence of spousal abuse when determining child custody cases. And Maryland juries will now be able to hear a battered women's history of abuse and the effects of battering in a criminal trial. Maryland—and only four other States—by statue guarantee battered women a fair trial.

Because of the Governor's sense of justice and humanity, 10 formerly battered incarcerated women now lead productive lives and many others have new hope. Last winter, I invited Governor Schaefer to visit Maryland's prison for women at Jessup to meet with women who had killed their abusers and who were serving life terms. Because of his compassion, open-mindedness, and concern for the women of our State, Governor Schaefer came to Jessup and listened to five women tell of their journey to prison and of their lives of abuse, shame, isolation, and terror. He asked many questions. When he left the prison, he ordered a review of the cases and several others. A month later, in late February, Governor Schaefer commuted the sentences of eight women and this summer he released two others.

In addition, the Governor has mandated a statewide prevention and public awareness programs for adults and children and has ordered a review of orders of protection and law enforcement policies that relate to domestic violence.

I look at my State and the people who are working to end domestic violence: Nancy Nowak on the Governor's staff; Lorraine Chase and Sharon Grosfeld with the Maryland Network Against Domestic Violence; Judge Rosalyn Bell with the Maryland Court of Special Appeals; July Wolfer and Lesley Boyd Ford with the House of Ruth; Kathy Shulman and Phil Lee with the Public Justice Center; Angela Lee with the Unity Group; and Cindy Anderson and Nancy Schoenke with public and private groups in Montgomery County, MD. I know, one day, we can put an end to violence in our homes. Working together, Federal and State governments and public and private advocacy groups, we have already accomplished a great deal.

Still, there is more that needs to be done.

I have introduced 4 of the 16 domestic violence bills now before this Congress. House Concurrent Resolution 89, the "Fair Trial Bill," urges State courts to allow battered women to present evidence of their abuse or expert testimony about their battering in criminal cases. Only five States currently allow women charged with killing or assaulting their mates to present a history of prior abuse.

H.R. 1251, the Domestic Violence Housing Act, would provide $5 million in section 8 certificates and vouchers for transitional or long-term rental housing to families displaced by domestic violence.

H.R. 1252, the Battered Women's Testimony Act of 1991, would authorize funds to assist indigent women in presenting expert testimony about spousal abuse.

H.R. 1253, the Judicial Training Act, would provide funds to carry out research on state judicial decisions regarding child custody cases involving domestic violence and provides for the development of training programs for state court personnel on the impact of domestic violence and children.

As one of 29 women in the House of Representatives, I feel a special responsibility to work on issues that are crucial to the lives of women. I pledge to make the passage of domestic violence legislation a legislative priority.

We have come a long way from the days of the rule of thumb when it was acceptable for a man to beat his wife with a stick, as long as it was no wider than this thumb. But, we have a long way to go before all American homes are places of love and comfort, not places of terror and death.

Mr. MAZZOLI. Mr. Speaker, I am privileged to take part in this special order which seeks to focus attention on the tragedy of domestic violence in this country. The gentlewoman from New York is to be commended for spearheading the effort to pass House Joint Resolution 241, designating the month of October as "National Domestic Violence Awareness Month."

When confronted with the statistics on domestic violence, we have to accept that many men, women, children, and American families are affected by this terrible form of antifamily behavior.

My district in Louisville and Jefferson County, KY, is actively responding to the tragedy of domestic violence. In Louisville and Jefferson County, domestic violence is recognized as a community problem. Thus, the response is community in nature and scope.

For example, earlier this year, Jefferson County Judge-Executive David Armstrong opened the Jefferson County Office for Women. Examining the issue of domestic violence was the first task given the office's advisory committee. That examination is enabling the Jefferson County Office for Women to work to protect women from domestic violence, as well as to assist them with improving their economic status.

Judge Armstrong and city of Louisville Mayor Jerry Abramson, with the support of their police chiefs, have acknowledged the important role of law enforcement in combating domestic violence. Jefferson County Police Chief Leon Jones and Louisville Police Chief Douglas Hamilton have instituted domestic violence policies that make reporting cases a priority. Ultimately, it will make arrests and convictions more possible.

Furthermore, Commonwealth's Attorney Ernest Jasmin and Jefferson County Attorney Michael Conliffe, both advisory committee members, have been instrumental in the treatment and prosecution of domestic violence as a crime. This is clearly evidenced by the initiation of a no drop policy which states that prosecutors are not allowed to recommend dismissing cases or to plea bargain without the approval of the domestic violence unit chief.

Finally, Louisville and Jefferson County have a record of providing advocacy and support for women and children who have been battered. Its center for women and families offers comprehensive services for victims, including shelter, counseling, crisis telephone lines, and a public education campaign.

Mr. Speaker, while the efforts to help the victims of domestic violence greatly need to be expanded, I am proud to hold Louisville and Jefferson County up as a national model of cooperative effort to attack this grave problem. I am committed to working with my colleagues to enact legislation to address this issue.

Mr. ROEMER. Mr. Speaker, there are millions of Americans whose lives are devastated each and every day by those whom they love. These victims are women, and they suffer from a form of abuse we call domestic violence. To assist their struggle, October is now designated "Domestic Violence Awareness Month." it is our hope that increased awareness of this crime will help curb this abuse that plagues society.

According to statistics from the Congressional Caucus for Women's Issues, 3 to 4 million women are battered each year. What is even more alarming is that these women are more likely to be assaulted, raped, and even killed by their male partner than by any other assailant. For them, home is not a place of safety and comfort. Home is a prison of abuse.

Domestic violence is not characterized by infrequent or minor incidents of distress. It is a progression of increasingly violent assault that is both physical and psychological. And despite their suffering, most women remain with their persecutors for numerous reasons. They fear reprisal. They fear the loss of their family and home. And they fear the loss of employment and financial security.

The murder of Lisa Bianco of Elkhart, IN, in 1989, at the hand of her then ex-husband, is not an unfamiliar tragedy to us. Lisa did everything that a victim of domestic violence should. She notified the police when harmed, instructed her children on how to react, and confronted her anguish by working as a counsellor and program coordinator at the local women's shelter. But on March 4, 1989, she was bludgeoned to death by her ex-husband after he received an 8-hour pass from the Indiana Department of Corrections, who failed to inform her of his release.

Unlike other crimes, domestic violence has no methodology and there is no systematic way of helping its victims. Since many women view their abuse as a private matter, domestic violence is underreported. Furthermore, many victims continue to profess their love for their spouse. And as in Lisa Bianco's case, even if all the suggested precautions are followed, there is no guarantee that their lives will be saved. But abused women must be given the opportunity to help themselves.

In 1987, 375,000 battered women were helped at existing shelters and safe-houses. However, 40 percent of all women seeking help in that same year were turned away because the programs were greatly underfunded. Since then, the statistics have not receded.

In Indiana, there are 23 shelters for battered women which helped over 500 women in the past year. YWCA's throughout much of northern Indiana provide crisis intervention programs. These and other similar programs provide food, clothing, and shelter for up to 30 days so that brave women can put their lives back together.

It is my hope, Mr. Speaker, that these shelters will continue to provide the necessary assistance to the large and most overlooked group of victims in our country—women suffering from domestic violence.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the special order tonight by the gentleman from Washington [Mr. MCDERMOTT].

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JEFFERSON (at the request of Mr. GEPHARDT), for today, on account of death in family.

Mr. TANNER (at the request of Mr. GEPHARDT), for Tuesday, October 29 and the balance of week, on account of family business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. NICHOLS) and to include extraneous matter:)

Mr. LIVINGSTON, for 5 minutes each day, on Nov. 4 and 5.

Mr. MCCOLLUM, for 5 minutes, on October 31.

Mr. DELAY, for 60 minutes each day, on November 5, 6, 7, 8, 12, 13, 14, 15, 18, 19, 20, 21, and 22.

Mrs. BENTLEY, for 60 minutes, on November 1.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous matter:)

Mr. KLECZKA, for 5 minutes, today.
Mr. MORAN, for 5 minutes, today.
Mr. COYNE, for 5 minutes, today.
Mr. STARK, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mrs. MINK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCHUMER in the House today on title III, H.R. 3489.

(The following Members (at the request of Mr. NICHOLS) and to include extraneous matter:)

Mr. CAMPBELL of California.
Mr. GOODLING.
Mr. PURSELL.
Mr. LAGOMARSINO, in two instances.
Mr. MACHTLEY.
Mr. MCGRATH.
Ms. ROS-LEHTINEN, in five instances.
Mr. BEREUTER.
Mr. GALLEGLY.
Mr. SCHULZE.
Mr. CUNNINGHAM.
Mr. DANNEMEYER.
Mr. LIGHTFOOT.
Mr. PACKARD.
Ms. SNOWE.
Mrs. BENTLEY.
Mr. WELDON.
Mr. HORTON.
Mr. MILLER of Washington.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. JACOBS.
Mr. DYMALLY.
Mr. KOLTER.
Mr. HAMILTON.
Mrs. BOXER.
Mr. ACKERMAN.
Mr. RANGEL.
Mr. SCHUMER.
Mr. COYNE.
Mr. TOWNS.
Mr. EDWARDS of California.
Mr. CLAY.
Mr. BERMAN.
Mrs. MINK.
Mr. LEVINE of California.

Mr. BORSKI.
Mr. FEIGHAN.
Mrs. KENNELLY.
Mr. DWYER of New Jersey.
Ms. PELOSI.
Ms. NORTON.
Mr. MCMILLEN of Maryland.
Mr. SIKORSKI in two instances.
Mr. DINGELL in two instances.
Ms. DELAURO.
Mr. ATKINS.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1823. An act to amend the Veterans' Benefit and Services Act of 1988 to authorize the Department of Veterans Affairs to use for the operation and maintenance of the National Memorial Cemetery of Arizona funds appropriated during fiscal year 1992 for the National Cemetery System.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 12 minutes p.m.), the House adjourned until tomorrow, Thursday, October 31, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2268. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-96, "District of Columbia Commission on Baseball Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2269. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-95, "Residential Property Tax Relief Act of 1977 Application Deadline and Free Clinic Assistance Program Act of 1986 Extension Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2270. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-93, "Closing of Glover Archbold Parkway, N.W., Temporary Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2271. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-94, "Uniform Law on Notarial Acts Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2272. A letter from the Secretary of Education, transmitting a copy of Final Regulations—Education of the Handicapped Act Amendments of 1990, Public Law 101-476, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2273. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Denmark (Transmittal No. 02-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2274. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Germany for defense articles and services (transmittal No. 92-07), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2275. A letter from the Assistant Director, National Science Foundation, transmitting a report on activities under the Freedom of Information Act during calendar year 1990, pursuant to 5 U.S.C. 552(a); to the Committee on Government Operations.

2276. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2277. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2278. A letter from the Secretary of Interior, transmitting a copy of the Onshore Oil and Gas Leasing Report, fiscal year 1990, pursuant to 30 U.S.C. 226 note; to the Committee on Interior and Insular Affairs.

2279. A letter from the Assistant Secretary (Civil Works), Department of the Army, transmitting the views of the Secretary of the Army on a post authorization change report dated April 1990, revised July 1990, on Alenaio Stream, Hilo, HI; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3624. A bill to amend the Tariff Act of 1930 to provide appropriate procedures for the appointment of the Chairman of the United States International Trade Commission (Rept. 102-279). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1537. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V-X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code; with an amendment (Rept. 102-280). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 266. Resolution providing for the further consideration of H.R. 266, a bill to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes (Rept. 102-281). Referred to the House Calendar.

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. BEVILL:

H.R. 3665. A bill to establish the Little River Canyon National Preserve in the State of Alabama; to the Committee on Interior and Insular Affairs.

By Mr. BROOKS:

H.R. 3666. A bill to amend title 28, United States Code, to provide for an additional place of holding court for the Eastern District of Texas; to the Committee on the Judiciary.

By Ms. DELAURO (for herself, Mrs. KENNELLY, Mr. GEJDENSON, Mrs. JOHNSON of Connecticut, Mr. SHAYS, and Mr. FRANKS of Connecticut):

H.R. 3667. A bill relating to the taxation of certain disability benefits received by former police officers or firefighters; to the Committee on Ways and Means.

By Mr. JAMES:

H.R. 3668. A bill to remove the President's authority to grant debt forgiveness to foreign countries; jointly, to the Committees on Foreign Affairs, Appropriations, and Agriculture.

By Mr. LEVINE of California (for himself and Mr. TORRICELLI):

H.R. 3669. A bill to provide for the transfer of certain military assistance funds allocated for El Salvador for fiscal year 1992 to the Demobilization and Transition Fund; to the Committees on Appropriations and Foreign Affairs.

By Mr. MAZZOLI:

H.R. 3670. A bill to make certain technical corrections relating to the immigration laws; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 3671. A bill to amend the National Labor Relations Act to require the National Labor Relations Board to assert jurisdiction in a labor dispute which occurs on Johnston Atoll, an unincorporated territory of the United States; to the Committee on Education and Labor.

H.R. 3672. A bill to provide reasonable fees to labor representatives that represent nonmember employees; to the Committee on Post Office and Civil Service.

By Mr. PACKARD (for himself, Mr. BOUCHER, Mr. RIGGS, Mr. CUNNINGHAM, Mr. ROHRABACHER, Mr. GALLEGLY, Mr. WALKER, Mr. BOEHLERT, Mr. LEWIS of Florida, and Mr. LOWERY of California):

H.R. 3673. A bill to authorize a research program through the National Science Foundation on the treatment of contaminated water through membrane processes; to the Committee on Science, Space, and Technology.

By Mr. PACKARD (for himself, Mr. RIGGS, Mr. CUNNINGHAM, Mr. LOWERY of California, Mr. DORNAN of California, Mr. DANNEMEYER, Mr. HUNTER, Mr. HERGER, Mr. GALLEGLY, and Mr. ROHRABACHER):

H.R. 3674. A bill to authorize the Secretary of the Army and the Administrator of the Environmental Protection Agency to conduct certain water reclamation projects, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Ms. PELOSI:

H.R. 3675. A bill to amend the Export Administration Act of 1979 with respect to dual-use items and enforcement, and for other purposes; to the Committee on Foreign Affairs.

By Mr. SCHULZE (for himself, Mr. ARCHER, Mr. SANTORUM, Mrs. JOHNSON of

Connecticut, Mr. GUARINI, Mr. PARKER, and Mr. CHANDLER):

H.R. 3676. A bill to prevent pension plans from becoming unable to pay benefits as they come due during bankruptcy cases; jointly, to the Committees on Education and Labor, the Judiciary, and Ways and Means.

By Ms. SNOWE (for herself, Mrs. KENNELLY, Mrs. JOHNSON of Connecticut, Mrs. MORELLA, Mr. BOEHLERT, Mrs. SCHROEDER, Mrs. MINK, and Mr. SUNDQUIST):

H.R. 3677. A bill to increase access of State child support enforcement agencies to certain financial information of noncustodial parents, and to encourage States to improve their enforcement of child support obligations; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. WALKER:

H.R. 3678. A bill to provide incentives for work, savings, and investments in order to stimulate economic growth, job creation, and opportunity; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. WISE (for himself and Mr. SYNAR):

H.R. 3679. A bill to declare as the policy of the United States cooperation with Western Hemisphere countries on energy issues, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HOYER:

H. Res. 265. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. STARK:

H.J. Res. 366. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing access to medical care to all citizens of the United States; to the Committee on the Judiciary.

By Mr. ROHRABACHER (for himself, Mr. ARMEY, Mr. CUNNINGHAM, Mr. SUNDQUIST, Mr. GILMAN, Mr. DUNCAN, Mr. HANCOCK, Mr. RITTER, Mr. CRANE, Mr. GALLEGLY, Mr. HUNTER, Mr. HERGER, Mr. MOORHEAD, and Mr. SOLOMON):

H. Con. Res. 228. Concurrent resolution concerning an international memorial to the victims of communism; to the Committee on House Administration.

By Mr. TAUZIN (for himself and Mr. FIELDS):

H. Con. Res. 229. Concurrent resolution to ensure that full restitution and reimbursement is made to the United States Coast Guard for its costs in the response to the oil-spill in the Arabian Gulf; and to instruct the United Nations to earmark a percentage of the moneys collected for the United Nations Compensation Fund toward Arabian Gulf oil-spill and Kuwaite oil well spill cleanup and environmental restoration; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

305. By the SPEAKER: Memorial of the General Assembly of the State of Illinois, relative to drought aid; to the Committee on Agriculture.

306. Also, memorial of the Assembly of the State of California, relative to Federal labor laws; to the Committee on Education and Labor.

307. Also, memorial of the Assembly of the State of California, relative to Mifepristone (RU-486); to the Committee on Energy and Commerce.

308. Also, memorial of the Assembly of the State of California, relative to breast cancer research; to the Committee on Energy and Commerce.

309. Also, memorial of the Assembly of the State of California, relative to war reparations; to the Committee on Foreign Affairs.

310. Also, memorial of the Assembly of the State of California, relative to funding for programs for immigrants; to the Committee on the Judiciary.

311. Also, a memorial of the Assembly of the State of California, relative to reproductive rights; jointly, to the Committees on Armed Services, the District of Columbia, Foreign Affairs, Energy and Commerce, Interior and Insular Affairs, the Judiciary, and Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 50: Mr. BEILENSON, Mr. EVANS, Mr. FROST, Mr. HAYES of Illinois, Mr. LEVINE of California, Mr. SANDERS, Mr. MARKEY, Mr. SAVAGE, and Mr. STOKES.

H.R. 123: Mr. THOMAS of Georgia and Mr. ANDERSON.

H.R. 394: Mr. RINALDO.

H.R. 840: Mr. HALL of Texas.

H.R. 888: Mr. KLECZKA.

H.R. 945: Mr. GILCHREST, Mr. TOWNS, Mr. LIPINSKI, Mr. PERKINS, Mr. SAXTON, Mr. HUTTO, Mr. STAGGERS, Mr. LAROCCO, Mrs. LOWEY of New York, and Mr. NUSSLE.

H.R. 951: Mr. PAYNE of Virginia and Mr. NEAL of North Carolina.

H.R. 1147: Ms. LONG.

H.R. 1168: Mr. SLAUGHTER of Virginia.

H.R. 1241: Mr. DURBIN and Mr. NUSSLE.

H.R. 1318: Mr. GILLMOR.

H.R. 1430: Mr. GONZALEZ.

H.R. 1473: Mr. PETERSON of Florida, Mr. HOAGLAND, and Mr. SHAW.

H.R. 1527: Mr. VISCLOSKY.

H.R. 1618: Mr. BERMAN, Mr. LEWIS of Florida, Mr. LUKEN, Mr. SPRATT, Mr. WAXMAN, Mr. DOOLITTLE, Mr. DAVIS, Mr. JOHNSTON of Florida, Mr. PURSELL, Mr. ANDREWS of Maine, Mr. STALLINGS, Mr. SENSENBRENNER, Mr. LANTOS, Mr. ENGEL, Mr. OLVER, Mr. PAYNE of New Jersey, Mr. MORRISON, Mr. PETERSON of Florida, Mr. HUTTO, Mr. HERGER, Mr. CONYERS, Mr. CHAPMAN, and Mr. HATCHER.

H.R. 1900: Mr. DREIER of California.

H.R. 1970: Mr. GALLO, Mr. TALLON, and Mr. GEPHARDT.

H.R. 2059: Mr. BONIOR.

H.R. 2385: Mr. HAMILTON.

H.R. 2464: Mr. JOHNSON of Texas and Mrs. BRYON.

H.R. 2495: Mr. FISH.

H.R. 2565: Mr. MACHTLEY.

H.R. 2624: Mr. KOPETSKI.

H.R. 2693: Mr. HOBSON, Mr. SWETT, and Mr. LIPINSKI.

H.R. 2766: Mr. BOEHNER, Mr. JOHNSON of South Dakota, Mr. PETRI, and Mr. PETERSON of Minnesota.

H.R. 3070: Mr. ANDERSON and Mr. GILCHREST.

H.R. 3082: Mr. MCDERMOTT, Mr. BOUCHER, Mr. HORTON, Mr. WOLF, Mr. WILSON, Mr. JONTZ, Mr. SISISKY, Mr. BACCHUS, Mr. LEVIN of Michigan, Mr. LANCASTER, Mr. LEWIS of Florida, Mrs. COLLINS of Illinois, Mr. DOWNEY, Mr. SABO, and Mr. ROE.

H.R. 3185: Mr. BARNARD.

H.R. 3198: Mr. PAYNE of Virginia, Mr. MCCRERY, Mr. BOUCHER, Mr. VALENTINE, Mr. BALLENGER, Mr. JONES of North Carolina, Mr. MCCOLLUM, Mr. DICKINSON, Mr. NEAL of North Carolina, Mr. PETERSON of Florida, Mr. HAMMERSCHMIDT, Mr. VOLKMER, Mr. HATCHER, Mr. CLEMENT, Mr. HARRIS, Mr. PETERSON of Minnesota, Mr. LEWIS of California, Mr. SABO, Mr. PARKER, Mr. BROWDER, Mr. ERDREICH, Mr. CHAPMAN and Mr. JEFFERSON.

H.R. 3216: Mr. LAROCCO.

H.R. 3222: Mr. MCNULTY, Mr. MRAZEK, Mr. LIPINSKI, Mr. EDWARDS of California, Mr. RIDGE, Mr. RAHALL, Mr. PERKINS, Mr. WOLF, Mr. EDWARDS of Texas, Mr. DWYER of New Jersey, Mr. LEHMAN of Florida, and Mr. SPENCE.

H.R. 3242: Mrs. LLOYD, Mr. FAWELL, Mr. BOEHNER, Mr. OWENS of Utah, Mr. SCHAEFER, Mr. HERGER, and Mr. DELAY.

H.R. 3281: Mr. DORNAN of California.

H.R. 3319: Mr. KOSTMAYER, Ms. NORTON, Mr. FISH, Mr. FRANK of Massachusetts, Mr. TOWNS, Ms. SNOWE, Mr. FALEOMAVAEGA, Mr. DAVIS, and Mr. JEFFERSON.

H.R. 3349: Mr. HERGER and Mr. LAGOMARSINO.

H.R. 3420: Mr. RICHARDSON, Mr. AUCOIN, Mr. GORDON, Mr. BOEHLERT, Mr. OWENS of Utah, Mr. PETERSON of Minnesota, Mr. THOMAS of Wyoming, Mr. JONES of North Carolina, and Mr. EVANS.

H.R. 3463: Mr. MILLER of Washington.

H.R. 3501: Mr. STARK and Mr. DANNEMEYER.

H.R. 3506: Mrs. MORELLA, Mr. HENRY, Mr. HORTON, Mr. JEFFERSON, and Mr. WILSON.

H.R. 3518: Mr. ECKART and Mr. INHOFE.

H.R. 3550: Mr. ANDREWS of Texas, Mr. LANCASTER, Mr. DWYER of New Jersey, Mr. EDWARDS of Texas, and Mr. JEFFERSON.

H.R. 3595: Mr. RAVENEL, Mr. ANDREWS of Texas, Mr. HENRY, Mr. LIPINSKI, Mr. MILLER of Ohio, Mr. JACOBS, Mr. NOWAK, Mr. VOLKMER, Mr. EDWARDS of Texas, Mr. CLAY, and Ms. KAPTUR.

H.J. Res. 125: Mr. FRANKS of Connecticut, Mr. NEAL of North Carolina, Mr. BORSKI, Mr. ZIMMER, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. DE LUGO, Mr. SLATTERY, Mr. DICKS, Mr. CRAMER, Mr. DIXON, Mr. BREWSTER, Mr. JACOBS, Mr. MOORHEAD, Mr. ROWLAND, Mr. SCHUMER, Mr. SISISKY, Mr. PORTER, Mr. ANDREWS of Maine, Mr. RAHALL, Mr. GEREN of Texas, and Mr. ANDERSON.

H.J. Res. 140: Mr. HENRY and Mr. NUSSLE.

H.J. Res. 177: Mr. KLUG, Mr. LEHMAN of California, Mr. BUNNING, and Mr. LEWIS of Florida.

H.J. Res. 198: Mr. NOWAK, Mr. BENNETT, Mr. PAYNE of Virginia, Mr. WAXMAN, Mr. DURBIN, Mr. MOORHEAD, Mr. SUNDQUIST, and Mr. GIBBONS.

H.J. Res. 293: Mr. NICHOLS, Mr. CALLAHAN, Mr. FISH, and Mr. CRAMER.

H.J. Res. 321: Mr. BENNETT, Mr. GREEN of New York, Mr. HOYER, Ms. KAPTUR, Mr. KLECZKA, Mr. RITTER, Mr. SERRANO, Mr. VENTO, Mr. WOLF, Mr. VOLKMER, Mr. WOLPE, Mr. HARRIS, Mr. DYMALLY, and Mrs. BENTLEY.

H.J. Res. 326: Mr. BILBRAY, Mr. CRAMER, Mr. PAXON, Mr. ANDREWS of New Jersey, Mr. MILLER of Washington, Mr. DOWNEY, MR. FRANK of Massachusetts. Mr. JONES of Georgia, Mr. PARKER, Mr. JONES of Georgia, Mr. CRANE, Mrs. VUCANOVICH, Mrs. KENNELLY, and Mr. HAYES of Louisiana.

H.J. Res. 351: Mr. HAMILTON.

H.J. Res. 356: Mr. LANCASTER, Mr. MCGRATH, Mr. LEHMAN of Florida, and Mr. WALSH.

H.J. Res. 362: Mr. KOSTMAYER, Mr. JENKINS, Ms. KAPTUR, Mr. LEWIS of Georgia, Mr. YATRON, and Mr. BUSTAMANTE.

H. Con. Res. 188: Mr. FISH, Mr. BERMAN, Mr. SMITH of New Jersey, Mrs. LOWEY of New York, Mr. SOLARZ, and Mr. MILLER of Washington.

H. Con. Res. 218: Mr. SENSENBRENNER, Mr. LEWIS of Florida, Mr. GOSS, Mr. BALLENGER, Mr. KLUG, Mr. STUMP, Mr. RIGGS, Mr. EWING, Mr. RAMSTAD, and Mr. SANTORUM.

H. Con. Res. 224: Mr. HYDE, Mr. LEHMAN of Florida, Mr. RIGGS, Mr. JEFFERSON, and Mr. RITTER.

H. Res. 257: Mr. ESPY, Mr. DURBIN, Mr. PETERSON of Minnesota, Mr. HATCHER, Mr. THORNTON, Mr. SPENCE, Mr. BENNETT, Mr. JEFFERSON, Mr. CAMP, Mr. THOMAS of Georgia, Mr. HAMMERSCHMIDT, Mr. MCDADE, and Mr. LAROCCO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 371: Mr. CLEMENT.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

128. By the SPEAKER: Petition of the Legislature of Rockland County, New City, NY, relative to funds for research in mental illness; to the Committee on Energy and Commerce.

129. Also, petition of American Foreign Service Association, Washington, DC, relative to the Association's comments on the 9th Annual Report on Implementation of the Foreign Service Act of 1980, as required by section 2402 of the act; jointly, to the Committees on Post Office and Civil Service and Foreign Affairs.

EXTENSIONS OF REMARKS

BURDEN OF ILLEGAL IMMIGRATION DUMPED ON STATE AND LOCAL GOVERNMENTS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. GALLEGLY. Mr. Speaker, the problem of illegal immigration to the United States has reached crisis proportions. While there is no exact figure on the number of aliens who enter illegally each year and who currently reside in this country, in 1990 alone 1.2 million illegal aliens were apprehended at the border; and the Immigration and Naturalization Service estimates that for every one illegal apprehended by the Border Patrol, another two or three escape arrest. Thus, after several years of apparent decline, the number of arrests of illegals is soaring toward the pre-1986 level of 1.8 million a year—1986 was the year the Immigration and Naturalization Act was enacted and amnesty was granted to millions of illegals. Though estimates vary, some 200,000 to 300,000 illegal aliens settle permanently in this country each year. Most experts estimate that at least 4 million illegals currently reside in the United States; over one-half can be found in southern California alone.

This resurgent tide of illegal immigrants across our borders is creating severe economic, social, and law enforcement problems in many communities, adding to the welfare and unemployment rolls and straining the already tight budgets of State and local governments. Illegal aliens are using social services at the expense of eligible needy Americans—including those immigrants and their families who went through the process of entering this country legally—at a very high cost to this country's taxpayers. For instance, a study by the Center for Immigration Studies has estimated that U.S. taxpayers paid at least $5.4 billion in direct benefits to illegal aliens last year—excluding the costs of such often abused programs as Social Security, Medicare, food stamps, and unemployment compensation, as well as the costs of police, fire, courts, transportation, and other public services.

While it is true that those illegals who find employment pay taxes, their contribution in taxation does not come close to offsetting the costs to government in benefits and services that they utilize. For instance, according to Los Angeles County, during fiscal year 1990–91 illegal immigrants paid $137.6 million to the county in taxes, but they cost the county $413.8 million in services, a net loss of $276.2 million. Included in that cost is $203.1 million for health care services, $15.2 million for welfare services, and $95.6 million for judicial services.

The fact that the Congress has been unwilling to address this problem attests to the widespread ignorance among many Members who simply have not been confronted with demands for reform from angry constituents and for additional funds from exasperated mayors and county officials. Mr. Speaker, the people in my district are understandably upset that their elected officials seem unable to do something about the illegals that have invaded their communities. The State of California is overwhelmed by the burden of added costs of illegal immigration. This is not a racial problem; it is a matter of dollars and cents. And unless the Federal Government either radically changes its immigration policies or comes up with the funds to enable State and local governments to better cope with this problem, I foresee disaster, not merely in greater unemployment, added taxation, the forced cessation of essential services, or all three, but also in the form of a resurgence of xenophobia and antipathy toward all immigrants, legal as well as illegal.

I have tried to address the issue of illegal immigration with a series of bills which address various causes and aspects of the problem—inadequate Border Patrol and other Federal resources, documents fraud, lack of Federal enforcement and insufficient penalties, the need for programs by our neighbors to stop smuggling and harboring of illegals, the transportation of undocumented day workers, the attraction of generous welfare benefits, and automatic birthright citizenship for illegal aliens. At the same time I strongly support the efforts by this administration to negotiate a North American free trade agreement which should improve the economic conditions in Mexico and create jobs for citizens of both our countries.

Mr. Speaker, I wish to call the attention of my colleagues to a recent column by Robert J. Caldwell of the Copley News Service which presents a true picture of the crisis of illegal immigration and states clearly the case for taking immediate remedial action. I hope that all Members of the House will read this item carefully so that there will be a better understanding of what is happening and what is at stake in California, in the border States and throughout many areas of this country.

Mr. Speaker, I ask unanimous consent that the complete text of Mr. Caldwell's article be printed in the RECORD as it appeared in the Oxnard Press-Courier of October 1, 1991.

IMMIGRATION LOAD DUMPED ON STATE, LOCAL GOVERNMENTS

(By Robert J. Caldwell)

A frustrated Gov. Pete Wilson blamed much of California's budget crisis last spring on ballooning bills for education, Medi-Cal, welfare, and corrections. Each category, said the governor, had been significantly inflated by the heavy flow of immigration—legal and illegal—into California during the 1980s.

Wilson then put the responsibility for this where it belongs. The federal government has been generous in accepting legal immigrants and refugees. But it is failing to compensate state and local governments adequately for immigration-related costs. What is more, the federal government is failing to control illegal immigration across the U.S.-Mexico border.

Lest his complaints be misconstrued, or used as ammunition for nativist immigrant bashing, Wilson added the appropriate caveats. Immigration, including some illegal immigration, is not without benefits. Most immigrants, legal and illegal, work hard and contribute to America's economy. Immigrants pay taxes—even those here illegally pay some taxes. And the great bulk of immigrants, including those who come illegally, are well-motivated people seeking America's promise of opportunity and freedom.

Still, there is mounting evidence that too much immigration too fast is piling unsustainable burdens on state and local governments. This is especially true in California, home to half of all illegal immigrants in the United States and nearly a third of all refugees and legal immigrants.

To buttress Gov. Wilson's complaints, California's Department of Finance compiled the following:

Some 1.6 million legal foreign immigrants came to California during the 1980s.

An estimated 200,000 refugees originally resettled in other states subsequently migrated to California over the past decade.

California experienced an estimated net increase of 1 million illegal immigrants during the 1980s. About 85 percent of these immigrants are believed to be Hispanic; another 10 percent are Asian.

State officials estimate that one-third of all refugees admitted to the United States come to California and begin receiving public assistance within their first four months of residency.

The federal government's immigration and refugee policies have added $1.3 billion in mandated expenditures for California during the 1991–92 fiscal year alone. State-funded Medi-Cal services for pregnancy and emergency care for illegal immigrants will cost an estimated $395 million this year. Another $356 million in federal reimbursements will be needed.

The immigrant tide's budgetary impact is not limited to state government. Cities and counties with large, and growing, immigrant populations are hurting as well.

For example, Los Angeles County and its county and city school districts are currently paying an estimated $1.16 billion per year for services to illegal immigrants alone, according to Michael Antonovich, chairman of the Los Angeles County Board of Supervisors. The burden of educating immigrant children contributed substantially to the Los Angeles Unified School District's $274 million deficit this year.

No one, it seems, has a precise figure for San Diego County's immigration-related costs. But county officials estimate that the amnesty granted to many illegal immigrants in 1986 to date has cost up to $30 million in services. Most of this has gone unreimbursed by the federal government.

San Diego County's medical programs ran up a $7 million bill during 1989–90 for services to undocumented immigrants.

Among costs that are particularly relevant for San Diego County are refugee resettlement expenditures. In 1985, the federal government provided about $6,000 per refugee. This year, federal reimbursement is roughly $3,000 per refugee. Adjusted for inflation, this represents a two-thirds reduction in federal reimbursement.

Understandably, state and local officials are turning anew to the federal government for help. Wilson has threatened to sue Washington to obtain additional funds for state and local services to immigrants. While Wilson waits for an answer from Washington, the state is reimbursing counties for only 70 percent of their immigration-related expenditures.

San Diego County Supervisor John MacDonald led a large delegation of local officials to Washington last week to lobby Congress and the Bush administration for full reimbursement of immigration costs.

Although California's case is the most urgent, MacDonald's lobbying effort was endorsed by officials from 22 states. Florida, Texas, New York, and New Jersey also bear heavy immigration expenditures.

But however meritorious, requests for more money from Washington undoubtedly will prove a hard sell. With the federal budget deficit expected to jump from $270 billion this year to at least $350 billion in 1992, Congress will be hard pressed to find any additional funds for state and local governments.

Meanwhile, the immigration problem continues to grow.

Between 4.2 million and 4.5 million immigrants are residing illegally in the United States, according to David Simcox, executive director of the Center for Immigration Studies in Washington. This permanent population is conservatively estimated to grow by about 300,000 each year.

About half to two-thirds of these illegal migrants are believed to be from Mexico. Moreover, recent research is documenting the changing nature of migration from Mexico. Mexican immigrants who once came to the United States to work temporarily now come increasingly to stay. Once established, they bring their families.

The cost to taxpayers of undocumented immigration is variously estimated. Simcox puts it at about $5 billion to $6 billion a year. The Federation for American Immigration Reform (FAIR), a group favoring sharp reductions in both legal and illegal immigration, calculates the figure at approximately $13.5 billion.

If the federal government cannot reimburse state and local governments for these costs, it should adjust its immigration policies accordingly. At the very least, it must mount a more credible effort to limit illegal immigration across the United States-Mexican border.

Wilson argues that the 2,000-mile long border with Mexico "makes a fiction of the immigration law." He has a point, at least given the currently half-hearted efforts at border enforcement. About half of all illegal immigration into the United States occurs along a 14-mile stretch of the border between San Diegc and Tijuana. Yet, on any given night, the U.S. Border Patrol has fewer than 150 agents along this sector, crossed nightly by several thousand undocumented immigrants.

Stronger fences, a border access road, lights, and electronic sensors all help. But the Border Patrol is still routinely overwhelmed.

Alan Nelson, who served as commissioner of the Immigration and Naturalization Service (INS) from 1982–89, recommends beefing up the Border Patrol. But he believes the best hope for curtailing illegal immigration lies in more effective enforcement of existing legal sanctions against employers who knowingly hire illegal immigrants.

"There is no question that most illegal aliens come to this country to better themselves and get jobs. If we can dry up the job market, that is our best deterrent. And (employer) sanctions are absolutely key. Every president since Truman advocated them and we finally got them in 1986 (in the Immigration Reform and Control Act).

"They (sanctions) are not perfect, but they worked well at the beginning and they certainly have the potential," Nelson said last week. But he charges that the INS has relaxed its enforcement of employer sanctions since the late 1980s.

"We need to be more aggressive in educating employers about the law," Nelson said. He also urged systematic efforts to recruit unemployed Americans to fill the entry-level jobs that often go to undocumented immigrants.

As yet, Congress and the Bush administration show little stomach for revisiting the wrenching immigration debate that produced IRCA in 1986. But doing nothing leaves hard-pressed state and local governments, notably California and counties such as Los Angeles and San Diego, holding the bill for Washington's failure to act.

BLANCA ROSA INSTALLED AS PRESIDENT OF CUBAN-AMERICAN CERTIFIED PUBLIC ACCOUNTANTS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize Blanca Rosa Ortega who was recently installed as president of the Cuban-American Certified Public Accountants [CPA's] Association.

Ms. Ortega previously served as president-elect, 1990–91, of this association which was established in 1980. The association is a nonprofit organization of CPA's united in common heritage and interests, and sharing a commitment to the highest standards of professional and ethical conduct. The association provides CPA's of Cuban ancestry with continuing professional education, a forum for interaction with CPA's and other professionals, and an opportunity to participate in various community projects. Among the community projects with the association has sponsored are free tax return preparation for the underprivileged, funding of scholarships for students of Cuban ancestry, a voter registration drive, and a Christmas toy drive.

As the association's new president, Ms. Ortega brings a broad educational and professional background to this important position. In addition to having her own CPA practice, she has served as professor of accounting and international business at Miami-Dade Community College South Campus for the last 15 years. During the summer, she teaches international business in Aix-en-Provence, France. Ms. Ortega has a masters of science degree in management with a concentration on accounting from Florida International University.

Ms. Ortega is a member of both the American and Florida Institute of CPA's, the Cuban American National Foundation, the American Accounting Association, the Florida Association of Accounting Educators, the National Association of Cuban-American Educators, a number of other professional and community organizations.

Her many achievements include serving as past chairperson of the Florida Institute of CPA's committee on relations with colleagues and universities. In 1987, on the Outstanding Women's Day, she was honored by CAMACOL for a devoted service and outstanding contributions to the economic development of the community. She is listed in "Who's Who in the South and the Southwest" and "Who's Who in Florida's Latin Community."

I would like to take this opportunity to salute Blanca Rosa Ortega and the other board members who will serve this fine organization during 1991–92. They include Teresita Miglio, Armando Vizcaino, Issac Matz, Juan Godoy, Jesus Maceda, Frank Carballo, Pablo R. Llerena, Jose R. Travieso, and Linda Smukler-Soriano.

TRIBUTE TO DR. EDWARD GUINN

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. GEREN of Texas. Mr. Speaker, on Thursday, October 24, I had the privilege to honor an outstanding member of my community, Dr. Edward Guinn. Dr. Guinn has served my community as a caring physician, public servant, and leading role model for Tarrant County's many young Afro-Americans.

The most striking characteristic that Dr. Guinn has demonstrated throughout his life is that of a trend setter and educator. Dr. Guinn comes from a long line of men and women who were committed to educating those around them, and he has continued in that tradition by teaching our community a thing or two about staying one step ahead in health care.

Always searching for ways to improve health care services to the people of Tarrant County, Guinn used his position as a Fort Worth city councilman to introduce the city to its first ambulance services. Understanding that the quality of emergency medical services available to a community often determines life or death for many citizens, he was one of the first in Tarrant County to support "911" emergency services.

Dr. Guinn has committed his life to ensuring that all Tarrant County citizens have access to quality health care services, but along the way, he never lost sight of the very special needs of those in his own minority community. After completing his time on the city council, he turned his energies toward improving health care services to the economically disadvantaged. Ever mindful of the future, he continues to dedicate much of his time to recruiting promising young minorities for careers in the health care field.

At the ceremony honoring his lifetime of achievements, the Fort Worth Star-Telegram

quoted Dr. Guinn as saying, "When I look back at the magnitude of the problem, I realize how little I've done."

When we look back at Dr. Guinn's life, however, we can only see how much he has done.

TRIBUTE TO JOHN AND REGINA SWEENEY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. FEIGHAN. Mr. Speaker, I rise today to pay tribute to two of northeast Ohio's finest people, John and Regina Sweeney. On Friday, John and Jean will receive the Henry Miller Busch Award for distinguished service to the Cleveland Chapter of Americans for Democratic Action.

My friendship with John and Jean began during my statehouse days with John in the early 1970's. We had a saying in Columbus that if you wanted to know which side was going to win a vote, all you had to do was find out which way the Speaker of the House voted. If you wanted to find out which side was right—which side was just—find out how John Sweeney voted.

What a wonderful irony it is that John and Jean will receive this award at the Roosevelt Day Dinner—for they have carried on the legacy of Franklin and Eleanor Roosevelt.

The Roosevelts came to the White House at a time when the reputation of the Government was at its lowest, when materialism reigned over humanitarianism, when self-interest was more important than interest in others. They were dark days indeed.

In his 1936 inauguration address, Franklin Delano Roosevelt made an impassioned plea to the American people—a call to action:

> We face the arduous days that lie before us in the warm courage of the national unity; with the clear consciousness of seeking old and precious moral values; with the clean satisfaction that comes from the stem performance of duty by old and young alike.

John and Jean took this call seriously and set out to answer it to the best of their abilities.

They stood at the forefront of the struggle for racial equality even before it was fashionable. They stood against the Vietnam war even as President Johnson and other Democrats saw a victory light at the end of the tunnel. In 1980, they warned of nightfall as Ronald Reagan proclaimed that it was "morning in America."

Through the years, John and Jean have fought for causes long before these causes were popular and long after the press lights and microphones had been turned off.

To figure out Jean and John, you need look no further than their choices in Presidential candidates. In the 1950's they backed Adlai Stevenson; in 1968—Eugene McCarthy, 1972—George McGovern, 1976—Mo Udall, 1980—Ted Kennedy, 1988—Bruce Babbit.

Not one of these candidates actually won, but that's not what mattered to the Sweeneys. What mattered was that these candidates stood for equality, conscience, and justice. What mattered was that these people represented the very best ideals that the Democratic Party could offer. Whether they won or not, they stood not for what was popular—but for what was right.

Their fundamental desire to make life better for others finds its root in their lives at home. Not only have John and Jean been married for 42 years, but they have raised 10 wonderful children—Jack, Mary, Cecile, Rosemary, Frank, Regina, Margaret, Julie, Terese, and Jim. All 10 have gone on to careers in fields such as medicine, government, law, and teaching.

This Friday, we have the opportunity to thank Jean and John for all that they have done. To thank them for crying out for justice when no one appeared to be listening. To thank them for giving so much of their time and energy while asking for so little in return. And to thank for their friendship, always unconditional and enduring. Congratulations on this well-deserved honor.

SELECTED QUESTIONS ON HEALTH CARE FROM THE WIRTHLIN GROUP'S NATIONAL QUORUM

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. CAMPBELL of California. Mr. Speaker, it is vital that Congress act soon to authorize the Food and Drug Administration to conduct faster reviews of potentially life-saving therapies. I was interested to learn recently just how widespread this view is among the American public.

A survey, conducted by the Wirthlin Group, a public opinion research firm, has found that 75 percent of Americans believe a person should have the choice to use promising therapies for treating incurable illnesses such as cancer, AIDS, or Alzheimer's disease even if they are not yet approved by the FDA. Moreover, 88 percent of those in favor of such choice would want that freedom even if the drug had serious but reversible side effects. By illness, the respondents favored the choice of taking unapproved therapies as follows: patients with AIDS, 97 percent; cancer, 96 percent; Alzheimer's disease, 91 percent; diabetes, 84 percent; heart disease, 84 percent; and arthritis, 78 percent.

It is just plain common sense, Mr. Speaker: If you are suffering from a terminal or seriously debilitating illness, you will most likely be willing to take on greater risks in choosing to use promising, yet unproven, therapies. Under the current system for approving drugs and biologics, many people are dying while the FDA deliberates over whether promising therapies are both safe and effective, a process which can take as long as 12 years.

H.R. 2872, the Access to Life-Saving Therapies Act would authorize the FDA to grant an expedited approval to drugs and biologics that could help those with a life-threatening disease such as AIDS, Alzheimer's, cancer, and heart disease. Mr. Speaker, I urge my colleagues to weigh the significance of the Wirthlin Group study, and to cosponsor H.R. 2872.

I am submitting for the RECORD selected questions on health care from the Wirthlin Group's National Quorum:

SELECTED QUESTIONS ON HEALTH CARE FROM THE WIRTHLIN GROUP'S NATIONAL QUORUM, AUGUST AND SEPTEMBER, 1991

THE NATIONAL QUORUM

The National Quorum is a monthly opinion poll of approximately 1,000 adult Americans, conducted by The Wirthlin Group, a nationaly public opinion research firm headquartered in McLean, Virginia. The Quorum covers a variety of topics including the National outlook, health care, nutrition, the environment, and the S&L crisis. Every topic is not included every month.

METHODOLOGY

Quorum results are weighted by ethnicity and education to adjust for variations in the sample and more accurately reflect the population.

Quorum has a margin of sampling error of ± 3 percent. This means that, in theory, in 96 cases out of 100, Quorum results will differ by no more than three percentage points in either direction from what would have been obtained by seeking out all American adults.

In August and September 1991, the National Quorum contained a series of questions on health care issues, including questions on the terminally ill.

SUMMARY OF FINDINGS

Eighty-eight percent of Americans agree with the statement that life-sustaining medical treatment should be withheld or withdrawn from terminally-ill patients, provided that is what the patient wants or the family wants if the patient is unable to express his or her wishes.

Seventy-nine percent of Americans take the position that a person with a fatal and incurable disease should have the choice. In consultation with his or her physician, of using drugs while they are under review by the FDA. By contrast, only 19 percent take the position that patients should not be allowed to use a promising experimental drug unless it has been approved by the FDA.

Among those who believe the decision to use an experimental drug with fatal diseases should rest with patient and physician, there is nearly universal consent that cancer (96 percent), AIDS (97 percent) and Alzheimer's Disease (78 percent) fall into this category. Majorities also believe that such diseases as diabetes (84 percent), heart disease (84 percent), and arthritis (78 percent) should fall into this category. Nearly all (88 percent) of those who believe that choice should rest with the individual and physician say that choice should be available, even if serious but reversible side effects were known to be a risk associated with an unapproved drug.

FROM THE AUGUST NATIONAL QUORUM

Life sustaining medical treatment should be withheld or withdrawn from terminally ill patients, provided that is what the patients want or what the family wants if the patients are not able to express their wishes.

	Percent
Agree strongly	70
Agree somewhat	18
Agree total (net)	88
Disagree somewhat	5
Disagree strongly	5
Disagree total	10
Not sure	3
Refused	0

FROM THE SEPTEMBER NATIONAL QUORUM

If an individual has a fatal disease, for which there is no cure, and a drug that has been tested and shows promise in treating the disease is under review by the Food and Drug Administration, do you think—patients, in consultation with their doctors, should be allowed to make the decision about whether or not to try the drug before the FDA makes a decision about whether or not to approve it (79 percent) or—patients should not be allowed to use the drug unless it has been approved by the Food and Drug Administration (19 percent), don't know/refused (do not read) (2 percent).

For the same drug and the same fatal incurable disease, some people might suffer a serious side effect that is reversible once they stop the drug. Do you think the decision is still up to the patient and the doctor or do you think the government should NOT allow the use of the drug unless it has been approved by the Food and Drug Administration:

Still up to the patient and doctor (88 percent).

Should not be allowed unless approved by the FDA (10 percent).

Don't know/refused (do not read) (1 percent).

And which of the following diseases would you put in that category? In other words, if a promising drug for cancer, AIDS, alzheimer's, diabetes, arthritis, or heart disease was being evaluated but was not yet approved by the FDA, do you think individuals, in consultation with their doctors, should be allowed to try it?

And how about for—

	Percent
A. Cancer:	
Yes, allow to try	96
No, not allowed to try	4
Don't know refused (do not read)	1
B. Aids:	
Yes, allow to try	97
No, not allowed to try	2
Don't know refused (do not read)	1
C. Alzheimer's disease:	
Yes, allow to try	91
No, not allowed to try	8
Don't know refused (do not read)	0
D. Diabetes:	
Yes, allow to try	84
No, not allowed to try	16
Don't know refused (do not read)	1
E. Arthritis:	
Yes, allow to try	78
No, not allowed to try	21
Don't know refused (do not read)	1
F. Heart disease:	
Yes, allow to try	84
No, not allowed to try	15
Don't know refused (do not read)	1

SALUTE TO DAVID FLEMING

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a truly outstanding individual, David W. Fleming, for his invaluable contributions to the San Fernando Valley.

David Fleming is a highly successful business law attorney whose record of leadership and achievement is truly nothing short of extraordinary. Over the past 31 years, he has donated more than 12,000 hours of his time and has raised or donated more than $5 million to scores of Valley charities and civic organizations. Despite heavy demands on his time, he has chaired or served on more than 50 community boards and bodies, a record of accomplishment that he continues to increase.

I am pleased to share with my colleagues some of David's most important accomplishments.

As chairman of Los Angeles County's Blue Ribbon Children's Services Planning Commission, he overcame heavy bureaucratic opposition and persuaded the board of supervisors to create the children's planning council. The council, on which he serves, is composed of business, education, government, and social leaders and will, for the first time, plan and coordinate the spending of more than $4 billion each year through 1,200 different programs to help children in need. Because of his efforts, it is estimated that some 50,000 needy Valley children will soon, for the first time, receive help for abuse, neglect, mental and physical health, hunger, poverty relief, and juvenile crime prevention—without the need for new taxes.

As chairman of Valley Presbyterian Hospital, he has raised millions of dollars to expand the facility by 50 percent and to build the largest neonatal and pediatric intensive care unit in northern Los Angeles County.

As chairman of the Valley Industry and Commerce Association for the past 2 years, he greatly expanded VICA's size and scope, established its new education foundation and helped make VICA a potent political force for business and industry in the Valley.

As capital campaign chair for the school of education at California State University, Northridge, he is working on raising funds for the new $29 million business and education center.

In addition, he now serves as an officer or director of the Boy Scouts of America's Western Council, the United Way, the Valley Interfaith Council, the Valley Cultural Foundation, the 2000 Partnership, VICA, and Valley Presbyterian Hospital. He has also served dozens of other organizations, including Big Brothers, the Los Angeles Olympic Organizing Committee, the YMCA, the National Conference of Christians and Jews, the Red Cross, and the March of Dimes.

In recognition of David Fleming's long and successful record of service, he will be presented this week with the Fernando Award, given annually to the Valley's most outstanding individual. It is an honor that is long overdue.

Mr. Speaker, I ask my colleagues to join me in saluting David W. Fleming for his outstanding and selfless community service to the San Fernando Valley.

LUIS MARIO COMMENDED FOR HIS BOOK "CIENCIA Y ARTE DEL VERSO CASTELLANO"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, "Ciencia y Arte del Verso Castellano," a book written by Mr. Luis Mario, is an informative work of art which focuses on Spanish literature as interpreted by one of the modern world's most respected poets.

Luis Mario, an expert in Spanish literature as well as a master of the language, shares with us the beauty of rhyme within poetry. He quotes Mr. Octavio Paz by stating that although rhyme is not essential to poetry, it is an important part of Castilian poetry.

He speaks also of the beauty which words create when used in verse and how this has affected the advancement of the Spanish language, and he demonstrates how metaphors—the use of words, which describe objects to characterize a feeling or a thought—are used to create beauty in poetry. He also speaks of the ability to create images with words as one of a poet's greatest attributes. Mr. Mario portrays one element in each chapter of his book, and with each one he brings his readers closer to understanding the structure and composition of poetry.

It is certainly appropriate, as we approach the quincentennial of the discovery of this area of our world, that Mr. Mario has presented us with his work "Ciencia y Arte del Verso Castellano." His book is a tribute to the first European language that was spoken in America. I commend this great work of literature to all.

TRIBUTE TO DR. MARION "JACK" BROOKS

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. GEREN of Texas. Mr. Speaker, on Thursday, October 24, I had the privilege of honoring one of my community's finest leaders, Dr. Marion "Jack" Brooks. Dr. Brooks has dedicated his life to bringing a better life to the minority citizens of Tarrant County, as a physician, as a public official, and as leader on civil rights.

Chester Bowles once said, "Government is too big and important to be left to the politicians." Dr. Brooks personifies that statement in his tireless efforts to improve the quality of public services available to Tarrant County's minority community. Here are just a few of the achievements for which he will be remembered.

As the Tarrant County minority community was struggling in 1951 to find trained minority physicians, Dr. Brooks established his medical practice to give them the best health care available. When he discovered that the minority citizens of Tarrant County deserved much more from the local government services than they were receiving, he became one of the first African-Americans to be appointed to community boards and commissions.

When so many in his minority community could not make the long and expensive trip in 1963 to march with Dr. Martin Luther King on Washington, Dr. Brooks organized his own march—on Austin, TX. While others took the message of civil rights to the Federal Government, he made sure our State officials heard the message loud and clear.

Dr. Brooks also took this message to local officials when he cofounded the Tarrant County Precinct Workers Council in the 1960's, a grassroots caucus on civil rights that maintains its political power even today.

Dr. Brooks is a great American and a proud American. At the ceremony held in his honor on Thursday, he told of an encounter with a French soldier during World War II. When asked about his allegiance to his country, he told the soldier, "I would rather be a lamppost in Dime Box, TX, than the Prime Minister of France."

We are thankful he is a doctor in Fort Worth.

SYRIAN TERRORISM

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. FEIGHAN. Mr. Speaker, last week I introduced a resolution concerning the Syrian connection to terrorism. Since 1979, successive administrations have determined that Syria is a state sponsor of international terrorism. Syria has been linked directly and indirectly to a series of terrorist attacks against Americans and other civilians, plays host to notorious terrorist organizations; and allows Syrian-controlled territory in Lebanon to be used as safe haven and training bases for international terrorists.

A few weeks ago, I had the opportunity to meet with several families of American victims of terrorism—families of victims of the Pan Am flight 103 bombing, the Marine barracks bombing, the parents of Navy diver, Robert Dean Stethem who was killed during the 1985 terrorist hijacking of TWA flight 847.

These families of victims are victims themselves. Tragedy has touched each and every one of them and they continue to search for some resolution, some measure of justice, to allow them to move on with their lives. They have put their trust in the U.S. Government to pursue these terrorists and to bring them to justice for the murder of their children.

Unfortunately, the wheels of justice in these cases don't seem to move. And to some of these families they appear to be moving in the wrong direction. The recent efforts by the Bush administration to seek better ties with Syria is a case in point. It is inexplicable to Pan Am 103 families that we would cozy up to a dictator like Hafez Assad, who continues to harbor international terrorists that have been linked to the December 1988 bombing. The families fear that the Libyan "triggermen" will soon be indicted and the investigation will end—never identifying the intellectual authors of this brutal and heinous act.

House Resolution 260 calls upon the administration to raise the issue of terrorism with the Syrians at the Madrid Peace Conference. It calls upon Syria to renounce terrorism, to end its support for terrorist groups, and to dismantle terrorist training bases under Syrian control.

I ask my colleagues to join me in this effort to strengthen our counterterrorism policy and move the wheels of justice in the right direction.

A copy of the resolution follows:

H. RES. 260

Whereas since December 1979 Syria has been determined to be a country supporting international terrorism under section 6(j) of the Export Administration Act of 1979;

Whereas Syria has been directly linked to the attempted bombing in 1986 of an El Al flight from London to Israel through its paid agent Nezar Hindawi;

Whereas Syria continues to sponsor the activities of Ahmed Jabril, a Syrian-born military officer and leader of the Popular Front for the Liberation of Palestine-General Command, who has been strongly linked, along with his Syrian sponsors, with the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland, which resulted in the death of 270 people, including 188 Americans;

Whereas Syria has supported Abu Nidal, the man responsible for the simultaneous attacks on the Rome and Vienna airports in 1985, numerous assassinations of international officials as well as American citizens;

Whereas Syria participation in the drug trade out of Lebanon provides up to 20 percent of the hashish that enters the United States market and with Lebanon's prime growing areas under Syrian control, 40 percent of its opiate production is exported to the United States; and

Whereas these activities provide Syria with massive profits, reportedly as high as $1,000,000,000 a year, thereby enhancing Syria's ability to sponsor terrorism: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) it should be the policy of the United States to pursue discussions regarding Syria and terrorism at the Middle East peace conference in Madrid, Spain, in October and November of 1991;

(2) Syria should, in this regard, completely renounce all forms of terrorism;

(3) Syria should cease all support of terrorism including financial, military, economic, and political aid to all terrorist groups; and

(4) Syria should close all terrorist training bases on Syrian territory and Syrian-controlled Lebanese territory, particularly that of the Bekaa Valley.

RONNIE C. DAVIS RIDGLE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. DYMALLY. Mr. Speaker, a young man whom I witnessed growing up as a young adult in junior and senior high school, then as a leader on his college campus, recently passed away after a long illness.

Ronnie Ridgle, as we called him, was the son of the first staffer, Dr. Louise Ridgle White, whom I hired after I was elected to the California Assembly in 1962.

Ronnie was recently buried in Los Angeles. His obituary captures his contributions during his very productive and young life. He will be missed by both his family and friends.

May God bless him, and may he rest in peace.

OBITUARY

Ronnie C. Davis Ridgle, a practicing attorney, and the first African-American elected as President of the Student Body at the University of California, Irvine, died September 30, 1991 at his San Francisco home after a lengthy illness.

Ronn earned his BA degree from the University of California, Irvine, where he opened doors for and recruited other African-American students to the campus. He went on to earn his Juris Dictorate in Law from the University of California at Davis, California.

He was born in England, Arkansas, and moved to Los Angeles, California, with his family when he was four years old. He attended elementary, junior and senior high school in Los Angeles.

Ronn was baptized at Zion Hill Baptist Church, Los Angeles, CA, where he was extremely active in youth development programs. As a young adult he became involved with the political and social issues of our times. As a college student he served on the Advisory Council to the Governor of the State of California and continued this interest in issues as a practicing attorney. He was a world traveler who enjoyed the love of people and the beauty of life.

Ronn was a member of the State Bar of California, the Lawyers Club of San Francisco, The Charles Houston Bar Association and the U.S. Supreme Court Bar.

Ronn was well liked by and loved by his family and friends. He leaves to cherish his memory a loving mother, Dr. Louise R. White of Washington, DC; grandmother, Mrs. Hattie M. Houston, Los Angeles; aunts: Mrs. Lilli Bryant, Los Angeles; Mrs. Genevieve Greene and Mrs. Rosie Pender, Memphis, TN; a great uncle, Mr. Eugene Dotson, a host of relatives and friends.

TRIBUTE TO DONALD W. WYATT

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Donald W. Wyatt upon his retirement after nearly 19 years of service as U.S. marshal for Rhode Island. Donald Wyatt has been and continues to be an active and outstanding citizen on both the State and local level.

During his tenure as U.S. marshal, Donald Wyatt served on several committees, studying topics ranging from the Marshals Service Bicentennial to the northeast jail crisis. Over the same period of time he received three awards for sustained superior service as well as a director's award for his involvement with the Witness Security Program.

Donald Wyatt's involvement with politics has been profound. A resident of Warwick, he was the chairman of the commission which drafted the city's charter. Additionally, he chaired the Warwick Young Republicans, as well as the Warwick Republican City Committee. On the state level, Donald Wyatt served as then Gov. JOHN H. CHAFEE'S chief of staff for 6 years and as a staff assistant for Senator CHAFEE for 2 years.

Beyond the political spectrum, Donald Wyatt has been influential in the church as well. For 15 years, Donald Wyatt served as executive secretary for the Diocese of Providence Catholic Youth Organization. Winning awards, such as the CYO Youth Congress plaque, the

Catholic Young Adult Award, and the Catholic Broadcasters St. Gabriel Award, is further testament to Donald Wyatt's dedication.

Donald Wyatt is a member of the board of directors of Justice Assistance, the Circus Fans of America, the Circus Historical Society, the Rhode Island Historical Society, the Warwick Historical Society, and the Warwick Museum. In his retirement, Donald Wyatt is continuing his positive influence by writing commentaries on contemporary affairs, while simultaneously working on a novel.

Donald Wyatt deserves recognition and congratulations for his successful career. His contributions to the lives of many Rhode Islanders are countless, and his tireless participation stands as a model to all citizens. I extend my best wishes to Donald Wyatt in all of his future endeavors.

THE BIG WINNERS OF FREE TRADE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. BEREUTER. Mr. Speaker, this Member would ask to insert into the RECORD excerpts from an editorial from the October 25, 1991, Journal of Commerce, entitled "The Big Winners of Free Trade." Reduced tariffs, he contends, are bringing little, if any, reduction in retail prices. I commend this editorial to my colleagues.

THE BIG WINNERS OF FREE TRADE

(By Charles Bremer)

It has long been an article of faith in the world of international trade that anything that restricts the flow of imports into a market must be inefficient, expensive and inherently evil.

Tariffs on imports are blamed for nearly all of the failings of the free enterprise system. They are blamed for wasteful production, extravagant use of human and financial capital, reduced potential for exports, artificially inflated exchange rates and—the most often cited bugaboo—increased cost to the consumer.

Over and over again in editorials, monographs from academia, press releases and congressional testimony, pundits say that imports tariffs end up costing American consumers billions and billions of dollars annually. Remove these barriers to imports, they argue, and consumers will reap a windfall.

U.S. import tariffs clearly are an addition to the price of an imported product. Should it not follow that lower tariffs mean lower prices for consumers? It should, but it doesn't. Here are some examples of what happens in the real world.

On Sept. 1, 1985, the U.S.-Israel free-trade agreement went into effect and the cost of a woman's bathing suit imported from Israel suddenly dropped 22%. Was the retail selling price of those bathing suits reduced after Sept. 1? It was not. Well, if the consumer didn't put the 22% savings in her pocket, into whose pocket did it go? Importers pocketed the difference.

That consumers do not automatically gain from a lower tariff is the rule, rather than the exception. Last November, when Czechoslovakia received most-favored-nation tariff status—the standard low-tariff treatment for U.S. imports—the tariff on a six-pack of Pilsner Urquell beer was cut 88%; the tariff on a Supraphon compact disc of the music of Bohuslav Martinu was reduced 89% and the tariff on a set of Bohemia crystal champagne flutes was slashed from 60% to 14% ad valorem.

But last month, nearly a year after their import duties plummeted, there was no change in the retail prices of the Czechoslovakian beer, compact disks or stemware. Someone benefited, but it wasn't Mr. or Mrs. Consumer.

And this is nothing new. Twelve years ago, at the conclusion of the Tokyo Round of multilateral trade negotiations, the United States, ever eager to demonstrate its magnanimity and leadership in international trade, cut its import tariffs across the board. When I told a colleague in New York who imported large quantities of low-priced Chinese textile commodities that tariffs on the products he imported would be cut 25%, I remember him saying—these are his exact words—"Wow, are we gonna make money now!"

I know a man in New York who imports goods from the Soviet Union. He calls at least once a month to ask if I know exactly when the Soviet Union will be granted most-favored-nation status and thus receive the rather large tariff reductions that Czechoslovakia received last year.

I know this man and his company well enough to understand that they are eager to place big orders with their Soviet supplier for delivery immediately after most-favored-nation treatment goes into effect. I am sure they have absolutely no intention of passing any of this windfall on to their customers.

None of this is meant as an indictment of those two gentlemen in New York or anyone else who profits—and profits handsomely—from importing. That's capitalism at work. It is what defines us as a nation and as a society and is no cause for complaint.

What is cause for complaint is the notion that the United States is somehow best served by throwing open its doors to all imports without exception and without controls.

MIAMI'S FESTIVAL OF FAITH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, His Excellency Edward A. McCarthy, Archbishop of Miami, and the Archdiocese of Miami, will celebrate a festival of faith, December 4–9, 1991, at the Miami Beach Convention Center. For these 6 days, thousands of Catholics and others will experience and observe the marvelous things that are being made available in living the faith out fully. The event, which is free and open to all people, will help build enthusiasm for the faith and renew pride as preparation for next year's fifth centennial observance of the arrival of Christianity to the Western Hemisphere.

The weeklong festival of faith will be marked by a hall of permanent exhibits from the Vatican Museum and Library, historical exhibits, Old and New Testament journeys with the Jewish and ecumenical communities, and a picture of the services of the Archdiocese of Miami and their involvement in the south Florida community. This will be connected by prayer and reflection through hundreds of workshops, in many languages, dealing with every phase of spiritual journey. Evangelization is the calling.

Mr. Speaker, this is the first time in history of this young diocese that they are gathering a high diversity of south Florida's multicultural, multilingual peoples for prayer, reflection, and to pause and thank God for being with us. I would like to praise Archbishop Edward McCarthy for his faith and his leadership in promoting the festival of faith. I would also like to recognize and commend Father Patrick H. O'Neill, festival director; Bishop Augustin P. Roman, Auxiliary Bishop of Miami; and Rev. Gerard LaCerra, Chancellor of the Archdiocese, for their untiring work toward making this festival a success.

Mr. Speaker, I ask my colleagues to join me in offering best wishes to the Archdiocese of Miami as they commemorate their faith and celebrate their history, its people and ministries.

NATIONAL HONOR

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. CLAY. Mr. Speaker, I would like to call to the attention of my colleagues that the Wydown Middle School of Clayton, MO, has been recognized as one of five schools in the St. Louis area by the Department of Education for excellence and to the fact that Miss Aliceia Smith, a student from this institution, was selected to accompany Mr. Jere Hochman, principal of Wydown Middle School, to Washington to accept this award at the White House on September 25, 1991.

This exceptional award is a great honor for the Greater St. Louis area and is a district honor for Miss Smith to have been selected to participate in this event.

I am pleased to share with you an article that appeared in the St. Louis Post Dispatch on September 26, 1991.

[From the St. Louis Post Dispatch, Sept. 26, 1991]

MISS SMITH GOES TO WASHINGTON TO ACCEPT WYDOWN MIDDLE SCHOOL'S EXCELLENCE AWARD

(By Carolyn Bower)

Aliceia Smith, an eighth-grader at Wydown Middle School in Clayton, traveled to Washington this week to pick up an award for educational excellence.

Smith's name was drawn at random from a glass bowl containing names of 120 students beginning their third year at the school, said Jere Hochman, principal at the school.

"We decided to take a student along, because our students are the reason we will be in Washington," Hochman said. Smith, 13, lives in St. Louis.

Wydown is one of five schools in the St. Louis area that the U.S. Department of Education recognized for excellence.

Also getting awards at the White House for educational excellence will be administrators from Westminster Christian Academy in Creve Coeur, Cor Jesu Academy in the Affton area of south St. Louis County, Nerinx Hall High School in Webster Groves and Villa Duchesne High School in Frontenac.

"Our kids are energetic and hard-working," Hochman said. "Our teachers make us a blue-ribbon school. Our parents are supportive and have high expectations."

This is the second time Wydown Middle School has won the distinction, Hochman said.

But Wydown has become a different school since it won the award in 1985, Hochman said.

In the last five years, Wydown went from a two-year junior high school to a three-year middle school with 501 students. The school's building and curricula underwent major changes.

Smith's brown eyes shine when she talks about science and chemistry, some of her favorite courses at school. Smith wants to become a pediatric surgeon some day, because she likes children.

She particularly enjoyed a project teaching students about earthquakes. Students built boxes with balloons hooked by tubes to a pump. They covered the balloons with sand.

They pumped up the balloons, then measured cracks that formed in the sand to determine what type of earthquake had taken place.

Smith also spoke highly of a project to learn about politics. Students assumed the roles of senators and other government officials.

Smith, Hochman and Marilyn McWhorter, a teacher at Wydown, arrived in Washington Monday, visited congressmen Tuesday and went to the White House Wednesday.

SAN JOSE COMPANY WINS MALCOLM BALDRIGE AWARD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. EDWARDS of California. Mr. Speaker, it is a pleasure to share with my colleagues the news that Solectron Corp. of San Jose, CA, has been selected as a 1991 winner of the Malcolm Baldrige National Quality Award. Solectron, a circuit board manufacturer for such companies as Apple Computer and Hewlett-Packard, is the first bay area winner since the inception of the prestigous award in 1987.

The award is given, not for specific products or services, but for a company's method for assuring quality in those goods and services. Under the rigorous application process, candidates are evaluated on leadership, information and analysis, strategic quality planning, human resources utilization, quality results and customer satisfaction. Solectron has proven its excellence in each of these areas of quality assurance.

As our economy becomes more competitive and international in scope, American companies must strive to maintain responsiveness and provide the highest level of quality to consumers. Mr. Speaker, I proudly present Solectron to my colleagues as a fine example of such commitment to quality.

TRIBUTE TO MS. DORI PYE

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. BERMAN. Mr. Speaker, we rise today to express our admiration and pay tribute to a dear and valued friend, Ms. Dori Pye. Dori will be recognized by the City of Hope as this year's recipient of the prestigious "Spirit of Life" honor for her compassionate care and dedicated service to the community.

Dori's years of service have touched and enhanced the lives of many. As president of the Los Angeles Business Council, Dori has represented economic and commercial interests throughout Los Angeles, in Sacramento, and in Washington DC. Dori's savvy and organizational skills have helped establish the semiannual Westwood Art Show, the Urban Beautification Awards Program, which annually recognized outstanding construction and landscaping projects throughout the area, and she is responsible for the creation of the Leadership L.A. project, which uses intensive seminars on important community issues to prepare businessmen and businesswomen in assuming leadership roles in the community.

Throughout her entire lifetime, Dori has tirelessly and selflessly served her fellow citizens. She has always been a trailblazer. Dori Pye was the first woman chamber of commerce manager in the United States and the first chamber manager in the city of Los Angeles to achieve accreditation status for the chamber. She is the second woman in the Nation to have been awarded certified chamber executive status [CCE] by the National Association of Chamber of Commerce Executives. Dori has distinguished herself as a successful businesswoman working tirelessly to improve the well-being of her community.

Dori has been a major force in the success of numerous boards and advisory commissions, including board of commissioners/housing authority, LA International Airport Area Advisory Committee, art council/Loyola Marymount, and P.A.T.H. [People Assisting the Homeless].

Dori's outstanding community involvement, continuing support and commitment to humanitarian cause has allowed her to touch many lives. We ask our colleagues to join in saluting Dori Pye, an invaluable member of our community.

CHILD SUPPORT ENFORCEMENT IMPROVEMENT ACT OF 1991

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Ms. SNOWE. Mr. Speaker, most American parents agree that they have a moral, if not legal, responsibility to support their dependent children—even if the parents are not in the same household. In reality, however, of the 10 million women in 1990 living with children whose father was absent from the home, only 50 percent received child support awards.

Unfortunately, in too many cases, being awarded child support is not nearly the same as actually receiving child support payments. In fact, one-quarter of women awarded child support received no money at all, and another one-quarter received only partial payment.

Compounding the lack of monetary child support, medical support is awarded and provided even less frequently—even though it is crucial that children have access to health care, regardless of their parents' status. This absence of medical support for children in one-parent families endangers the child's health and frequently results in higher Medicaid costs.

Today I am introducing legislation to strengthen and improve child support enforcement mechanisms. First, my bill would require that, within 30 days of a court order for medical support, the noncustodial parent would have to provide proof that the child has been put on his or her insurance policy. If not, that parent would then be liable for the costs of all necessary medical services for the child.

In addition, my bill would increase access to financial institutions by State child support enforcement agencies when setting a child support award. Currently, a State child support agency can access financial institutions only after a court has determined a support award. However, in order to determine the most accurate award, the agency must first have access to these financial institutions. By holding harmless such institutions and credit reporting agencies, for disclosing information to authorized child support enforcement agencies, my bill means that a parent's full resources will now be evaluated.

My bill also expands the opportunities for a State child support agency to access a delinquent parent's IRS tax intecept refund check, one of the more simple and effective child support enforcement mechanisms.

Further, my legislation responds to the complaint that employers, who withhold wages of employees owing child support, often delay the transfer of the garnished wages in order to collect interest on the money or to aid a noncustodial parent owing the support. They are able to do so with impunity because there is no penalty for this practice. My legislation would require employers to turn over garnished wages to State child support enforcement agencies within 10 days or incur a $1,000 fine.

Finally, this bill establishes a national network to locate parents owing child support. The network would be developed by the Federal Office of Child Support Enforcement and would build on the comprehensive statewide child support enforcement computer systems which States are required to develop by 1994.

It is sad but true that many parents are not fulfilling their responsibilities to the children they bring into the world. It is my hope that when child support has been awarded, this legislation will help ensure that children do not suffer simply because child support laws aren't adequately enforced.

INTRODUCTION OF LEGISLATION TO PROMOTE THE DEVELOPMENT OF ALTERNATIVE WATER SOURCES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. PACKARD. Mr. Speaker, I ask that my remarks be submitted for the RECORD.

Today, Mr. Speaker, I, along with several of my colleagues, introduced legislation that would promote the development of new technologies for increasing the Nation's dwindling supply of clean water.

The two bills, known as the "Clean Water Package" commit the Federal Government to studying major water recycling and desalination projects. By studying comprehensive wastewater reclamation and desalination technology, we hope to refine technology to improve our water supply.

The quality and quantity of our Nation's water supply is increasingly threatened by pollution, drought and saltwater intrusion. Many communities have existing water supplies which contain contaminants that pose a significant health risk.

The two companion pieces of legislation make up a comprehensive package of solutions to California's serious water shortage problems. The Desalination Technology Act of 1991 establishes a desalination research program under the National Science Foundation for the development of efficient and cost-effective ways to remove salts and other impurities from water. My distinguished colleagues, Congressmen BOUCHER, RIGGS, LOWERY, CUNNINGHAM, ROHRABACHER, GALLEGLY, WALKER, BOEHLERT, and LEWIS of Florida, join me in introducing this legislation.

The Wastewater Reclamation Act of 1991 authorizes the study, design and construction of a regional water reclamation and reuse system for southern California. Reclamation refers to the process of treating previously used water in order to recycle it for agricultural, municipal, and recreational uses. Congressmen RIGGS, CUNNINGHAM, LOWERY, DORNAN, DANNEMEYER, HUNTER, HERGER, GALLEGLY, and ROHRABACHER join me in introducing this important bill.

The Desalination Technology Act and Wastewater Reclamation Act combine to provide an effective, viable solution to the water problems which threaten not only California and the Southwest, but the Nation as well.

Since water is a limited resource, we must not only concentrate on conservation of freshwater supplies, but seek alternative technologies which allow us to reuse wastewater and convert saltwater into a usable supply. Our plan is to incorporate this legislation into the Clean Water Act, which will be reauthorized next year.

Our critical need to develop alternative water sources prompted the introduction of this package of legislation. It provides, in part, a solution to a dire situation. I ask my colleagues to cosponsor this legislation and support this effort.

Thank you.

LIMITED TAX RELIEF FOR POLICE OFFICERS AND FIREFIGHTERS

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mrs. KENNELLY. Mr. Speaker, I rise today to join my colleague from Connecticut, Representative ROSA DELAURO, in introducing legislation which would provide limited tax relief to police officers and firefighters who have become disabled because of heart disease or hypertension. This bill would not provide permanent tax relief for the disability benefits received by these employees; employees who often serve our cities and towns in the most hazardous of conditions. Rather, the bill would provide tax relief only for benefits received during 1989, 1990, and 1991.

These benefits were paid to police officers and firefighters who became disabled or died as a result of heart disease or hypertension. The municipalities that paid the benefits believed, in good faith, that the benefits were not taxable. The municipalities did not, therefore, report them as taxable income to the recipients or IRS. The disabled retirees and widows who received the benefits also believed, of course, that the benefits were not taxable.

Now IRS has ruled that the benefits are taxable because of an inadvertent technical flaw in the State statute under which the benefits are paid. IRS is seeking back taxes, penalty, and interest for 1989, 1990, and 1991 from these disabled workers or their widows. These are people caught in a technical mistake, not of their own making, who can ill afford the financial hardship the IRS ruling will cause. The technical mistake in the State statute can be fixed by 1992 so that future benefits will be indisputably tax exempt. This bill will give justified and fair tax relief to disabled police officers, firefighters, and their widows for the prior years over which they had no control. I urge my colleague's support.

THE 35TH ANNIVERSARY OF HUNGARIAN REVOLUTION

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. DWYER of New Jersey. Mr. Speaker, as we know, in October of 1956, a student demonstration in Budapest started the Hungarian Revolution. The revolution was crushed by the Soviets within a matter of days and the aftermath for the participants involved in the uprising proved to be brutal.

It is estimated that 150,000 people were deported. Even today, the fate of many of these people can only be surmised. Many other freedom fighters were left no choice but to leave Hungary if they wanted to live.

As they were primarily students, the Hungarians who left were young people, some as young as 14 years of age. The choice they made was an extremely difficult one because they left their homes and their families. It is hard to conceive of our children or grandchildren in this same situation, forced to go to foreign countries in order to escape death.

Fortunately, many of these young men and women came to America. They began new lives in a land of freedom. And, because they were mostly alone, they gravitated to clubs where the newly arrived Hungarians could meet others in the same circumstances and maintain their ties with their rich cultural heritage.

In my congressional district one such club is the Hungarian American Athletic Club [HAAC]. Affectionately known throughout New Jersey as the HAAC's, the club has been a magnet for Hungarian Americans in central New Jersey. It was a haven for the freedom fighters who escaped the retribution of the Soviet Army. Over the years it has become a social club, continually meeting the needs of its members. It is a place where Hungarian Americans can maintain friendships and enjoy the activities sponsored by the HAAC's. And, it is still a place of refuge where Hungarian Americans can share in a common history, one which is not always a happy one; but one of which everyone can be proud.

Last Sunday, October 27, 1991, the Hungarian freedom fighters gathered at the HAAC to commemorate the 35th anniversary of the 1956 revolution. More than 200 people attended and New Jersey Governor Florio signed a proclamation marking October 23 as a historically significant day. Mr. Speaker, we are a richer nation for the contributions of Hungarian Americans and it is appropriate to share with them in the commemoration of their valiant struggle, which has certainly been a forerunner to the democratic change which has swept Eastern Europe.

U.S. POSTAL SERVICE MIAMI DIVISION HONORS THOSE WHO SERVED IN OPERATION DESERT STORM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize the Miami division of the U.S. Postal Service which is honoring 77 of its employees who served in the Persian Gulf during Operation Desert Shield and Operation Desert Storm. The ceremony will take place on November 10, 1991 at the new South Florida Mail Processing Center in Pembroke Pines.

The 77 employees were among the more than 500,000 U.S. soldiers, sailors, and airmen who answered their country's call to duty by fighting for freedom in the Persian Gulf. These 77 Miami area postal workers were also among more than 2,500 postal employees nationwide who were members of military reserve units which served in the Persian Gulf.

The ceremony will begin with honor guards from American Legion Post No. 22 and National Guard Explorer Post No. 62, followed by the singing of the national anthem by Leon Gliatta, a retired postal employee and veteran from Miami. Miami Division Postmaster James Walton and two air force captains from Home-

stead Air Force Base, Glenn Lawson and Anthony Cerbins, are scheduled to speak. As part of the ceremony, each veteran will receive a first day cover of the stamp honoring those who served in Operation Desert Shield and Desert Storm which was issued by the U.S. Postal Service on July 2. There will also be a special ceremony for one of the veterans who passed away since returning from the Persian Gulf, Bonnie Olsen. The speech for a fallen comrade will be recited as taps are played in her memory.

I would also like to take this opportunity to thank those Miami area postal employees who served our Nation in the Persian Gulf. They include Robin Anderson, Luis T. Andrade, Robert G. Banks, Johnny F. Barber, Sylvester L. Barnes, Victor Binando, Joann Blake, John M. Boland, Willie F. Bradshaw, Carl E. Bullard, Andrew Canizares, Jerry G. Chapman, Joseph A. Cofelice, Louis C. Cooper, Stuart G. Coote, Paul V. Danyi, Michael Diaz, Thomas R. Dickie, Alan S. Dixon, Judy A. Evans-Goa, Giraldo Fernandez-Guerra, Paul V. Foote, Lolito U. Gapud, James A. Genna, James T. Glass, Robert L. Gooden, Edward B. Graham, Willie L. Hamilton, Jr., Donald Hammond, Vonnie L. Harps, Bruce K. Hayes, Gene V. Hayes, Ronald C. Hill, Curtis Hinson, Jr., James Hudson, Jennifer K. Hunter, Atilio Jarquin, Darryl K. Johnson, Gerald M. Jones, Michelle Y. Kunzig, Robert W. Long, Marc W. Malavasic, Ronald B. Mann, Charles S. McBride, Terrence F. McGrath, Carol E. Monday, Johnny D. Niedzwiedzki, Raul Oliverarivera, Bonnie Olsen, Terry L. Overly, Ana M. Pagan Vigay, Jimmie L. Persons, Jr., Jimmy L. Phinazee, Jesus O. Rizo, Bobby G. Roberts, Wrenford O. Rogers, Robert T. Ryan, Naomi R. Sandell, Beverly J. Sanders, Michael E. Sheely, John L. Simpson, Carlton Smith, Glenn R. Spear, Warren L. Steele, Sebron A. Thomas III, Billy J. Thornton, Orlando L. Torres, Joe Walker, Deloris M. Watson, Jackie R. Watson, James N. Watson, David E. Webb, Nathaniel White, Theodore Williams, Michael T. Woods, William T. Young, and John J. Zielsdorff.

VIOLENCE IN YUGOSLAVIA

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. SIKORSKI. Mr. Speaker, since June, the world has been watching the growing horror and bewilderment as the violence in Yugoslavia has exploded. Despite the efforts of the European Community to broker 10 cease-fire agreements between the Republic of Croatia and the Yugoslavian Army, we continue to witness the destruction of historic cities, and the slaughter of innocent men, women, and children. The savagery and deep-rooted hatred that has marked this conflict have clearly demonstrated that the price of American indifference and indecisiveness will be the continued destruction of human life.

I would like to take the opportunity to commend my colleagues, the gentleman from Pennsylvania [Mr. KANJORSKI], and the gentleman from Wisconsin [Mr. KLECZKA] for the timely and critically important resolution that they recently introduced in this body. This resolution is particularly helpful because it states unequivocally that the United States will not associate itself with any group that continues to perpetuate the fighting. The importance of this resolution—and the reason I am pleased to be one of its cosponsors—is that while it refuses to take sides in the underlying ethnic dispute in this crisis, it offers the Bush administration concrete options for taking decisive action against the perpetrators of this bloodletting. The resolution correctly points out that the United States is uniquely positioned to influence the United Nations and the various international financial institutions to level meaningful sanctions against aggressive and expansionist forces.

It is unbelievable that the United States administration can stand aside as the Yugoslavian Army systematically reduces the cities of Dubrovnik and Vukovar to rubble. I find it equally incomprehensible that the administration is apparently unmoved by the sight of humanitarian aid workers falling prey to snipers and mortar attacks as they attempt to rush food and medicine to the beleaguered cities. How many innocent civilians have to die? How many cities have to be devastated by artillery barrages? How many ambulances and humanitarian workers have to be strafed before President Bush decides that this crisis is worthy of his attention? While we should applaud the efforts of the European Community to broker an agreement, it is clear that the United States must play a much more creative and energetic role in this crisis.

It has been extremely sobering to watch the disintegration of Yugoslavia. It has been even more painful to watch the central government attempt to squeeze the life out of the Croatian Republic. We should not attempt to render judgment on the conflicting national and ethnic claims that swirl around this conflict. However, we have both a right and responsibility to demand that a peaceful settlement is pursued and fundamental human rights are protected. The price of America's silence has already been too high.

EDWARD SEGAL, GRAND CHANCELLOR OF THE PENNSYLVANIA KNIGHTS OF PYTHIAS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. BORSKI. Mr. Speaker, I rise today to honor Edward Segal, who will be honored by the Pennsylvania Knights of Pythias on November 2.

Mr. Speaker, the Order Knights of Pythias, to which Edward Segal gives his time and talent, was founded in Washington, DC in 1864. Established during the Civil War, it was hoped the Knights of Pythias might help to heal the wounds and allay the hatred of the war's conflict.

Edward Segal has dedicated his life to the service of others through the three cornerstones of Pythianism, which are friendship, charity, and benevolence. Edward has served as chairman of Kinkora Pythian Home for the Aged and has supported public awareness needs in safety poster, public speaking, and essay contests.

Edward Segal is a former police officer, deputy sheriff, and is presently a private investigator. He is an active citizen in his community and is dedicated to the principles of his religion.

All of this, plus many other contributions, led his peers to select Edward Segal as the grand chancellor of $10,000 members of the Pennsylvania Knights of Pythias.

On November 2, the Barbarossa Lodge No. 133 of the Knights of Pythias will honor Edward Segal for his service. I join the Barbarossa Lodge and all of Edward's friends in tribute to him.

A SALUTE TO THE HIGHLAND GUARD FLAG TEAM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues an article from the Courier-Journal of October 16, 1991, concerning the Highland Guard Unit from the American Legion Highland Post 201 of Louisville, KY.

The ceremony of "posting the flag"—putting the flag on display—has been perfected to such an extent by the Highland Post Guard Unit that this flag team captured the national American Legion title in the flag posting competition which took place over the Labor Day weekend. In the process, the Highland Post team beat out 13 competing teams from around the Nation.

The pride that the Highland Post Guard Unit demonstrates in putting "Old Glory" on display brings distinction to Louisville and Jefferson County, and illustrates the true meaning of the word "patriotism." Many who have seen this troop perform have said that their performance brings tears to the eyes of those who honor and respect the American flag.

I salute the members of the Highland Post Guard Unit: Mr. Russ Stone, Mr. Brent Bosler, Mr. Pat Conway, Mrs. Elaine Conway, and Mr. Roger Ballard.

Mr. Speaker, I place the Courier article in the RECORD at this point for the pleasure of my colleagues.

[From the Courier-Journal, Oct. 16, 1991]

LEGION SALUTES HIGHLAND FLAG TEAM

(By Martha Elson)

In its quest to "foster and perpetuate one hundred percent Americanism," as its constitution says, the American Legion places heavy emphasis on proper display and respect for the flag.

Posting the flag—the ceremony of putting it on display—isn't just a routine duty among Legionnaires. It's practically an art form, and it's given rise to colorful national competitions in which uniformed units try to outshine, outmarch and out-maneuver each other in carefully choreographed routines.

Over the Labor Day weekend, the five-member Highland Guard unit from Highland

Post 201, 2919 Bardstown Road, captured the national American Legion title in Phoenix, Ariz., beating 13 competitors.

"They're awesome, I tell you, if you ever see them perform," said Sue Wilcox of Jeffersontown, who makes sure everyone's epaulets are on straight and otherwise helps prepare them for competition. "These guys stand out wherever they go."

"I like putting on a show," said guard member Brent Bosler of Jeffersontown, who is also a musician in a local band. "What better way to do it than with flags?"

Guard member Russ Stone of Oldham County, a Vietnam veteran and Purple Heart recipient, said the unit's members knew they had done well at the national competition when the audience gave them a standing ovation after their final salute to the judges.

I even brought tears to one commander's eyes, said guard captain Pat Conway of Jeffersontown, also a Vietnam vet.

The guard wore attention-grabbing, full-dress Scottish army uniforms, complete with kilts. Each uniform cost about $1,000 and was authentic to the last detail.

The second-place finisher was an all-female team in Minuteman dress from Ames, Iowa.

A banner draped across the front of the Highland post announces the victory, and a celebration party is planned.

The Highland post also won national color-guard titles in 1983 and 1984 with a larger group that wore trousers instead of kilts and used the name of The Highlanders. The post's original color-guard unit was formed in about 1948.

The current unit won a plaque, a flag and $300 for the post, which underwrites the group's expenses.

"Quite naturally, I'm thrilled to death with it," said Highland post adjutant Les Brown, a past color-guard member and a World War II veteran.

The members of the Highland Guard are in their 30s and 40s. They march in local parades, such as the Fourth of July Defenders of Freedom parade in St. Matthews and the St. Patrick's Day parade in Louisville. They also post colors during opening ceremonies at events such as the annual tractor pull at the fairgrounds, and they serve as a firing squad at funerals.

"To have a group like this, to work year-round, to represent the post, makes us all proud," Brown said.

Guard member Stone, an electrician who has been a member of the unit for four years, also plays pipes and drums in the Louisville Pipe Band. Conway is a General Electric Co. employee who has been a guard member for 12 years.

The other members are his wife, Elaine Conway, an office manager for a printing company, who also has served 12 years; Roger Ballard of Buechel, a coffee salesman and another 12-year member; and Bosler. Bosler is marching in the footsteps of his father, who was a member of a Highland color guard in the 1950s.

As a video of a performance illustrates, the current guard executes a high-stepping, no-nonsense routine that requires grace, precision, poise—and the strength and agility to toss heavy rifles back and forth without clobbering each other.

"We never get too close," said Elaine Conway.

Brown said it's their military precision that makes them champions.

Elaine Conway said the Highland Guard is the only competitive American Legion group in the state.

Competitors are docked for such infractions as lint on uniforms, boot heels slightly apart or rifles held at the wrong angle.

Wilcox said it takes "total dedication," and Conway said people sometimes drop out of the group when they find out how much time and effort it takes. They are not paid by the post, and they donate any money they're paid to perform to the post or charity.

But despite the demands, the members of the group say it gives them a chance to represent America and honor their country.

Until Desert Storm, Roger Ballard said, he thought "patriotism was kind of slipping away." But, he said, "it's very important to keep it up."

POLISH-AMERICAN HERITAGE MONTH

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. DINGELL. Mr. Speaker, late last month the House approved Senate Joint Resolution 125 which designated this October as "Polish-American Heritage Month." This resolution was signed into law, Public Law 102–115, by the President on October 3.

As a cosponsor of this resolution and as a proud Polish-American, I know that this resolution is very much appreciated by the millions of Polish-Americans who have helped to build our Nation. From hometowns from coast to coast, and throughout my home State of Michigan, the contributions of ethnic Poles deserve the recognition which is being given to them this month.

Over the past couple of years, Polish-Americans have felt a particular sense of pride as Poland led the democratic reform movement in Eastern Europe. Last week's Parliamentary elections are only the latest example of bold steps that Polish people have taken to ensure that our native homeland might find the opportunities that can only be afforded through democracy and a free market economy.

Mr. Speaker, the road that lies ahead for Poland is not a smooth one. There are many challenges that lie ahead, including the formation of a ruling coalition that can deal effectively to complete Poland's reform efforts. As the process goes forward, I urge all Polish people on both sides of the Atlantic to continue their faith in the principles that have delivered them from the grip of communism, and to personally dedicate themselves to supporting this transformation in the most effective possible manner.

FEES FOR UNION REPRESENTATION OF FEDERAL WORKERS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mrs. MINK. Mr. Speaker, it was my privilege today to introduce a bill long overdue across this land to remedy an unfairness endured by labor organizations that serve as exclusive representatives of Federal workers.

I refer to title V of the United States Code relating to Government organizations and employees—section 7114, on representation rights and duties.

Mr. Speaker, the civil service has a number of labor unions recognized as exclusive representatives of employees in clear and appropriate units as determined by the Federal Labor Relations Authority.

These unions are some of the proudest and most revered in the labor movement, fully knowledgeable, and capable of representing the best interests of its Government worker members. They are entitled to act for, and negotiate collective bargaining agreements covering all of their employees in a unit, without discrimination and without regard to labor organization membership.

What has occurred, however, is that thousands of nonunion member employees of civil service units have literally taken advantage of union representation services without charge or payment. In the meantime, actual union membership, which can be only a small proportion of the total workers in a particular trade, have supported the facilities, personnel, and services of the union through their membership dues month after month, year after year.

Mr. Speaker, it is only fair that these nonunion recipients of union representation be required to pay for such services. And that is the purpose of my legislation, that "in cases in which an exclusive representative represents a nonmember employee, such employee shall be required to pay such representative a reasonable fee as determined by the—Federal Labor Relations—Authority."

In order for all segments of our civil service to be fairly and effectively protected under the terms of title V of Labor-Management Relations in the Federal service, such payments for services is unquestionably necessary for this system to survive. It is unfair that nonmembers are allowed to drain the capacities of exclusive unions so everyone suffers. It is shortsighted that such a policy would be allowed to slowly but inexorably bleed the labor unions dedicated to the welfare, security, and benefit of Federal employees.

I urge my fellow members to apply common sense and fair play to this matter, and support this bill to require reasonable fees from nonunion members who utilize union services.

MIDDLE SCHOOL CHIEF CITES TEAM EFFORTS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. LEVINE of California. Mr. Speaker, I rise today to salute Ilene Straus, principal of Lincoln Middle School in Santa Monica. Ms. Straus was recently named outstanding secondary school principal for the State of California. This is a truly remarkable achievement, particularly because she was given the task, as principal, of turning a traditional junior high school into a reconfigured middle school without additional budget or staffing privileges. Because of her commitment to parental involvement, the community and the school are now part of one another. Every month 50 to 75

visitors come to Lincoln to observe middle school education at its finest.

Ms. Straus has moved Lincoln Middle School into the forefront of educational change in California. She has sought out and obtained free counseling for students from outside community agencies. She has succeeded in involving corporations such as Gillette-Papermate, which provides Lincoln with not only money, but human resources as well as including a pilot math tutoring program. Throughout her endeavors, she has enjoyed the support of her husband Joe, and her two children Julie and Andrew.

As a tribute to Ms. Straus, I would like to include in the RECORD the following article on her stellar accomplishments from the Santa Monica Evening Outlook of June 2, 1991. I ask that my colleagues join me in honoring Ilene Straus for a job well done.

SANTA MONICA'S LINCOLN MIDDLE SCHOOL

Principal Ilene Straus knew she created something good at Santa Monica's Lincoln Middle School, but she always insisted on sharing the credit for turning around the once troubled facility.

This week, however, Straus had trouble downplaying her efforts after being named the Outstanding Secondary School Principal for the State of California, an award given annually by the National Association of Secondary School Principals.

Still, she said the award was not all her doing.

"It's really this community, the parents, the kids and the school district all working together that made Lincoln what it is today," said Straus as she toured her campus commons during lunch hour Friday. "Everybody here shares in the success of this place."

She admits the award caught her off-guard. "The truth is, you get nominated for awards all the time, but you never really except to win them."

Humble as she may be, the award is a coup for the 9,000-student Santa Monica-Malibu Unified School District. Straus, 41 was selected from a field of several hundred principals of middle schools and high schools to represent the state at a national conference—the Symposium for Excellence—in Washington, D.C., next fall.

This is the eigth year of the program, which selects the outstanding principal from each of the 50 states, the District of Columbia, Puerto Rico and American Samoa.

Criteria for being selected the outstanding principal include: Anticipating emerging problems and acts in an effective way to resolve them; working to improve the educational program and student achievement; creating a positive school climate that reflects high morale; moving actively to implement to goals and objectives of the school; and working to have the community involved in the life of the school and using the community resources for students.

"I'm really proud of that list," Straus said. "It shows the kind of place Lincoln has become."

When she arrived at Lincoln five years ago from the Lennox school district, things were not good at the 925-student school

There was a graffiti problem, its image was not the best and it was struggling amid a transition from a junior high—grades seven through nine—to a middle school—grades six through eight.

District officials credit Straus with turning Lincoln into a national model for middle schools.

The campus is clean, clear of graffiti and efficient.

Student test scores have risen dramatically. Each month about 100 educators from across the country visit the school to see what makes it tick.

"We've turned this place into a model," said Straus, who lives in West Los Angeles. "Everyone wants to know how we've done it. We've done it with hard work. And we've done it in time when education has been under the gun. We've really succeeded against the odds."

Though a national award may not mean a lot to her students, they have a great respect for Straus.

"She's very encouraging and always has something good to say," sand Glenda Tistaert, an eighth-grader.

"She talks to us and makes us feel good about ourselves," said Bonnie Gregory, also in eighth grade. "She's like a kid."

Lev Ginsburg, an eighth-grader, said Straus "get the job done."

"She's the kind of person who will step in and settle problems," he said. "And she gets to know everyone here. There are no blank faces, she knows us all."

Straus said she has no intention of moving on now that she has won national recognition for her work.

She says she loves her school and Santa Monica.

"This age group is by far the most challenging and most rewarding to work with," she said.

"Raging hormones can make life very interesting. Every day is something new. It's never the same thing twice, never boring. This job is by far the best of my career. I've never been happier with my life and my work."

BACARDI IMPORTS HONORED AS 1 OF TOP 10 HISPANIC BUSINESSES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize Bacardi Imports, Inc., which was recently selected as 1 of the 10 most important Hispanic businesses in Dade County by the Greater Miami Chamber of Commerce and the Hispanic Heritage Council.

Along with the other businesses, Bacardi Imports was presented with this award at the Omni International Hotel at a luncheon honoring these distinguished firms. The businesses were selected from a list of the 100 most important Hispanic firms in the United States which was published in Hispanic Business magazine.

Greater Miami Chamber of Commerce President-elect Carlos Arboleya said that these firms were selected for their efforts for the Hispanic community and for their contribution to the economic development of Dade County.

Accepting the award for Bacardi Imports was Executive Vice President Steve Naclerio, who said he was very proud of all his firms's employees who had worked so hard to make it one of the most important businesses in Dade County.

I would like to take this opportunity to thank Bacardi Imports for the contributions it has made to the economy of south Florida, providing economic opportunity and development for the people of the Miami area.

THE FAIRNESS TO POLICE AND FIREFIGHTERS BILL

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Ms. DELAURO. Mr. Speaker, today, I am joined by the other Members of the Connecticut delegation in introducing a bill to protect certain retired police and firefighters from punitive action by the Internal Revenue Service [IRS]. My bill will stop unfair, retroactive prosecution of these retirees, and save hundreds of families from the possibility of financial ruin.

The IRS proceedings stem from an internal ruling that benefits paid to police and firefighters under, Connecticut's heart and hypertension statutes are not workers' compensation benefits and are therefore taxable. This decision contradicts the intent of the statutes and threatens over 1,000 unknowing Connecticut retirees or their widows with potentially devastating back taxes, interest, and penalties. The members of the Connecticut delegation find this unacceptable treatment for those who risked their leves every day to protect us and keep us safe in our homes.

Retirees who are receiving these benefits were never informed by their employers that their benefits were taxable and acted accordingly. Twenty years after the law was written, the IRS decided in July 1991, that the State's law is not in fact worker's compensation.

Connecticut cities have been ordered to submit to the IRS their complete heart and hypertension records as far back as 1988. Both present and past recipients are in danger of being held liable for thousands of dollars of back taxes and interest. If the retirees cannot pay these taxes, the IRS will levy penalties against them.

The Fairness to Police and Firefighters Act only asks what is fair: It instructs the IRS to end all retroactive prosecution of these retirees. The Connecticut State Legislature is working on altering the statute to satisfy the IRS, so this bill does not address the tax status of future payments. We are hopeful the IRS will see the injustice in retroactive proceedings and allow Congress the Opportunity to correct it.

I am happy to have the entire Connecticut delegation as original cosponsors.

REPORTS FROM THE THAI-CAMBODIAN BORDER

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. ATKINS. Mr. Speaker, I rise today to share with my colleagues several recent reports from the Thai-Cambodian border. Many of you have seen the news reports about the refugee camp known as Site 8, where the

Khmer Rouge military removed the civilian administrators from the camp and threatened to force the camp's population to return to malaria infested jungles within Cambodia. This news should not surprise us—we should know better than to believe that the Khmer Rouge have changed their ways. These eyewitness reports from the border tell a story of terror and cruelty that is being relived this day by the Cambodian people.

[October 14, 1991]

REPORT OF SUSAN B. WALKER, REGIONAL DIRECTOR OF HANDICAP INTERNATIONAL

On September 30 the civilian Khmer Administration of Site 8 camp (UNBRO camp with 43,000 refugees under Khmer Rouge administration) was invited to Khao Din (inside Cambodia) for a meeting with the DK leaders. They did not return and on Thursday, October 3 a five person (4 men, one woman) Khmer Rouge military administration came to the camp and announced that they were the new admin and that the old admin had been re-assigned to new jobs. Several wives of the old admin tried to see their husbands to no avail. Many relatives of the old admin reported to the International Organizations working in Site 8 camp that this was not a voluntary move.

On Monday, October 7 the new KR "Admin" met with UNBRO/CICR and told them that this change in Admin was a routine change and that the old Admin had new jobs. They also announced that Site 8 would be moving to the interior of Cambodia during the dry season. When questioned when this would be they replied "November or December". In the afternoon the new KR military Admin (three out of five are high ranking KR military) called approximately 50 Khmer leaders in the camp (section leaders, heads of associations, head of hospital, etc.) for a three hour meeting and announced that the camp would be moving by the end of October. In order to prepare for the move they wanted 40 leaders in the camp to go into Cambodia, perhaps as soon as the next day (October 8). They were told that they would not be "forced" to go, but it was their duty as leaders in the camp to go and if they did not they would be considered traitors . . . In a subsequent meeting on Saturday morning (October 12) they were told that the list has been expanded to 200 persons and that they WOULD MOVE (again "voluntarily") on October 15. The 200 received a typewritten note from the new "Admin" this morning to say that the date had been delayed until October 20. To date none of the 200 have volunteered to go. There are confirmed reports of 200 KR military in the camp. The UN, ICRC and NGOs have received written requests for protection which cover more than 300 persons.

The people in the camp are understandably terrified and say that if KR military came to get them during the night, they would have to go because they are too afraid to say no. There are many reports of doctrinaire KR statements being made (i.e. do not read foreign literature because "it is the base of foreign ideologies and is not in the interest of our people and nation", etc.). The International Organizations have instituted a night-time expatriate presence in Site 8 since Monday, October 7 (date approximative, not confirmed), which seems to have provided some reassurance to the Khmer in the camp, which is superficial because two or three expatriates cannot really provide protection in case the KR military decides to move people out at night. It does however reassure the Khmer that the int'l community is doing all it can to resolve the situation.

There have been a number of demarches made by the U.N. (cf. attached press statement made by the U.N. Secretary General's Special Representative, Shah A.M.S. KIBRIA on October 12) and diplomatic front with high ranking Thai officials with intentions in the near future to contact PERM 6, UN Secretary General, SNC and DK representatives to try and prevent this tragedy from happening. There have also been numerous presse reports (cf. attached) which are now appearing daily since October 9. Nine NGO representatives (including Handicap International and MSF) also met with the United States Ambassador to Thailand on Saturday, October 12 to relay our concerns. Several NGO Representatives (including Handicap International) will be meeting the British Ambassador to Thailand tomorrow, October 15 for the same purpose.

In my twelve years of working with the Khmer on the border (since December, 1979), this is the worst human rights situation I have witnessed in a UN administered camp. This is tragic given the fact that peace is within grasp and the peace accords are due to be signed in Paris on October 23. Will this be a case of "peace at all costs" . . .? If the Khmer Rouge succeed in moving the population of Site 8, this will be a clear violation of the spirit and letter of the Paris Peace Accords. Do not be fooled by the continuous announcements that these moves will be "voluntary"—they certainly will not be but, given their tragic and painful memories of past experience with the Khmer Rouge between 1975–1978, they are too terrified to say no unless they are guaranteed international protection and given assurances that the KR will not have access to them if they refuse.

It is the responsibility of the international community, particularly the UN Secretary General, the PERM 5 and the Royal Thai Government, to prevent this tragedy from happening. It would be a sad commentary on all the efforts made by the UN and the PERM 5 to have forced repatriation occur on the eve of the signing of the Paris Peace Accords.

The UN/ICRC/NGOs are unanimous in their conviction that this situation is extremely serious. If the population of Site 8 is moved to the interior of Cambodia, it will be to zones which are malaria infested, riddled with mines, lacking food and medicines and many people will certainly die as a result.

There is an urgency to pursue the following strategy:

1. The PERM 5 and UN Secretary General must make every effort to prevent this from occurring by urging the Thai Government to do everything in its power to stop any movements from Site 8 and other camps until it is safe for the refugees to return under an organized UNHCR repatriation plan. Demarches must also be made with the DK and SNC to pressure them to abandon these plans for premature and unsafe movement.

2. The Thai military should "seal off" Site 8 camp to prevent involuntary movements and provide protection.

3. The ICRC and UNBRO should be granted permission to transfer those who have requested protection and desperately wish to be moved to another camp, to be transferred to another UN camp along the border (preferably Khao I Dang which is not under any Khmer Administration and is safer at night than border camps which are subject to bandit attacks and easily accessible by KR should they desire to reach those who have "deserted" their ranks . . .).

Conclusion: It is paramount that the international community react strongly and swiftly now to prevent another human tragedy from occurring and to prevent the demise of the Paris Peace Accords only nine days before they are due to be signed on October 23, 1991.

[October 21, 1991]

REPORT OF SUSAN B. WALKER, REGIONAL DIRECTOR OF HANDICAP INTERNATIONAL

SITE 8, THAILAND.—I am writing this in the truck on the way back from Site 8 which I just left a few minutes ago. Having spent several hours there speaking with Khmer, international organizations and NGOs, I continue to find the situation very alarming with the camp population still afraid that they will be forced to move to Phnom Preuk inside Cambodia—an area which is strewn with thousands of mines, malaria infested, lacking food or any kind of medical care (except for the KR military).

One Khmer said to me yesterday that a person who has recently been inside Cambodia was quoted as saying, "The Khmer Rouge treat people like dogs, like animals—there are many, many children and even men and women dying of malaria and mines in these zones."

This morning at 0600h a woman arrived walking to the Cama Hospital at Site 8 carrying her baby who was critically ill with malaria and practically comatose. When questioned as to where she came from she replied that she had left her village in the interior at 2200h last night and walked alone carrying her baby through the night for eight hours to reach Site 8 because she thought her baby would die. They have been transferred to Kid where hopefully the baby can be saved. (NB: the KR trucks which used to transport critically ill patients from the interior have stopped coming since the change in administration three weeks ago. I also heard today that Khmer are being charged 500 baht per family to transport the patients.)

Another Khmer with whom I spoke this morning said they (this person and several friends) had just returned from Phnom Preuk where they had spent several days to "check out the situation before moving because it was inevitable the camp population would be forced to move back eventually, if not at the announced dates of October 20–23." These persons came back saying they would never move their families back because: "The situation is very bad. Even though there are three tractors clearing land, it is still full of mines. It is in the jungle and there are millions of mosquitos and no medicines. There is not enough food and not even enough water (NB: and we are approaching the end of the rainy season in Thailand/Cambodia). Only those who live near the river have enough water, but the river is one kilometer away. And the river is very small so during the dry season, it may not have very much water."

Those of us in the field have been very pleased with the international outcry at the detention of the former Site 8 administration and the threats of forced repatriation of Site 8 by the end of October. The Thai foreign minister, the UN Secretary General, the Perm 5 countries plus many embassies in Bangkok, the UN Secretary General's special representatives in New York and Bangkok, UNHCR, UNBRO, ICRC and many NGOs have all made strong statements or demarches against this violation of the spirit and letter of the draft Paris Peace Accords. But our fear, and more importantly the fears of the

Khmer in Site 8 (and other camps), has not subsided.

Due to international pressure the threatened moves have hopefully been delayed until at least October 23. However, I have not spoken to anyone yet (int'l organizations, NGOs or KHMER themselves) who believes the DK leaders have changed their minds about moving the camp.

The Paris Peace Accords will inevitably be signed on October 23, in spite of the violation of the draft accords which occurred on October 3 when the elected administration and some section leaders of Site 8 camp were detained against their will in Cambodia (in spite of denials from DK leadership) and replaced by a military administration. There have even been reports that some of the old administration do not have enough food and one is sick even though the official line is that they are fine, they have new jobs and this was just a routine change. Khieu Samphan announced in the presse on October 17 that, "they went of their own free will to settle inside Cambodia and to have lands for their families. . . . All the committee members can return to the camp whenever they want to. No one has been detained by the democratic Kampuchea Party." As one Khmer said to me this morning at site 8, laughing in the Asian way, "But, we have not yet seen them. . . ."

The signing of the Paris Peace Accords on October 23 will be a historic, welcomed and long-awaited occasion for the 8 million Cambodians and 350,000 KHMER refugees waiting on the Thai-Cambodian border to return home one day. The Perm 5 and other national, the int'l community through the United Nations, the Khmer parties themselves and all participants who have made this historic event come to pass two days from now are to be lauded for their efforts. We can only implore you to make certain that all parties adhere to the terms of the accord which provide for, inter alia, that the UN Sec. General will facilitate the repatriation in safety and dignity of the Cambodian refugees and displaced persons in accordance with the guidelines and principles on repatriation set forth in annexe 4 of the Paris peace agreements.

We in the field urge the international community to:

1. Continue to ensure that the principles outlined in annex 4 of the Paris Peace Accords are adhered to, until such time as all 350,000 Cambodians on the border can return home safely, with informed free choice as to location of their return and of their own free will.

2. Urge that the Royal Thai government seal off Site 8 camp to prevent any forced movements, particularly at night. (Although the DPPU is doing an exemplary job with the staff they have, to date there has been no increase in Thai military presence around the camp and armed Khmer Rouge soldiers continue to enter Site 8 at night.)

3. Urge the Royal Thai government to reopen Khao I Dang, the only camp along the border not under Khmer administration, for the transfer of protection cases. To date, only a few persons have been moved as protection cases and these to Site 2.

4. Ensure that expatriate night presence at Site 8 can continue to be provided, although admittedly this only provides reassurance to the Khmer population of 43,000 in the camp and not real protection.

On behalf of the Khmer who continue to be frightened and request protection, but are reassured by the international response to date, Akun Charan (Merci Beaucoup en Khmer). The international community must prevent their being forced back to "killing fields" after October 23.

[October 30, 1991]

REPORT OF THE COALITION FOR PEACE AND RECONCILIATION IN CAMBODIA

For the good news . . . It has been two weeks since our last faxed ALERT Update. The dates announced by the new administration of Site 8 for the return of the 200 community leaders to the 'zones' has come and gone. The threat of the entire camp population being moved over the border on October 20–23 did not occur. There is no doubt international pressure helped to at least postpone these events. These events would have seriously jeopardized the peace accords themselves.

Statements and words of deep concern were expressed by the Thai Foreign Minister, the UN Secretary General, the UN Special Representatives for Cambodia in Bangkok and New York, the Representatives of the Permanent 5 members of the Security Council, the Co-ordinating Committee of the Paris International Conference on Cambodia (PICC). Many donor country embassy officials also expressed concern, as well as officials of the international organizations (ICRC, UNBRO, UNHCR), human rights organizations and numerous NGOs. Many private individuals concerned about the fate of the Khmer people in this peace process have written or made private interventions. The media has been invaluable in bringing the threat to the world's attention.

The people of Site 8 are becoming aware of the world wide concern for them and their right to a freedom of choice as per the Paris Peace Accords. The international organizations and the relief workers of the NGO community are trying various means (video and audio cassettes, pamphlets and flyers, loud speaker announcements, etc.) to disseminate repatriation information to the population.

The UNHCR has begun its pre-registration campaign in Site 8. In the pre-registration process heads of households are interviewed so as to ascertain where they would like to return to in Cambodia once the official repatriation process begins. Initial results show the great majority of people interviewed so far are choosing their villages of origin, and return with the UN, as opposed to the Khmer Rouge recommended areas.

Night presence has been established in Site 8. At the moment only field staff of UNBRO, UNHCR and ICRC have permission of the Thai authorities to do so. This is demanding a lot of an already overworked UN field staff. Permission has been requested by UNBRO to the Thai Authorities to allow NGO relief workers to assist in this effort. International night presence has been found to be a great moral support to the camp population. It is acknowledged it would take more than moral support to prevent a forced repatriation in the middle of the night.

For the bad news . . . Despite assurances (in a statement issued on October 17, 1991) by Khieu Samphan and Son Sen, the Khmer Rouge representatives on the Cambodian Supreme National Council that "All the Committee members (the 16 detained administrators) can return to the camp whenever they want to. No one has been detained by the Democratic Kampuchea party"; only 4 of the 16 men have since returned to Site 8. It was reported that the 4 were sent back to Site 8 to pack their belongings and gather their families to return to the 'zones'. It has also been reported that 5 of the 16 are seriously ill, at least one man with cerebral malaria.

Despite assurances in the same statement that "the Democratic Kampuchea Party fully respects the principles of free choice . . . and voluntary repatriation," relief workers still report a climate of fear existing in the camp. Camp residents say the planned push back has only been postponed for the time being. There continues to be reports of Khmer Rouge soldiers moving in and out of the camp, persistent reports of "armed elements". Camp residents still get visits at night to 'discuss' repatriation plans. In oral and written announcements in camp, people are encouraged to spy on their neighbors and report "enemy agents and puppets spreading false propaganda" to the police, in a chilling replica of tactics of the past.

The community leaders in Site 8 are being strongly encouraged to return to the zones with the hope the camp population would follow. Although there were no 'volunteers' among the original 200 leaders invited to 'inspect land plots' in Cambodia, another 20 people reportedly have gone. Only 3 protection cases have been granted permission to go to another UNBRO-assisted encampment, out of a few hundred persons who have requested protection in the camp or transfer to another camp. Permission has not yet been granted. Khao I Dang, the only UNHCR camp along the border (UNHCR camps are administered by the UN; UNBRO camps are administered by the Cambodian factions), would be the best option. Trucked transfers of people continue to occur at night time, reportedly of patients who were brought in to Site 8 from the interior, and upon being discharged are returning. While the Khmer administration assures these are people who leave on their own free will, the UN has requested the opportunity to interview them in the day light.

The Thai government along with the Cambodian SNC and UNHCR have worked out the details of the declaration, "memorandum of understanding", regarding repatriation of the border population. This tri-partite agreement was due to be signed in Paris on October 24, but the parties failed to sign at that time. The signing of the memorandum has been postponed until next month in Phnom Penh.

Indeed all of the political factions along the border are refining their efforts at encouraging and enticing 'their' people to return to their zones in order to build up a support base for the upcoming elections. While not as dramatic as those of the Khmer Rouge, their alternative repatriation plans are not to be ignored.

In summary, despite continuous statements to the contrary, or that these moves will be "voluntary", the Khmer Rouge have not changed their plans, but rather only postponed them. We encourage you to maintain pressure, and even consider whom you would contact if you get a call/fax in the middle of the night that any camp along the border is being moved. We thank you for continuing to press immediately for the following:

1. Safe return of the 16 civilian administrators back to Site 8

2. Increased security in and around the camp, sealing it off to prevent ANY night movements out of the camp

3. Permission to transfer those people who have requested protection and transfer from Site 8 to another UN camp along the border (preferably to Khao I Dang which is administered by the UNHCR)

4. Assurance of continued night presence by expatriate staff in the camp

5. Guaranteed freedom of choice concerning destination and method of repatriation

under conditions and into areas deemed safe by UNHCR, as outlined in annexe 4 of the Paris peace accords

WATERGATE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. JACOBS. Mr. Speaker, one person's leak is another person's expose of a coverup. Watergate comes to mind.

REMARKS OF MR. PETER ZSCHIESCHE AT THE LAUNCH OF THE AOE-7 SHIP

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. CUNNINGHAM. Mr. Speaker, I rise today to share with my colleagues the remarks of Mr. Peter Zschiesche, business representative of the International Association of Machinists, District 50, Local 389 and the chairman of the Seven Union Coordinating Committee, at the occasion of the launch of the AOE-7 ship. On September 28, at the NASSCO shipyard in San Diego, this latest addition to the U.S. Navy was launched.

NASSCO is the last remaining shipyard on the west coast. It has a dedicated, quality work force and produces some of the best ships in the world. This is because of a partnership between management and labor and a commitment to excellence.

Mr. Speaker, I believe Peter Zschiesche's remarks on our maritime industry bear repeating. We are losing a bit more of our shipbuilding capability each year. It's not because we can't compete—it's because our competitors subsidize their shipbuilders.

I urge my colleagues to read Mr. Zschiesche's call to arms and to join me in supporting legislation to restore the shipbuilding industry to its traditional prominence.

SEVEN UNIONS SPEECH FOR THE AOE-7 LAUNCH AT NASSCO, SEPTEMBER 28, 1991

Welcome to all of you from our seven unions at NASSCO, an employee-owned shipyard. Bienvenidos de la parte de los siete sindicatos. La yarda es su yarda. Here at NASSCO we are carpenters, electricians, ironworkers, machinists, operating engineers, painters and teamsters. As NASSCO's production shipyard workers we live our working hours with this AOE-7 as it becomes another great addition to our U.S. Navy.

We, as well as the non-represented employees at NASSCO, are a very diverse group of people who have come to work at one of the last remaining shipyards in America. We have come from all regions of our vast country, including our own Southwest both north and south of our border with Mexico. We also have a long history of coming from Europe and a more recent history of coming from Southeast Asia and the Philippines.

We have come here to apply and develop a wide range of skills in our trades and to exert great endurance in overcoming the hazards and hardships that typify shipbuilding and ship repair.

Together we are survivors in a tough industry during tough times in America's basic industries. I question whether many of our leaders in industry and government want to keep our industries alive. But I know we and the rest of the American labor movement are in the forefront of the struggle to preserve these great creators of wealth that have made our country strong.

Above all, we advocate being tough on unfair trade which under the guise of so-called "free trade" has undermined the very existence of many basic American industries, including shipbuilding.

Look at our situation in shipbuilding. American shipyard workers make less than most shipyard workers in Europe and Japan, but they produce the majority of commercial worldwide shipping while we produce virtually none. How can this be? The answer is their government support their shipbuilding industries through such things as research and development funds, low interest loans, and export financing. Our government abandoned its support of American shipbuilding unilaterally in 1981 as part of its "free trade" policy. The problem is no one else followed this policy!

We need new trade policies that recognize the reality of unfairness in trade and deal with them. We need a share of the world commercial shipbuilding market if we are to survive as shipbuilders and shipyard workers into the 21st century. We must become advocates not of "free" trade but of "fair" trade.

Here in San Diego we need better support from state and local officials who also control our future through policies affecting our rent, parking, zoning and other regulations.

We are not second class citizens of America or of San Diego or on our waterfront. Our skills and endurance testify to that. So does the first class ship we launch today. The AOE-7. She and we will survive, will be strong, will be part of America's future. Thank you y gracias.

PETER M. ZSCHIESCHE,
Chair,
Seven Union Coordinating Committee.

WELCOME DR. KUAN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. LEVINE of California. Mr. Speaker, I rise today to recognize one of the beacons for democracy and freedom in China, Dr. John C. Kuan, who I had the honor of meeting last year when I visited Taipei. Dr. Kuan is one of the world's preeminent experts on the subject of Chinese American relations, and on the unification of China. He is currently in the United States as a visiting scholar at Stanford University's Hoover Institution, and on Sunday will be speaking to the Asia Study Center at Cal State University in Los Angeles.

Dr. Kuan is one of those rare individuals who has made his mark as a scholar, a political leader, and in the business world.

Currently, he is the chairman of the board of the Broadcasting Corp. of China, the principal television network in the Republic of China on Taiwan, and is chairman of the Democracy Foundation, a group of business leaders and scholars, which is dedicated to promoting freedom and democracy in a reunited China. In addition, he is also acting chairman of the Asia and World Institute, where he has conducted extensive research on the issue of the politically and economically divided China.

Prior to his current appointments, Dr. Kuan, who a graduate of the National Chengchi University and Tuft's Fletcher School of Law and Diplomacy, was assistant professor at the Graduate School of East Asian Studies at the National Chengchi University, and associate professor at the National Taiwan University. In those positions, he distinguished himself as an author and as an intellectual leader. He has published dozens of works on Chinese politics and international relations, and is one of the key influences on the thinking of his countrymen.

In addition to his illustrious career in academics, Dr. Kuan has been active in the political leadership of his country. He has been the chairman of the Taipei City Committee, and the Taiwan Provincial Committee of the Kuomintang, as well as Deputy Secretary General of the Kuomintang Central Committee.

Mr. Speaker, I ask my colleagues to join me welcoming Dr. Kuan to the United States, and in recognizing his many accomplishments.

FOUR TEACHERS RECOGNIZED FOR HEROISM

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. SCHUMER. Mr. Speaker, I rise today to pay tribute to four teachers, Martin Schwartzfarb, Marc Slazman, Jess Barnett, and Cindy Fields, who by their courageous actions helped to save another's life. On May 2, 1990, when their fellow teacher Judith Sherman was under attack at her school by a man armed with a knife, these four heroic individuals intervened on her behalf.

On that afternoon, as Ms. Sherman was leaving the school building an unknown assailant approached her, grabbed her face, and hit her. When she screamed for help, these four persons came to her rescue. At first, Mr. Schwartzfarb tried to pull the attacker away from Ms. Sherman, but he was thrown against a wall and suffered a broken leg. A few moments later, the other three succeeded in chasing the assailant away and thereby preventing him from causing further injury to Ms. Sherman.

Mr. Speaker, these four teachers offered their assistance to save the life of a colleague even when it meant risking serious injury to themselves.

All too often now, people who witness the commission of crimes will stand by and do nothing. But these people did not take the safe course. They did not simply watch or run away. They acted. And because they acted Judith Sherman is alive today. I am glad to take this opportunity to recognize their heroism.

ON THE OCCASION OF THE DESIGNATION OF SAN ANTONIO AS AN AMERICA 2000 COMMUNITY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. SMITH of Texas. Mr. Speaker, today San Antonio is officially adopting President Bush's six national education goals as their own and will be named an America 2000 community.

Adoption of the President's national educational goals shows San Antonio has a strong commitment to its future.

San Antonio already has a solid educational foundation with its public and private schools, colleges and universities. We also have a tradition of volunteers who have shown an active interest in education.

Education is the single, most important opportunity we can offer each citizen.

To do my part to promote education, I have been appointed to the San Antonio Coalition for Education board. As part of my duties, I plan to provide educational materials in history and civics for students and teachers to use in the classroom.

Great strides can be made toward improving San Antonio's educational offerings and the quality of life for all of us who live there.

POLICE OFFICERS' MEMORIAL DEDICATION

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. McGRATH. Mr. Speaker, on October 15, 1991, a memorial was dedicated in Washington, DC. Alongside the monuments to brave members of the armed services and Americans who have made historic contributions to freedom, science, medicine or the arts, this memorial is a tribute police officers who have given their lives defending our local communities.

Police forces throughout our Nation are a fixture in every neighborhood. From the one man sheriff departments in tiny towns in Middle America to the huge forces in our most populous cities, police officers are dedicated public servants who literally risk their lives for the protection of our families and property every day. Some have made the supreme sacrifice so that we may enjoy a safe, secure neighborhood.

No one can argue that our society can live safely without effective police protection. While we count on police to defend our lives and property, they are asked to play other roles depending upon a given situation. Our police officers are routinely thrust into the role of social worker, mediator, marriage counselor and community leader. Any of these are the thankless tasks which officers accept not merely because it has become part of the job, but because police officers care about their work and the people they protect. Certainly, police officers receive accolades for acts of bravery and important arrests. However, while dangerous arrests or shootouts often make headline news, much of a police officer's work involves potentially perilous encounters which end peacefully yet, take a demanding physical and psychological toll. Violent domestic arguments, bar fights, or traffic violators on dark roads all are conceivably life threatening confrontations which officers face nearly every workday. Throughout these mental ordeals our police officers continue to act with courtesy and professionalism.

Many times, police officers often are subjects of lengthy tirades by law-abiding citizens who may have been stopped for speeding or other lesser violations of the law. "You should be out catching the real criminals," irate people often tell officers. Actually, if we took more care to obey minor laws, our police officers would have more time to spend on dangerous criminals.

Each year, police officers are killed in the performance of their duty and more are seriously injured. Yet, despite the risks, our police continue to face the daily dangers of the job with the same determination and vigilance. On October 15, 1991, our Nation dedicated a memorial to the officers who have fallen in the line of duty. Many of these men and women have families who live in the very neighborhood where they worked and were well known and respected by the community. We can be proud of these valiant public servants who have given much of themselves for the benefit of others. We owe those who have fallen a debt of gratitude for their service, and their families have earned our deepest sympathies.

EDWARD M. HEETER, BUTLER COUNTY VETERAN OF THE YEAR

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. KOLTER. Mr. Speaker, I rise today to give recognition to Edward M. Heeter of Petrolia, PA, who has been chosen as the 1991 Butler County Veteran of the Year.

Ed Heeter is a veteran of the U.S. Army who served in the Signal Corps from December 1962 to December 1965. He has served in a wide variety of leadership positions for the American Legion from his local post to the national organization.

For 11 years he served as adjutant for his American Legion Post 218 in Petrolia. During those 11 years, he also held the office of post service office and chaired several post committees. For 12 years he has served as chairman for the Petrolia Valley Memorial Day Services.

Ed has served for five terms as Butler County adjutant and was Butler County commander for 2 years. He was elected Butler County Council 1st vice commander as well as Butler County Council judge advocate. His service to veterans of Butler County has also included his participation on many county committees.

Ed has served the American Legion 26th District faithfully over the years as a member of several district committees. He has the distinction of having served district deputy commander for 8 years, district commander in 1989 and 1990, and is presently serving as district 26 adjutant.

In the State of Pennsylvania Ed has served in various leadership roles. He has served as vice chairman of the Keystone Boys State Committee as well as vice chairman of the Legion Auxiliary Committee. He was an aide to department commander Ray Lenz and also served as western section membership chairman.

His service hasn't stopped there, however, as he has also been active at the national level as a member of the National Law and Order Committee, National Veterans Rehabilitation Committee, National Congressional Legislative Committee for the 4th Congressional District and the National American Legion Vietnam Veterans Study.

He and his wife Linda, married for 25 years, are proud parents of three boys who have blessed them with two lovely grandchildren. Wife Linda, sons Edward, Jr., Dale, and John and grandchildren Kayla and Cody share a great deal of enthusiasm for the many years Ed has spent in service to the American Legion organization and members in Butler County and throughout the Nation.

Ed presently serves as a regional representative of the Governor's Veterans Outreach and Assistance Center where he is able to assist veterans in the Western Pennsylvania area to obtain the assistance and recognition which they so richly deserve.

This man has had the distinction of being chosen as Butler County Legionnaire of the year in 1985 and now 6 years later will be given the honor of being named Butler County Veteran of the Year. I ask my colleagues here today to join me in saluting a man whose entire adult life has been spent serving his fellow veterans. Congratulations and best wishes to the 1991 Butler County Veteran of the Year, my good friend and fellow veteran, Ed Heeter.

HONORING MIKE SEWELL

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. PRICE. Mr. Speaker, I rise today to recognize a young man in my district of whom I am very proud, Mike Sewell. Mike is a 21-year-old with Down syndrome whose accomplishments, I believe, merit our recognition.

October has been designated as National Down Syndrome Awareness Month through the leadership of our colleague, Representative NICHOLAS MAVROULES. This month provides a national forum to increase public awareness about Down syndrome and to highlight programs that help individuals with Down syndrome succeed in public schools and the work force. Mike Sewell is an example that these programs work. He is a true role model for others whose lives are affected by Down syndrome.

Mike is a Cary High School student who works part time at McDonald's in Cary, NC. He is employed through the McJobs Program which aims to train and mainstream people

with disabilities into the competitive work force. The program works closely with State vocational rehabilitation agencies in providing one-on-one job coaching for disabled employees, as well as sensitivity training for the rest of the staff. Many Americans may even have seen Mike, because he starred in McDonald's national commercial which premiered during the 1991 Super Bowl. He received an award for his achievements in June from Louis H. Sullivan, Secretary of Health and Human Services. To top it off, he received the honor of presenting President Bush with a 3-foot bronze sculpture on behalf of McDonald's and Ronald McDonald Children's Charities to mark the 25th anniversary of the President's Committee on Mental Retardation.

Mike is doing far more than making his dreams and the dreams of his family come true—he is providing hope and encouragement for all individuals and families affected by Down syndrome. He is also showing legislators, business people, and teachers that individuals with Down syndrome can contribute enormously to our society. I want to commend Mike for helping us understand that.

I and my fellow North Carolinians are very proud of Mike—keep up the hard work.

CURRENT POLICY TOWARD EL SALVADOR

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. LEVINE of California. Mr. Speaker, current policy toward El Salvador is being shaped by two countervailing forces: on the one hand, the United States should seek to foster progress in the ongoing peace negotiations between the Salvadoran Government and the FMLN rebels. On the other hand, we are compelled to express our outrage over continued human rights violations by the Salvadoran Government and the complete inability of the Salvadoran judicial system to work effectively.

Today, I introduce a bill with Congressman TORRICELLI which attempts to reconcile these two divergent objectives. The legislation has two provisions. First, it mandates an immediate transfer of $10 million from Salvador's military assistance account into the "Demobilization and Transition Fund." And second, it requires that 50 percent of what is left of this year's military assistance be transferred into the "Demobilization and Transition Fund" if the two army officers convicted at the Jesuit trial are granted a specialized pardon or amnesty. By specialized I mean a pardon or amnesty that is not the result of a negotiated agreement between the Government and the rebels.

I believe this legislation is valuable for a few key reasons. First, it does not reduce that actual aid level to El Salvador. It transfers military assistance into the Peace Fund and therefore could not upset the peace process. Second, it registers the Congress' indignation over the slow pace of human rights developments. Third, it demonstrates to all Central American countries that human rights is a preeminent factor in U.S. foreign policy considerations.

In terms of this last consideration, the perception in El Salvador can only be the opposite. One of the conditions applicable to fiscal year 1991 funding provided for a suspension in assistance if the Salvadoran Government fails to conduct a thorough and professional investigation into the murders of the Jesuit priests. No set of circumstances could justify a good faith certification that this condition has been met. Yet, the aid was allowed to flow unhindered.

This is why our bill contains the provision transferring $10 million immediately. We are implementing an action that should have taken place a while ago. The fiscal year 1992 foreign operations bill includes a similar provision.

At this point, I would like to shift gears a little and directly address the peace process—which appears to offer new possibilities for a negotiated setlement to the civil war. Just last month in New York, the Government and the rebels signed a landmark political agreement which sets a framework to address the issues that have divided the nation. The agreement creates a National Commission for the Consolidation of Peace, or COPAZ, which is comprised of officials from a cross section of Salvadoran political life, including both rebel and army officials. The COPAZ mandate is vital: implement the negotiated agreements arrived at by the Government and the rebels.

U.N. General Secretary Perez de Cuellar and his chief aide on the Salvador negotiations, Alvero de Soto are to be commended for the diligence and diplomatic prowess they have displayed. It is unlikely that the process would have advanced as far as it has had it not been for the involvement of the United Nations.

There is, however, another, more ominous side to the story. Huge obstacles to peace still remain. The creation of COPAZ is a positive step yet a relatively easy one in comparison to the issues the Commission must resolve—such hard nuts to crack as the structural and force level changes in the Salvadoran military; the nature and composition of a new civilian police force; judicial reform; and a multitude of economic and social questions. These discussions will test the desires of the parties for peace and the strength of the peace process itself.

The United States, Cuba, Nicaragua, Vietnam, and the Soviet Union have a special moral obligation for ending the conflict in El Salvador because it is these nations which have provided the parties with the means to carry out the armed conflict.

I would like to turn briefly to the question of fiscal year 1992 funding for Salvador and the outcome of the Jesuit trial.

Currently, a continuing resolution is working its way through the Congress. That CR contains military assistance for El Salvador. As you are aware, the conditions under which the aid may or may not be spent are contained in a letter from Deputy Secretary Eagleburger to congressional leaders. In essence, the letter extends the conditions that applied to the fiscal year 1991 assistance to the aid included in the CR. This is a huge disappointment, these same conditions proved to be totally ineffective in fiscal year 1991.

In an effort to deter Congress from adding new and well-deserved conditions on this military assistance, the administration argued that any changes in the Salvador aid program would send the wrong message to the Government and could upset the peace process. This argument is nothing more than a red herring to stymie congressional action. We have seen the administration use this tactic before. For example, to squelch debate on human rights abuses in China, Syria, and now, once again, in El Salvador.

I reject their argument and the policy course it implies. The administration has it backwards. By not adding new conditions we are sending the wrong message. The conduct of the Salvadoran military and Government in relation to the Jesuit trial is outrageous and unacceptable, also an accurate description of the trial itself. Six of the eight soldiers implicated in the murder of the Jesuit priests, their housekeeper, and her daughter, were acquitted even though they admitted their involvement. Testimony was perjured, withheld, and destroyed; the military employed intimidation tactics on the judge and jury; and strong evidence suggests that officers higher ranking than those convicted were involved. Everything wrong with the Salvadoran judicial system was manifest at this trial.

Despite this travesty of justice, there may be one bright spot to the Jesuit trial. The guilty verdict fell upon the man most responsible and upon a major participant—Col. Guillermo Benavides and Lt. Yushi Mendoza. Such convictions begin to lift the veil of immunity protecting military officers involved in gross human rights violations, and are a welcome sign. It is this progress that Congressman TORRICELLI and I are seeking to preserve.

United States policy in Central America must stand for respect for human rights, the predominance of civilian over military authority, and economic and social opportunity for all classes of society. Until these objectives are achieved, there will not be a durable peace in El Salvador.

ON THE OCCASION OF LEONARD ALEXANDER RECEIVING THE 1991 BEN E. NORDMAN AWARD

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to congratulate Mr. Leonard Alexander on his selection as the recipient of the 1991 Ben E. Nordman Award. This prestigious honor is bestowed on a Ventura County attorney during the Ventura County Bar Association's annual dinner.

The late Ben E. Nordman endowed an annual award to inspire his fellow attorneys toward service by honoring a lawyer whose community and charitable activities merit public recognition, and Leonard Alexander's certainly do.

Leonard graduated from the University of California at Los Angeles School of Law in 1961 and was admitted to the California Bar in 1962. He joined the Ventura County Bar Association in 1963 and has been a member ever since. He also is a past president of the

Conejo Valley Bar Association. Mr. Alexander is currently a principal in the firm of Cohen, Alexander, & Clayton.

Mr. Speaker, while Leonard is indeed a successful attorney, it is his commitment to the community which really sets him apart from the crowd. He has worked literally thousands of hours with dozens of organizations including United Way of Ventura County, Conejo Valley Art Museum, Oakleaf Music Festival, Thousand Oaks Library Foundation, Conejo Valley Community Conscience, California State Bar Child Custody Committee, Westlake Rotary Club, and the California Lutheran University Community Leaders Club, to name but a few.

Additionally, despite his many commitments, Leonard has served as a judge pro tem on the Ventura County Superior Court for over a decade.

As you can see, Mr. Speaker, Leonard Alexander is a very special individual, and I again congratulate him on receiving this honor and wish him the very best in everything he does.

INTRODUCTION OF LEGISLATION REGARDING BANKRUPTCY OF COMPANIES AND EMPLOYEE PROTECTION

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. SCHULZE. Mr. Speaker, today, I am introducing legislation to protect employees and prevent companies that declared bankruptcy from failing to contribute to their underfunded pension plans. A recent court ruling could permit some companies that have filed for bankruptcy to repay only a fraction of their pension liabilities. As a result, the Pension Benefit Guaranty Corporation would be responsible for the remaining shortfall, even when a company has funds available for pension obligations.

The PBGC already faces a $2 billion deficit and, as a result, the pension benefits of our retirees are in jeopardy. This court decision could very well lead to an S&L crisis in the pension arena.

Under current law, underfunded pension plans may not receive preferential treatment over other creditors' claims. The law essentially says that pensions are not as important as other corporate liabilities. Clearly, priorities need to be reestablished. Pension promises made to employees must be honored.

Furthermore, companies that declare chapter 11 in order to reorganize and rid themselves of debt, may enjoy a competitive advantage over other companies that have long been struggling to meet their pension obligations.

Mr. Speaker, my bill will make companies accountable to their employees and will make pension funding a financial priority.

SORRY AND SYMPATHY FOR MEMBERS OF OCALA'S FIRST BAPTIST CHURCH

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. STEARNS. Mr. Speaker, I would like to share with my colleagues my profound sense of grief and distress about a senseless disaster that happened last Thursday morning in my hometown of Ocala, FL.

The historic First Baptist Church of Ocala was totally destroyed by a fire presumed to be set by an arsonist. This fire took almost 4 hours to control and caused more than $4 million in damage.

This disaster was only the latest in a string of 22 church fires throughout the State of Florida.

The First Baptist Church was founded in 1850, under the leadership of the Rev. Isaac Newton. It was a little white house located where the Marion County Courthouse currently stands. In the 1880's the church moved to a larger facility two blocks east of its original location to where the Sovereign Building is now located. It moved to its current location, on Third Street, in 1926. The building on Third Street had a majestic Greek revival architectural style, was graced with four soaring Ionic columns and had peaceful sanctuary that welcomed anyone into the House of the Lord with open arms.

More than 3,200 of my fellow Marion Countians call First Baptist Church their spiritual home. But while the fire destroyed the building, it did not destroy the church. This church is more, much more, than just the brick, wood, and glass that makes up a building. The church is also the people that make up the congregation and the memories that flow from that collective body of believers. It's the baptisms, weddings, funerals, and worship services that make the soul of the church.

It is hard to salvage any good from such a tragedy, however this fire has brought the congregation of First Baptist Church much closer together. It has also brought out impressive volunteer spirit in the Ocala area as well as an outpouring a prayer and physical support for First Baptist Church members.

UNITED STATES FIRMS ANGERED BY KUWAITI CONTRACT AWARD

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mrs. BENTLEY. Mr. Speaker, as mentioned in my 1-minute this morning concerning Kuwaiti contract awards, I am submitting an article from the Washington Post to clarify this situation.

U.S. FIRMS ANGERED BY KUWAITI CONTRACT AWARD

(By Stuart Auerbach)

A wholly owned U.S. subsidiary of a German conglomerate has won a $134 million contract set aside for American businesses to clear mines and other explosives from a wide swath of Kuwait, triggering complaints from American-owned competitors.

Bush administration and industry sources said the hotly contested contract went to Conventional Munitions Systems (CMS) of Tampa, an ammunitions manufacturer and developer of new weapons systems that is owned by Messerschmitt-Boelkow-Bloh GmbH (MBB) of Munich.

Acting after competing companies raised questions about a German-owned company bidding on a contract specifically reserved for U.S. firms, the Commerce Department certified CMS as an American company on the basis of its incorporation in Delaware and its promise to use 86 percent American workers and equipment on the job.

Although no challenges are being mounted so far against CMS being awarded the lucrative contract, some losing competitors staged a last-minute attack on the German-owned company. They alleged that Germany was a free rider, not joining the rest of America's Western allies in the Desert Storm battles and that the German owners of CMS sold equipment and technology to Iraq's chemical, biological and nuclear efforts. These allegations have been denied.

One company, USA Technology, said its bid was $8 million lower than CMS's $134 million winning tender, leading to questions that the German-owned company won the contract because the Kuwait government owns a substantial share of Daimler-Benz AG, the company that ultimately owns MBB. While Kuwaiti officials disclosed the winning bids, the others were not released.±

"It's a very disconcerting thing, particularly for a wholly owned American company," said Ed Alber, director of marketing communications for Olin Ordinance of St. Petersburg, Fla., believed to be the runner-up for the contract.

Rep. Dana Rohrabacher (R-Calif.) echoed that opinion in an August letter to Kuwaiti Ambassador Saud Nasir Al-Sabah that stated: "Any contract awarded to CMS would be seen by many in Congress as an award to a German firm" that "would be contrary to the understanding that truly American-owned firms would share substantially in the Kuwait recovery and reconstruction."

The allegations that CMS's parent company sold technology and advanced equipment to Iraq's chemical, biological and nuclear weapons programs originated in German press reports. They gained wider circulation as part of a Senate Foreign Relations Committee report in January, "Weapon Sales to Iraq," and in a paper, "The Poison Gas Connection," commissioned last year by the Simon Wiesenthal Center in Los Angeles. But formal charges never have been filed against MBB by the German or U.S. Governments.

CMS officials, many of them retired U.S. Army officers, staunchly defended their company, insisting that it is American and pointing to the record of CMS and its parent, MBB, in speeding ordnance to U.S. forces during the Persian Gulf War.

The Commerce Department reported that CMS delivered 440 Patriot missile warheads to the U.S. military ahead of schedule and manufactured warheads for the Maverick missiles.

MBB also was involved in getting Patriot missiles to Saudi Arabia by rushing needed metal parts for the warheads to the U.S. manufacturer on a few days' notice at the request of the Pentagon. "Without those parts, the Patriot could not have been used as much as it was," said Fred Dibella, director of planning and public affairs at CMS.

A retired Army colonel, Dibella expressed "a certain sensitivity" to charges that his company is not American and that it is part of a conglomerate that helped Iraqi President Saddam Hussein develop chemical, biological and potentially nuclear weapons.

"We have been the target . . . of unfair and inaccurate changes," said Dibella.

Among the companies fighting hardest in Washington for the contract was USA Technology of Kensington, a consortium of some of the most active American contractors in the Mideast. It is backed by a planning board heavily weighted with former high-ranking military officials, intelligence agency officials and former diplomats.

The companies include Brown & Root International Inc., Haliburton-NUS Environmental Corp., Military Professional Resources Inc, and Sandia National Laboratories.

Charles Brown, a retired U.S. Army lieutenant general, is project director for USA Technology. He is chairman of the American-Arab Affairs Council and former director of the Defense Security Assistance Agency, which sells military hardware to friendly nations. Members of the planning board include Roger T. Castonguay, a former assistant director of the FBI who dealt with bomb disposal; Ray Cline, former CIA deputy director of intelligence; and former CIA director William Colby.

A small firm based in Chantilly, Va., UXB International Inc., also lost its bid for the contract.

If the Kuwaiti government thought it would get a return from the contract because it owns part of Daimler-Benz, it is in for a surprise, however. When MBB founded CMS in 1988, it decided to plow back any profits into the Tampa-based company. Dibella said it was a deliberate decision by the German owners to help share the burden of American defense efforts.

PROTECTING PRIVATE PENSIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 30, 1991, into the CONGRESSIONAL RECORD:

PROTECTING PRIVATE PENSIONS

When the Executive Life Insurance Co. of California was seized by state regulators in April, 1991, I was immediately contacted by a large number of Hoosier pension holders who saw a threat to the safety of their pensions. That incident, as well as many conversations with both current workers and retirees in Indiana, has impressed upon me how fearful they are that they will either lose their pension or see it sharply reduced. They view their pension as a reward for hard work that will provide them financial security, and become frightened when they learn that their pension may not be there when they retire.

Employers are not required by law to provide pensions, and many businesses choose not to set up retirement plans for their workers or act to curb existing plans to save money. Thus, the private pension represents only a small portion of the money received by retirees. Today, just 27 percent of individuals over age 65 receive private pension benefits, and private pensions represent 7 percent of total income received by retirees. Only 46 percent of current workers are covered by a private pension plan.

TYPES OF PENSIONS

Private pensions are of two types. The more traditional pension plan is a defined benefit plan, under which a company guarantees its workers a set monthly pension benefit based on earnings and years of service. Under a defined contribution plan, an interest-bearing account is established for each employee into which both he and his employer contribute. The employee is not guaranteed a set monthly benefit, but receives whatever funds are available in his account upon retirement. Of those covered by private pension plans, about two-thirds are covered by a defined benefit plan, one-third is covered by defined contribution plans, and some are covered by both.

In recent years, employers have shifted from defined benefit to defined contribution plans. All defined benefits plans are insured by the Federal Government, and are thus heavily regulated and costly for employers. Defined contribution plans are not federally insured and are less complicated and costly for employers.

Career employees tend to favor defined benefit plans, which provide them with more predictable and larger benefits. Employees who often change jobs fare better under defined contribution plans. In defined benefit plans, investment decisions and risks lie with employers, while in defined contribution plans, they lie with employees. Because employees have little say over the management of defined benefit pension funds, most concerns have centered on this type of plan.

CONCERNS

First, concerns have been raised about whether companies manage pension funds responsibly. During the 1980's, a favorable investment climate allowed many companies to build up surpluses in their pension funds. Companies are not allowed to use pension funds for non-pension purposes unless they terminate the plans completely. Since 1980, more than 2,000 companies have terminated such "overfunded" pension plans, recapturing nearly $21 billion in pension assets. Most of these terminations occurred before 1985.

Upon terminating a pension program, companies must meet their current pension obligations by purchasing annuities from insurance companies. They are then free to use the excess funds for their own purposes. Frequently, these companies establish a successor pension plan, but it is sometimes less generous than the original plan.

In an effort to curb pension plan terminations, Congress recently raised the excise tax companies must pay on recaptured pension funds from 15 percent to 50 percent and changed tax rules to discourage the buildup of large surpluses.

Second, the soundness of the government fund which insures defined benefit plans has been questioned. Companies which have these plans are required to pay premiums to the Pension Benefit Guaranty Corporation [PBGC], which steps in to pay pension benefits should companies be unable to. Most companies with defined benefit plans have sufficient assets to cover their obligations. However, the PBGC's liabilities increased by 20 percent in 1990, while its total assets increased by only 2.5 percent. Last year, the PBGC paid $372 million to 112,500 retirees. The fund has a long-term deficit of $1.8 billion, although its cash flow is sufficient to meet current obligations. In an effort to shore up the PBGC fund, Congress last year substantially increased the required premiums. Still, potential liabilities in large pension plans in the steel and airline industries, for example, could suddenly further increase the PBGC's deficit.

Third, many retirees whose terminated pension plans have been converted into annuities are facing uncertainty because of instability in the insurance industry. For example, it is uncertain whether Executive Life will be able to make full payments to its annuity holders. The PBGC only guarantees company pension plans, not the annuities that companies purchase upon terminating a plan. Although States do have their own guarantee funds for annuities sold by insurance companies, there are limitations in their coverage.

Fourth, unlike many other forms of retirement income, such as Social Security, most pensioners do not receive yearly benefit increases for inflation. Only 1 in 4 company pension checks was so indexed during the last 1980's, and only 9 percent of private companies have a formal plan for any increases. Furthermore, these increases are often insufficient to keep pace with inflation. During the 1970's, pension benefit increases offset about one-third of price increases. Fortunately, other sources of income for retirees have enabled overall retiree income to outpace inflation.

OUTLOOK

My sense is that the health of the private pension system will come under increasing scrutiny. I believe Congress should ensure that plans are monitored more closely to protect the integrity of the private pension system for current and future retirees. Congress must also be concerned about the large number of Americans who have no private pension coverage at all, and the relative insignificance of pensions as a source of retirement income. These trends point towards an increasing burden on the Social Security system and a threat to the well-being of older Americans.

SCHROEDER AMENDMENT HAD RIGHT PRIORITIES

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. PENNY. Mr. Speaker, yesterday during the debate on the dire emergency supplemental appropriations bill, H.R. 3543, Mrs. SCHROEDER, chair of the Committee on Children, Youth, and Families, offered an amendment to add $1.39 billion to the bill. I could not support the amendment because it, like all the other items in the bill, had no financing mechanism or offsets attached. Although I did not vote for Mrs. SCHROEDER's amendment nor in favor of the entire bill, I want to state in the strongest possible terms that the priorities set forward in her amendment are correct.

The future of our children is at risk if we do not provide the most basic of their health, nutritional, and educational needs. Increased funding for childhood immunization, Women, Infants and Children and Head Start is not simply a nice thing to do, it is critical. These programs save lives and provide the foundation for healthy growth and development.

I believe these programs should be fully funded—and fully funded today—not 5 years

from now. But, I believe we have to be honest about how we would pay for these programs and not mortgage our children's future in the process. I, for one, would support a tax increase that would pay for immediate full funding of these very programs—immunization, Women, Infants and Children, and Head Start.

As the Chilean poet Gabriela Mistral has stated so poignantly:

Many things we need can wait, the child cannot. Now is the time his bones are being formed, his blood is being made, his mind is being developed. To him we cannot say tomorrow, his name is today.

IN RECOGNITION OF OFFICER ALBERT H. McCANN

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. WELDON. Mr. Speaker, I rise today in recognition of Officer Albert H. McCann. Officer McCann devoted his 28-year law enforcement career to the Lansdowne Police Department in Delaware County, PA. His 28 years of service and contribution to the community began on May 23, 1963.

On November 6, 1991, a small intimate retirement dinner will be held in Officer McCann's honor to celebrate his most distinguished career.

Officer McCann will be missed by his friends and coworkers at the Lansdowne Police Department. The Lansdowne community has been fortunate to have such a dedicated public servant serving their needs.

Law enforcement officers are an invaluable part of our communities. Police officers devote their lives to the safety of the public. They respond to crisis and emergencies with the speed and diligence to protect our citizens, streets, and property from those who do not respect the law.

I commend the work of Officer McCann and his fellow law enforcement officers across the country.

THE ACHIEVEMENTS OF RABBI LEVI MEIER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. LEVINE of California. Mr. Speaker, on November 21, 1991, the Wagner Program of the University of Judaism will be honoring Rabbi Levi Meier, head of the chaplaincy department at Cedars-Sinai Medical Center.

Rabbi Meier has earned this tremendous honor through his exemplary work as both a spiritual leader and a clinical psychologist. This year marks his 20th year as an ordained rabbi and his 13th year as chaplain at Cedars-Sinai Medical Center. Holding a Ph.D. degree in psychology from the University of Southern California and an M.A. in Jewish philosophy at Yeshiva University, Rabbi Meier has skillfully blended his unique skills to serve his community for two decades.

Qualified to counsel individuals, couples, and families as they deal with such problems as illness, aging, and death, Rabbi Meier has never failed to lend a hand to those in need. The entire Meier family is involved with Rabbi Meier's work and have offered their own significant contributions to the community.

In addition to his work as rabbi and psychologist, Rabbi Meier is also nationally and internationally recognized as a scholar who has written numerous articles, studies and books on religion and psychology. His latest book is entitled "Jewish Values and Jungian Psychology," and he is the special issues editor of the Journal of Psychology and Judaism.

The Wagner Program deserves to be commended for paying tribute to the remarkable achievements of Rabbi Meier. The Wagner Program has made its own contribution as an umbrella organization of volunteers and professionals who provide various public services to the Los Angeles community. It is appropriate that such a distinguished program is honoring such an outstanding individual.

TRIBUTE TO JACK YOHE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to Mr. Jack Yohe on his retirement from public service after more than 30 years. After several years as a journalist, Mr. Yohe began his career in public service working for the late Congressman Francis Walter in 1961. Two years later, he began his distinguished career with the Civil Aeronautics Board [CAB] where he worked until his retirement from Federal service in 1982. Mr. Yohe is presently director of the Allentown Bethlehem Easton International Airport [ABE International]. He has held this position since 1984 and will retire at the end of this year.

Mr. Yohe began his career with the CAB as its director of information. In this position, Mr. Yohe was responsible for distributing information on CAB actions and arranging press conferences which assured the public review of CAB activities and policies. Mr. Yohe then became the director of the office of consumer affairs. In this capacity, Mr. Yohe made great strides at developing the office and making the public aware of its existence. Under his leadership, the volume of consumer complaints processed by CAB rose from fewer than 5,000 a year before the office was created, to 15,000 a year.

As director of the Office of Civil Aeronautics Board, Mr. Yohe established a reputation for outspoken frankness in the consumers interest whether dealing with air carriers or the CAB itself. The Office of Consumer Affairs was so successful that the CAB expanded the authority of the office and Mr. Yohe became the director of its successor office, the Office of Consumer Advocate. With Jack Yohe at its helm, the newly created Office acted as a party in CAB formal proceedings as an advocate of the public. In a 1975 evaluation of Federal Government offices handling consumer complaints, the CAB's consumer office received the highest evaluation of the 15 agencies studied.

Jack Yohe's effectiveness while working for the CAB can best be illustrated by looking at just some of the many honors he was awarded during his tenure. These honors include an award for Meritorious Service, the Washington Aero Club's Distinguished Service Award, and the Aviation/Space Writers Association award for outstanding service in public communications. In 1976, the Chairman of the CAB nominated Mr. Yohe for the National Civil Service League Career Service Award.

Upon return to his native Lehigh Valley, Mr. Yohe turned his talents to ABE International Airport. Since Mr. Yohe took over as director of ABE International in 1984, airport use has grown over 105 percent and the number of airlines serving the airport has more than doubled. Under Mr. Yohe's guidance, the Federal Aviation Administration has provided ABE International with more than $25 million in entitlements and discretionary grants. This includes an FAA agreement to build a $6.7 million free-standing air traffic control tower which will greatly enhance the airport's air traffic services. In addition, firm plans are in place for nearly $100 million more in other airport capital improvements which will enable the airport to be prepared to meet the challenges of the 21st century. With the future of the airport assured, Mr. Yohe has chosen to retire at the end of the year to spend more time with his family and friends.

Mr. Speaker, I rise with great pride to express my thanks to Jack Yohe for his life-long dedication to public service. He leaves a legacy of hard work and accomplishments that will continue to benefit both the traveling public and the Lehigh Valley community for many years to come. I would like to take this opportunity on the occasion of his retirement to wish him and his family all the health and happiness they deserve.

IN HONOR OF ANDREW RASEVIC

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mrs. BENTLEY. Mr. Speaker. George Santayana said those who cannot remember the past are doomed to repeat it. This seems to be the case in the Balkans, as a new generation of ethnic hatred and strife, distanced from the events of the Second World War, has reared its ugly head.

It was with great pleasure then, that an article was brought to my attention, written by Andrew Rasevic, a young American of Yugoslav descent, which was published in his school paper, the Sidwell Friends School Horizon.

Young Mr. Rasevic demonstrates an informed and nonbiased knowledge of the situation in Yugoslavia. Perhaps with young scholars like himself, there is a ray of hope for the future of the peoples of both the United States and of Yugoslavia.

I have included a copy of his article for inclusion in the RECORD.

INTENSE NATIONALISM FUELS CIVIL WAR IN YUGOSLAVIA

(By Andrew Rasevic)

The conflicts between Croatians and Serbs are deeply rooted. In 1941, Adolf Hitler and Benito Mussolini conquered Yugoslavia. They created the independent state of Croatia. The Croats decimated the Serbs living in Croatia at the time. These unspeakable crimes continue to be denied by the Croatians, although numerous credible documents contradict them. Along with the customary socio-economic and political problems, it is their bloody history that has scarred both peoples that fuels their civil war today.

In all civil wars, all parties involved believe that they are right. The civil war in Yugoslavia is no exception. In April and May of 1990, Croatia held its first multi-party free election. The Croatian Democratic Union won a majority in Parliament. They then elected the Croatian Democratic Union president, Frunjo Tudjman, the president of Croatia. With Tudjman's election, nationalism in Croatia soared. They resurrected the old Croatian flag, a Croatian Interior Ministry strengthened the republican force, and in May 1991, a national guard was formed to serve as the republic's army. On June 25, 1991, Croatia declared its independence from Yugoslavia.

Serbs constitute 12% of the population in Croatia. As the feelings of nationalism rose, the Serbs became increasingly fearful of the possibility that the actions taken by Croats towards the Serbs during World War II might be repeated. To the horror of the Serbs, their fears were not far from reality. Masses of the Serbs were released from their jobs in government factories, local television stations were prohibited from airing anything opposing the new government in Croatia, Serbs were prevented from publishing in Cyrillic alphabet, and Serbian Orthodox churches were frequently being defaced. Croatia's Serbs drafted a plan for cultural autonomy. Following this, they demanded political autonomy in areas where Serbs constituted a majority. The Croatian government refused to accept this. Since then, Serbs have refuse to recognize the new Croatian government.

Already over one thousand people have died due to the fighting in Croatia. However, the repercussions of the civil war in Yugoslavia extend far beyond its local boundaries. A powerful civil war could be a trauma shaking the very foundations of European stability. Each element of unrest in Yugoslavia heightens separatism throughout the Balkans. In the 1975 Helsinki Final Act, and later on in the 1990 Paris Charter, the principles believed to play key roles in defining a new or at least improved "world order" were documented. Euro-Atlantic states defined the meaning of European security by classifying the free movement of people and the unassailability of post-World War II borders. If the signatories to the Paris charter decide that its principles can be enforced only selectively, then the notion of Europe living freely under the same norms becomes useless.

As history teaches, in civil war, there are neither victors nor vanquished. Extreme nationalistic passions, which presently fuel the antagonisms among various ethnic groups in Yugoslavia, blind many people from reality. Charges and countercharges do not contribute to a constructive dialogue. The present turmoil—if reason is to prevail—must give in to a brighter vision of a peaceful tomorrow. But there cannot be such a tomorrow without a tenable settlement. The only hope for the settlement of the situation in Yugoslavia is negotiation. However, negotiation must be with an open mind, a willingness to listen, and a fervent desire to resolve the current problems. Only then will negotiations solve what fighting cannot. Those who have family and friends on both sides of the war watch with an attentive eye and feelings of despair and helplessness. It is our hope that the negotiation will take place as soon as possible to prevent further useless bloodshed.

HISTORY OF THE SENDERO LUMINOSO GUERRILLAS OF PERU

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. LAGOMARSINO. Mr. Speaker, I am placing in the RECORD today reports which describe the history of the Sendero Luminoso guerrillas—the shining path—which carries out a campaign of terrorism and murder in Peru. The activities described in these reports are not easily read and demonstrate a callous brutality that has not been seen in Peru since the days of the Incas.

I urge my colleagues to consider carefully the tactics employed by the Sendero Luminoso and reflect on what the Peruvian Government should be doing to counter the campaign of death and destruction by these guerrillas and what the United States should be doing to help:

SENDERO LUMINOSO—SHINING PATH

DANGEROUS AND UNPREDICTABLE

Peru's Sendero Luminoso (Shining Path) is an extremely dangerous and unpredictable terrorist and insurgency group. Its declared aim is to destroy existing Peruvian institutions and replace them with an Indian-based peasant revolutionary regime, inspired in part by Mao Zedong's Cultural Revolution in China.

Sendero intimidates the populace by executing—frequently in gruesome ways—civilians who have government ties, and others it considers ideological enemies. It aggressively conducts political indoctrinations in areas it controls and, since 1987, has developed ties to narcotic traffickers and to the peasant coca-growers whom it seeks to protect. Although initially operating as a guerrilla force in the rural areas, Sendero has added urban terrorism as a complement to its rural "people's war" insurgency.

Estimates of total numbers of people killed since May 1980—when Sendero began its violent campaign—reach almost 15,000, with nearly 2,000 killed last year.

BACKGROUND

Sendero began as a movement in the late 1960s at the National University at San Cristobal of Huamanga in Ayacucho, a colonial-era provincial capital high in the Andes, 230 miles southeast of Lima. Abimael Guzman Reynoso, its founder who is called "President Gonzalo" by his followers, was philosophy professor at the University and a leader of the pro-Chinese faction within Peru's Communist Party. In 1970, he and his faction took the name "Shining Path of Jose Carlos Mariategui," the founder of the Communist Party in Peru in the 1920s. Sendero went underground in 1978 and, two years later, launched its first violent attack—on a rural polling station on May 17, 1980, burning all the ballot boxes. Sendero's anti-democratic nature was particularly apparent in this first attack since the 1980 election marked the return to civilian rule in Peru after twelve years of military dictatorship.

Estimates of the number of Sendero militants range up to 5,000, with many more supporters. Although Sendero focuses its appeal on the disadvantaged ethnic-Indian segment of Peru's population, it has successfully recruited among the sons and daughters of the middle and upper classes as well. It also seeks to recruit 13-15-year-olds as armed militants since they can be more easily propagandized into supporting with unmitigating violence Sendero's cause.

IDEOLOGY

Looking to Mao Zedong for inspiration, Sendero considers its philosophy as the fullest development of "scientific communist thought," and seeks to establish through violent revolution a "People's Republic of New Democracy" in Peru. It deeply distrusts Soviet and Cuban "revisionism," and has dubbed the Soviets "social imperialists."

Sendero also distrusts Nicaragua, North Korea and virtually all other communist regimes. It denounces Deng Xiaoping's "revisionism" in China, viewing instead the deposed "Gang of Four" as heroes of the Cultural Revolution. Sendero leader Guzman, according to documents for the group's Fourth Plenum of the Central Committee, also labelled Libya's Mu'ammar Qadhafi "a fake."

Sendero's goal is to destroy not only the government, but also the social order. It claims to champion the disadvantaged Indian peasants, but shows no remorse in killing those who, in its view, display a "petit rural bourgeoisie" mentality. Sendero also implements a strict moral code—including no smoking or drinking—and despite aiding narcotic traffickers and coca-growers, it is known to have executed those under its control found using drugs themselves.

STRATEGY AND TACTICS

Sendero has attempted to terrorize the population through violence, and has murdered government officials, parliamentarians, judges, political activists, journalists, development workers (both foreign and native), professors, teachers, peasants, and occasionally tourists. In 1988 alone, it killed 17 provincial mayors. It has attacked government buildings and foreign embassies. Following the shooting of two Parliamentary deputies in May of this year (one attack apparently criminally motivated), over 20 Parliamentary deputies from two different political parties publicly announced that they had received death threats or attempts on their lives, indicating the extent to which public officials have been threatened by the terrorist violence.

RURAL AND URBAN

Similar to Mao's doctrine of encircling the cities from the countryside, Sendero sees the rural areas as the principal theater for its armed attacks. Urban subversion and terrorism, however, have become increasingly important to its strategy. In a July 1988 interview (the first the secretive Sendero leader had given since 1979), Guzman stated that Sendero must be prepared for what he characterized as the final assault—the taking of the cities. Other documents from early 1988 also indicate that Sendero was stressing urban subversion and terrorism as a complement to its rural warfare.

This new urban emphasis, however, was dealt a severe, but not crippling, blow when Osman Morote Barrionuevo, believed to be

in-command, was arrested in Lima and convicted later in 1988. Other recent setbacks were the early August arrests in Lima of 29 Sendero members which, according to the Peruvian Interior Minister, dismantled a major subversive network, and the arrest later in the month of Samuel Vidal Espinoza, a Sendero leader who was charged with several crimes including the murder of Rodrigo Franco, a high ranking government official.

In addition to terrorism, Sendero's urban strategy includes seeking to infiltrate trade unions, student organizations and leftist political parties. It has also been responsible for armed strikes in several rural areas in 1989 and a one-day general strike in July which paralyzed transportation in much of Lima.

ECONOMIC SABOTAGE

Sendero also pursues a campaign of economic sabotage and in 1988 alone was responsible for estimates of losses as high as $2.65 billion. It is responsible for numerous blackouts and brownouts in Lima and other areas of Peru through its systematic bombing of electric pylons. This campaign culminated when Sendero blacked out Lima as well as many interior departments for a total of 21 days during the month of August.

Sendero has attacked rural development programs, killing government engineers who were working to upgrade rural facilities. Examples included the December 1987 attack on the office of the government irrigation project in Ayacucho, in which it killed three engineers, including the head of the Cachi River irrigation project. The project, which Sendero had vowed to block, would irrigate 34,000 acres of farmland and provide 25,000 kilowatts of electricity to the region. In June 1988, Sendero executed as American USAID contract employee and a Peruvian colleague near Quicha Baja who were working on a local agricultural project. In December 1988, it killed two French and two Peruvian engineers working on a rural assistance project in the south central department of Apurimac, and also that month, attacked a development project run by the European Economic Community. The EEC recalled its aid employees because of that attack, and in January of this year, the Dutch government withdrew its development workers from the countryside because of the threat of Sendero attacks.

Although these development programs would aid the rural populations whose interests Sendero claims to defend, Sendero attacks them in order to undermine the established government and to present to the peasantry no hope for improvement until Sendero authority is established. In the words of Guzman quoted at Sendero's Fourth Plenum of the Central Committee, "Our policy is to raze to the ground, to leave nothing * * * In a war, what you can't use or carry off, you destroy, you burn."

ANTI-ELECTION CAMPAIGN

Sendero appears to have launched a campaign against the upcoming municipal elections in November and the general elections in April 1990. During the summer months, Sendero terrorists selectively assassinated over a score of political leaders to include local mayors, party representatives and candidates. Through lethal intimidation, Sendero poses a potential threat to Peru's democratic system as the constitution calls for a cancellation of the vote count if 30 percent of the electorate are prevented from casting their ballots.

THE COCA CONNECTION

Sendero guerrillas have become increasingly active in Upper Huallaga Valley, the locale of most of Peru's illegal coca production, and have become a threat to the Peruvian government's U.S.-assisted drug eradication, crop substitution, and interdiction efforts. Attacks by both traffickers and Sendero guerrillas have increased substantially in 1989, forcing the suspension of some of these operations for six months.

Sendero reportedly acts as an intermediary between the peasant growers and the drug traffickers, winning higher prices for the growers, taking a cut of the profits, and providing protection. In a police raid on a suspected drug target in the town of Uchiza in February of this year, 45 kilos of cocaine paste were seized and eight suspects arrested. Two were Sendero members.

Sendero's involvement in drugs became increasingly apparent since 1987 when, in June of that year, the director of Brazil's Narcotics Division stated publicly that Sendero was involved with the traffickers operating on the Brazilian border and received large amounts of money from them.

Sendero, which now dominates dozens of villages in the region and is influential in several larger towns, has publicly stated that the government's anti-narcotics operations are a cover for "imperialist expansion"—a convenient ideological rationale for attacking them. Sendero is organizing coca growers to protest the anti-drug operations, and a pro-Sendero newsweekly has contributed to Sendero's disinformation campaign by reporting that crop eradication herbicides were poisoning children, several of whom, the newsweekly claimed, have already died. The poisoning claims are untrue and except for a one-time application test, herbicides have not been used in the crop eradication efforts.

VIOLENCE BY THE PERUVIAN TERRORIST GROUP—SENDERO LUMINOSO

THE EARLY SENDERO

1. Some chroniclers of the Sendero Luminoso (SL) suggest that SL brutality is a recent development and largely a response to military and police violence. Our studies of the early behavior of Sendero Luminoso suggest otherwise.

2. The first victim of SL violence was Benigno Medina, the owner of a small ranch in the Ayacucho department village of Ayzarca. On Christmas Eve, 1980, 30 terrorists entered Ayzarca and detained Medina. He was dragged into the community's church. His family, including his son and two daughters, were held in a nearby building. Medina was stripped and staked out, chest upwards, on the dirt floor of the chapel. The terrorists, led by Lima physician Eduardo Mata, cut off Medina's ears and slit his tongue, tip to back. They then emasculated him, amputating his penis and testicles. A daughter described in recent press interviews the experience of listening to their father's cries of agony while he bled to death on the floor of the church.

3. A Catholic priest who has served in the Apurimac/Ayacucho area for the past 20 years described to Poloff in some detail accounts he has collected from peasants fleeing to his parish from SL violence in the north of Apurimac and Ayacucho departments during the first three years of terrorist violence, 1980–83. The father opined that from the beginning these terrorists were bestial in the treatment of their enemies.

4. According to this priest, SL had a particularly effective method of dealing with peasants who refused to cooperate or who were captured fleeing from towns controlled by the terrorists. The entire community was convoked to the town square. The captured renegade was brought before the assembled peasants for a people's trial. Convicted, he was stripped and tied to a post in the square. A sharp knife was produced. Each member of the community, adults and children, were forced to go forward and cut a piece of flesh from the victim. According to the testimony of peasants who have spoken to this priest, it often took as long as an hour for the victim to die from blood loss or shock.

5. While there is little question now of the brutality of SL, during the early years of SL violence such reports rarely appeared in public accounts. Political section contacts in the legal left explain that during those first four or five years the Peruvian left refused to criticize SL, believing that these accounts of torture were invented or exaggerated by the police and army.

Thus, claims of SL brutality were suppressed or ignored, even in the conservative press. According to our Marxist friends, SL violence has always been characterized by its brutality, it is just that in the past three or four years the legal left has finally stopped apologizing for the terrorists whose rhetoric at least, closely matched their own.

THE MEANINGS OF DEATH

6. Some Peruvian cultural anthropologists theorize that there are symbolic meanings in the methods of execution used by SL. Beheading or garroting is often used by the terrorists. Inca emperor Atahualpa was garroted by Pizarro in 1533. These social scientists conclude that SL is attempting to create a cultural tie between the peasants of the twentieth century, their forefathers, and their common oppressor: the White, European elite. When Jose Gabriel Tupac Amaru's revolution (he of MRTA fame) against the Spanish was crushed in 1781, the Spanish staked members of his family in the Cuzco Plaza de Armas and tortured them to death. Tupac Amaru was quartered and beheaded. Parts of his body were scattered to the far corners of the once inca empire. Thus the origin of SL's people trials and public executions.

7. Whether or not SL killers consciously make any of these anthropological links, it is certainly true that the peasant of the sierra derives meaning from SL brutality. A priest who has lived and worked in the sierra of Junin Department for more than a decade explains that the peasants do not so much decry the inhumanity of SL brutality. What they fear, claims this priest, is the mutilation of the corpse. In that regard the Catholic teaching of the literal corporal resurrection matches traditional Indian beliefs that the same body laid into the earth will be resurrected to immortality. Witness Atahualpa's terror that he would be burned at the stake as an infidel and thus accepted a Christian baptism from Valverde (and subsequent strangulation) so his corpse could be preserved.

8. Our Junin priest as well as Protestant missionaries from Junin note that following SL public executions it is common for the terrorists to order that the bodies of victims not be touched or moved for at least 24 hours. A common element among these killings in Junin during the past two years is corpses left in the sun amidst rooting swine and hungry dogs fighting over the human remains. This type of defilement of corpses horrifies these Indians.

9. The May killing of Australian Sister McCormack in Huasahuasi, Junin is a case in point. Remarkable in that incident is the account of a 13-year-old girl who defied the terrorists, took holy water from the church and anointed the nun's body, then covered it

with the mantle from the altar. Even so, the Sister's body was unmoved for 24 hours from the spot in the town square where she was shot to death.

DESENSITIZING THE CHILDREN

10. Guzman promised that his revolution would create a river of blood in Peru and that victory would occur when the people "crossed the river of blood to the other side." The evidence suggests that SL starts training its cadre from a very early age that nothing has meaning, not even life, beyond the party and the revolution.

11. In January 1990 SL intercepted a bus traveling between Andahuaylas and Abanca, Apurimac Department. There were two young French tourists aboard, a man and a woman. Poloff spoke with a Peruvian nun who was a passenger on the bus. She stated that the two were shot once through the head by the leader of the SL column, the only member of the group over 16. The French male appeared not to be dead, despite the head wound. The column leader selected the apparent youngest member of the group.

The witness guessed his age to be 13. The lad picked up the largest rock he could heft, walked over to the still living victim, and repeatedly struck the man over the head with the small boulder until the skull was completely crushed.

12. 1990/91 reports from the Ene/Tambo River Valley of SL brutality against the Ashaninka Indians and local colonists are terrifying in their brutality. Tongues cut from adults and force-fed to their children. Gasoline poured over living victims and then set afire. A 14-year-old child struck on the head with a machete, shot, stabbed, and dumped in the river only to survive and be treated by Blue Venture medics.

13. The killers of Sister McCormack in May 1991 and Sister Maria Rivas in September 1990 (also in Junin department) were both females in their early teens. According to witnesses, the two were the youngest members of the invading SL columns. In May 1991 an SL column comprised almost entirely of 14 to 16 year olds killed four women and five of their children in Ayacucho. The victims were beaten and stabbed to death for having participated in a program to provide milk to infants in a rural Ayacucho feeding program.

AN ALMANAC OF BRUTALITY

14. In addition to the incidents noted above, we repeat several accounts of recent SL violence which we believe illustrate the brutal nature of that violence.

On May 31, 1989 environmental reporter Barbara D'Achille was captured by terrorists in Huancavelica Department. She was stripped naked, stoned to death, then shot.

Sometime in June or July 1989 police in Junin department found the body of a fellow officer killed by SL. The terrorists had cut off his lower jaw. They had slit open his stomach and chest, emptied it of its organs, and had then, one at a time, squatted over the man and defecated into his chest cavity. When his fellow officers found him, the corpse was filled with human feces.

On November 22, 1989 two tourists (an Australian and a New Zealander) were taken from a bus traveling between Ayacucho and Nazca. Both were shot to death and tortured. It is not clear whether the torture preceded or followed the killing. The young woman was so badly slashed in the chest and stomach that her torso had to be bound to hold her entrails so her body could be moved.

On November 27, 1989 U.S. reporter Todd Smith was beaten, burned, and garroted. His body was so badly brutalized that a close friend was initially unable to make a positive id.

On August 22, 1990 two Mormon missionaries were killed in Huancayo City. One of the youths had a knife driven through his neck and between his spine.

On May 23, 1991 the 29 year old mayor of Pachacamac was traveling with his wife and two of his four children. His car was intercepted by an SL assassination team. His wife and children were taken from the car. Two of the terrorists physically held his children's heads up and forced them to watch as the other killers machine-gunned their father and then exploded a large dynamite charge placed in his lap. It is common for SL to dynamite the corpses of its victims.

15. Though the brutality is exaggerated, SL killers appear calm and dispassionate as they dispense "popular justice." There are few accounts of raging violence, uncontrolled blood lust, or rampaging troops randomly slaughtering their victims. Perhaps the single most frightening aspect of Sendero Luminoso violence is that what these terrorists do, they apparently do for ideological reasons.

BRUTES IN A BRUTAL LAND

16. The terrorists, of course, are not the only players in Peru who commit brutalities. This cable is not intended to justify the violence of other groups as a reaction to SL violence. Nor is it our purpose here to prove that SL is more violent than other Peruvian "players," though that certainly is the opinion of almost all who study this issue. Rather, our single hope is to present a stark contrast to SL's propaganda effort to describe itself as a popular revolution, and to deny the occasional portrayal in the foreign press of SL as the "robin hood" of Latin America.

17. The truth is otherwise. Sendero Luminoso is a lusus which ranks high in the pantheon of history's real and fictional monsters.

EMERGENCY DEPARTMENT OVERCROWDING THREATENS EVERY AMERICAN'S ACCESS TO MEDICAL CARE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. RANGEL. Mr. Speaker, Articles in two September issues of the Annals of Emergency Medicine and the Journal of the American Medical Association [JAMA] presented alarming new evidence that hospital and emergency department [ED] overcrowding threatens every American's access to medical care.

Increasing numbers of patients are entering ED's. And they often wait hours before seeing a doctor. The study published in the Annals of Emergency Medicine found that three-fourths of responding hospitals reported increases in ED visits. Mean holding times for admitted patients were 3.5 hours for a floor bed and 2.9 hours for an intensive care unit bed. Half of all hospitals responding reported maximum waits of 10 or more hours for floor beds, and 7 hours for ICU beds.

The JAMA survey also shows that patients must wait hours before receiving treatment and that some patients actually leave the ED in frustration before being treated.

Emergency departments function as America's health care safety net. As the above articles indicate, this safety net is being undermined by an increase in patient visits without a concurrent increase in funding. Emergency departments are designed for quick evaluation, treatment, and disposition of large numbers of patients. They were never intended to be holding units for patients in need of immediate hospitalization and ongoing care.

In addition to causing long waits for care, ED overcrowding threatens our ability to respond quickly to time-sensitive emergencies such as heart attacks or trauma injuries. An overcrowded emergency room often must divert ambulances to other hospitals. Some ambulances are diverted several times before reaching an admitting hospital. This delay of treatment can mean life or death to someone with a dire emergency. Also, the more time an ambulance must spend looking for a hospital, the fewer people it can serve.

This phenomenon is not limited to the inner cities, nor is it solely caused by the uninsured seeking care in the ED. Causes of overcrowding vary from region to region. Yet the effect is always the same. No matter who you are, or what your income is, ED overcrowding in your area means you will have to wait for proper emergency care.

Emergency physicians and other health care workers are becoming frustrated as the number of patients filling our ED's increases. In 1980, visits to hospital emergency departments totaled 82 million. In 1989, the total number of visits was 90 million. These physicians are truly on the front lines of our Nation's critical health care system.

The American College of Emergency Physicians [ACEP] first brought this issue to my attention last year. As a result, I have formed the Emergency Room Crisis Caucus and have asked the General Accounting Office to conduct a national survey to study the issue. As one of the aforementioned studies points out, no national survey comparing the difficulties facing emergency departments in cities across the United States has yet been performed. I hope the GAO survey will be able to provide the needed data in order for Congress to take appropriate action.

Solutions to this crisis cannot come soon enough. As potential patients in the ED, we all should be concerned. Timely emergency care may not be there when we seek it and need it the most. It is up to the Congress to address this pressing issue.

OPERATIONS AND ACTIVITIES OF THE NATIONAL ENDOWMENT FOR THE ARTS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mrs. BOXER. Mr. Speaker, on Monday, October 28, 1991, the Subcommittee on Government Activities and Transportation, which I chair, conducted a field hearing in our continuing review of the operations and activities of the National Endowment for the Arts, primarily an examination of the effect of last year's decency standards on grant applications. The subcommittee was fortunate to have received

testimony from distinguished writer E.L. Doctorow, which was presented by actor Christopher Reeve, representing the Creative Coalition. I strongly urge each and every one of my colleagues to read this remarkable statement. The text of Mr. Doctorow's statement follows:

TESTIMONY OF E.L. DOCTOROW BEFORE THE NEA OVERSIGHT HEARING

To the Honorable members of the Subcommittee: I'm a working writer. I pay attention to words, to what they mean, and to the meanings beneath their meaning. Underneath this question before you today as to what conditions if any to attach to NEA's grant giving charter, is a very simple principle, simple but apparently elusive or beyond the tolerance of those who are so quickly and sweetly outraged, those who would punish all voices not in harmony with their own—the crucial idea that we must protect the speech of those we are least comfortable with. There is no First Amendment principle involved in protecting the speech of those we agree with, those whose hands we want to shake because they represent our own beliefs and convictions. The principle emerges in the conflict and contention with ideas that offend us and with expression perceived to be in monumentally bad taste. At that juncture we define ourselves as a civilization that is free and proud and democratic, with trust in the national community's powers of judgement and analysis, and in its ability to discourse against and finally discard ideas that are foul, destructive, malevolent or even simply foolish—or we are fearful and constrictive and craven and without pride in the natural self-cleansing powers of a free society through which all ideas flow. Those who would limit artists in any way, in any medium, I call craven. Those who have not the courage of their country's constitutional convictions I call cowardly.

Now you may say, and it has been said, this is not a question of defending speech by refusing him or her a grant; the artist can say anything he damn pleases—but if its obscene, overtly sexual, pornographic or generally indecent by the usual standards, the artist cannot reasonably expect us to pay for his art. This is solely a question of whether the government should pay for works of art that violate community standards of taste and decorum. This is a question of using hard earned tax dollars to support the artist who mocks, sickens, or otherwise offends the people who provide those tax dollars. That's all.

Of course that isn't all. In the first place as citizens we regularly see our tax dollars funding programs and policies and forms of speech we abhor—as for example when our taxes pay for police and sanitation services for rallies or parades of groups we oppose. We even see our tax dollars going to subsidize criminal enterprise such as the S and L scandals. Why do we get so righteous about our tax dollars where artists are concerned? The U.S. government taxes its citizens on behalf of multitudes of services and functions it performs, some of them noble, some of them stupid, some of them destructive and shortsighted, some of them quite murderous—but in any event a hefty percentage of them in the face of the disapproval at any given time of a large segment of the tax paying public.

But this question always arises where artists are involved. Why? I suspect it is because those who would censor, those who would preen in umbrage, have no belief in the value to society of *any* kind of art, obscene or otherwise, unless it is from another age, with the artists themselves conveniently dead and gone. I suspect that behind this whole question of tax dollars is that practical man's vision of the painter the writer the dancer the composer as a marginal member of society—that politician's gut sense of the artist as a luxury the society sometimes cannot and should not afford, who may in this or that instance do something worthwhile in an impractical sort of way, but who in most instances is something of a fraud—a sort of self indulgent, self-aggrandizing deadbeat who performs no labor of any consequence, who produces nothing that provides light or heat or calories or that does not get anyone fast from one place to another, but is nevertheless always making big claims for himself. I speak of the latent underlying jealousy we have for elevated expression that is personal, uninvited, powerful, that almost automatic anger we have for a kind of witness and truth-telling that does not proceed from and is not endorsed or accredited by church, or corporation, or family, or other governing institution of our society.

This prejudice is profoundly in the American grain, and like all our prejudices it resists rational argument. Not all artists are good artists, very few are in fact great, but the work of independent witness, that often self-destructive power of curiosity, the willingness to articulate that which many may feel but no one dares to say, the blundering, struggling effort to connect the visible to the invisible, to find the secret meanings of places and things, to release the spirit from the clay—that rude, stubborn squawking self-appointed voice singing the unsingable—who we are, what we are becoming—is through all our regions, and states, and cities and schools and workshops and studios a natural resource as critical to us and our identity and our survival as our oil, our coal, our timber.

To put restrictions on speech funded with tax dollars is itself to speak a certain way, the way of pre-emptive state speech, it is to begin to create a realm of approved speech, an orthodoxy of discourse. To limit, rule, draw bounds around speech is to legislate, *de facto*, more speech to some than to others. And it is automatically to privilege the speech of those who would deny it to others. That is the truth that is lost in the current debate in Congress. The righteous desire to tell artists what they may and may not say is the instinct to monopolize a natural resource.

This is not an isolated issue you have before you about the workings of a minor government agency. It arises in a widening context in which, for example, this administration has gotten a judicial ruling that does not permit doctors in public funded birth control clinics to mention the word *abortion*, a context in which the President has supported a constitutional amendment to limit free speech where the flag is concerned—the first President in our history to advocate a retrenchment in the Bill of Rights—a context that includes an exponential rise in the number of books banned from school libraries around the country, a context in which a self-declared Neo-Nazi and former Ku Klux Klan leader has wide public support in his campaign for a governorship—a context, in short, and I say this knowing the courtesies of bi-partisan inquiry may make you wince here, of racial and gender and ethnic divisiveness that proceeds directly from the ideas and values of the extreme right element of our two political parties. I ask you to consider this context—I ask you to consider these items I've mentioned as creeping increments of an official culture. I ask you to acknowledge as you think about our sinful artists that the agenda of the extreme right, just one element of our political spectrum, is what governs current political discourse—the questions we ask, the issues we raise, the problems we define—as it has for the past dozen years or so. This issue we discuss here is created by an extreme conservatism as it wishes to organize our lives illiberally, on one mold, as a uniculture—a conservatism that has from its genuine but quite paranoid soul decided that there is no hope for this country except as all other political constituencies conform to its righteous ways. And so we have odd patterns of thought. College professors who object to racist inflammatory speech on their campuses are derided for being politically correct; at the same time artists applying to the NEA are subject to the criteria of political correctness. It is irrelevant that community standards are violated by racist speech; but it is by upholding community standards that artists are denied grants. All this is quite odd. On the other hand the conservative movement has never let the true meaning of words interfere with its political intentions. Our President speaks for civil rights, but has repeatedly vetoed legislation that would relieve the inequities of racism. He reveres the environment but prevents laws from being enacted that would save it from despoliation. It's all very odd—and if you think I am wandering too far afield here, I remind you that we need every artist we have, every witness, just because things have become so odd, just because people in power don't mean what they say, because our public debate is so degraded, our political discourse so subject to intimidation and flim flam, do we need these strange people who go their own way, these artists. We need them. First we need to stake them to a few months work, if they're good. And then we need to leave them alone.

I point out to you if you haven't already heard, the disbelief of the American people upon learning that in a week in which a man with a gun committed another one of our indigenous mass murders in a public place—twenty-three people dead, a new record—the Congress refused in its grimjawed patriotic righteousness to pass a bill banning the sale of semi-automatic weapons. I want to point out to you the perception on the part of some of us of the ludicrousness of worrying at length about an artist's nudity or naughty words while granting murderous free expression to any maniac who happens to have the price of a gun and decides to walk into a restaurant and kill everyone he sees.

I'm a working writer and I dare call myself an artist. I do not feel marginal to this society but rather deeply involved in its practical working life. My work provides employment to others—editors, typesetters, publishers, binders, newspaper critics, booksellers, teachers, movie actors and directors, and set designers and videotape store managers. Painters provide employment for printmakers, publishers, gallery owners and workers, art critics, TV documentarians, museum curators and museum guards. The work of artists in every medium provides jobs and stimulates the economy. The NEA has generally funded younger writers at the beginning of their careers—so that they too, presumably will be in a position one day to generate jobs for others. All artists are, economically speaking, small businessmen. Perhaps we should be testifying before the Small Business Bureau.

But in any event I ask you not to accept the strange alarmed right wing vision of things—it's bad not only for artists, it's bad for us all. Any legislative condition put on artists' speech, no matter how intemperate or moderate, no matter how vague or how specific, means you publish a dictionary with certain words deleted from the language, it means you lay out a palette with certain colors struck from the spectrum. Do you really want to do this? Does the Congress in its wisdom really believe that bleeping out words, blacking out images, and erasing portions of the tape is what is needed to save this republic?

I would venture to remind you by way of conclusion that if you give to Comstockery a little piece of your democratic or republican soul, it will next year demand a bigger piece. As politicians who know history you know that to appease this demon is to make it only more powerful and more voracious. It won't ever stop unless you stand up to it. For that reason I urge you not to choose between more or less onerous grant-conditioning language. It is all censorship and I say to hell with it—it's nothing any decent American should stand for. Give the NEA back its original charter in which there is no language requiring of artists political conformity in any guise. And you'll be able to go home to your families, and especially to your children, knowing you've done them, and your country, a great service.

Thank you.

KANSAS CITY'S METROPOLITAN ENERGY CENTER: 10 YEARS OF OUTSTANDING SERVICE

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. WHEAT. Mr. Speaker, it is a great pleasure to bring to the attention of my colleagues the outstanding contributions made to the greater Kansas City community by the Metropolitan Energy Center.

This month, the Metropolitan Energy Center celebrates its 10th anniversary of service to the people of Kansas City. Founded in response to the energy crisis of the late 1970's, the center is one of the last independent, nonprofit, community-based energy agencies in the country.

Whether in times of energy uncertainty or in times of relative stability, the mission of the Metropolitan Energy Center has remained the same—to "involve people individually and collectively in the management and control of their energy use."

Today, under the skilled guidance of Executive Director Peter Dreyfuss, the center continues to play a vital role in the promotion of sound energy policies and the provision of a comprehensive range of services related to energy conservation and improvement of the environment.

These services include an information hotline, demonstration projects to test new energy-efficiency applications, residential weatherization, and in-home energy audits. A hallmark of the center's 10-year history has been its ability to foster effective private-public partnerships that work to the benefit of the entire community.

The Metropolitan Energy Center estimates that the greater Kansas City area spends more than $2 billion each year on energy. Each dollar saved through the efforts of the center is a dollar that can be used to help the local economy grow stronger.

At its 10th anniversary celebration on October 14, 1991, the center honored several individuals and organizations for their efforts to promote efficient energy use and improve the quality of the greater Kansas City environment. Recognized for their contributions were:

H. Bruce Hughes, who donated his expertise as an engineer to save local nonprofit agencies thousands of dollars through energy efficiency improvements.

Ray Gordon, who audited all of the homes weatherized under the center's Project Warmth campaign, which has helped more than 300 low-income families stay warmer in the winter and reduce their utility bills.

Hallmark Cards, Inc., and the Hall Family Foundation for 10 years of financial and volunteer support of the center's programs.

Kansas City Southern Industries, for a longstanding commitment to the center and to improving the quality of life of Kansas Citians.

The Village Presbyterian Church, for its commitment to aid low-income families in reducing their energy costs through weatherization.

I am pleased to join the center in commending the spirit of community involvement demonstration by these individuals and organizations. Through their generous donation of time and resources, they are working with the center to create a better future for the metropolitan area.

On the 10th anniversary of the Metropolitan Energy Center, I am proud to express my appreciation for all the assistance it has provided in making our community more energy efficient. As we prepare to face the economic and social challenges of a new century, it is my hope that the Metropolitan Energy Center will continue to play a key role in developing sound energy policy for the future.

PITTSBURGH CELEBRATES THE 25TH ANNIVERSARY OF THE INTERNATIONAL POETRY FORUM

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. COYNE. Mr. Speaker, I want to join in celebrating the 25th anniversary of Pittsburgh's International Poetry Forum.

Pittsburgh is a city of many proud traditions which reflect the artistic and cultural achievements and interests of our community. The International Poetry Forum is one such tradition.

Over the past 25 years, the citizens of Pittsburgh have enjoyed presentations of some of the world's great poetry at our community's International Poetry Forum. For this pleasure, we express our gratitude to Sam Hazo, a man who had labored with love over the years to make the International Poetry Forum a success.

At the 25th anniversary gala held recently in Pittsburgh, a number of outstanding performers presented some of the great poetic works created in the United States and abroad. Anne Jackson and Eli Wallach performed a dramatic reading from Tennessee Williams' "Summer and Smoke," and Michael York presented "A Thousand and One Nights." Opera singers Maria Alsatti and Michael Fiacco were among the many other performing guests at this year's forum.

One of the speakers at Pittsburgh's recent International Poetry Forum was William J. Byron, S.J., president of the Catholic University of America. In his remarks, Father Byron notes the vital role played by poetry in the life of Pittsburgh and cities everywhere. I believe Father Byron is correct in stressing the important contribution of poetry to the conversation of the city. It is often through poetic expression that we see best reflected the true beauty and energy of our Nation's urban centers. I would ask unanimous consent that the remarks of Father Byron be printed in the RECORD immediately after my statement.

The International Poetry Forum celebrates human creativity and our ability to communicate through words and imagery. Mr. Speaker, I want to commend Sam Hazo and everyone else associated with the International Poetry Forum, and wish them continued success in their efforts on behalf of this forum.

Poetry and the City

(By William J. Byron, S.J.)

Although I have a famous poet's name—Byron—I am not a poet. I write essays occasionally, never verse. And although I was born in this city's Magee Hospital, I am not a Pittsburgher. I grew up in Philadelphia. I have, however, both roots and friends here in Pittsburgh. Sam Hazo is one of those friends. I admire his poetry and welcome the opportunity to join in the celebration of the international influence, over 25 productive years, of Sam Hazo's Pittsburgh-based poetry forum.

Pittsburgh, like any city anywhere in the world, needs poetry. Few cities recognize the need. Pittsburgh is fortunate to have the poetic eye of Sam Hazo overseeing the way its citizens search for meaning in their lives; it also has in him a citizen-poet who makes this city a more human place through the gift of poetry.

My spiritual forebearer, Saint Ignatius of Loyola, founder of the Jesuits, advised his early companions to establish colleges in locations where they could hear and participate in "the conversation of the city." (Duquesne's location would be ideal in the view of Ignatius.) I like that phrase, "the conversation of the city." Every city has an ongoing conversation, a rhythm of words, a tuck and point of ideas an ordered exchange of thought sometimes, but much more often a random, occasionally loud, even shrill conversation without, as the saying goes, "rhyme or reason."

There is reason and, depending on form and fashion, also rhyme in the poetic contribution to the "conversation of the city." That is why the city needs poetry that is creative. It is characterized by intensity of meaning. It is better, of course, spoken aloud than silently read. And no matter how free the form, it is conveyed in disciplined measures. It has beginning and end with structured meaning somewhere in between. It has reason and imagination. It has those essential immaterial realities every city needs.

Chesterton once remarked that London is a riddle; Paris is an explanation. In the life

of any city there are many riddles to which poetry may well serve as explanation. Through poetry, citizens can get at the meaning of things and events in a unique way. Those who recite or read poetry aloud can feel the meaning and communicate the feeling.

What happens in a theater on a stage is what Otto Ludwig saw as the marriage of two arts—acting and poetry. They unite to produce the drama. What happens on the streets and in the homes and workplaces of a city deserves the label of unexpressed, even unrecognizable "poetry in persons." Meanings there remain hidden and mute until the poet produces the poem.

At the same time, within these streets, homes, and workplaces, there are human beings who are dull of spirit, hard of heart, leading value-vacant lives—sleep-walking, so to speak, in a world they cannot see or understand as beautiful and challenging. They need not a physician, but a poet. "Both socially and individually it is with us as it is with our cities," wrote Robert Bolt 40 years ago, "an accelerating flight to periphery, leaving a center which is empty when the hours of business are over." The poet can help to fill that empty center.

I read Robert Twombly's biography of Frank Lloyd Wright last summer and was impressed to learn that in 1990 an article in Architectural Review noted that "Few architects have given us more poetic translations of material into structure than Frank Lloyd Wright." The biographer went on to make the following points:

"The twentieth century in America opened amidst a wave of national self-scrutiny. The muck that had given a protective covering to the economic and social misery caused by industrialization and corporate consolidation was being raked away. Protest and reform swept the land and drifted into literature, where the social realism of Stephen Crane, Jack London, and Theodore Dreiser exposed the brutalization of working people, and into painting, where John Sloan, Robert Henri, and others depicted the seamier side of urban life."

Twombly omits mention of poets (Carl Sandburg's "Chicago Poems" did not appear in Poetry magazine until 1914) but goes on to say that Wright's work was "considered 'reformist' since everything about [it] implied discontent with the architectural and social status quo."

Discontents, poetically conveyed, need articulation in our cities today. The yearnings of the human spirit, poetically framed, need expression in our midst. We are back where we were as this century began—in need of self-scrutiny aided by the clarifying insights poetry can deliver to human minds and hearts. That unity—unity of minds and hearts—is the goal of those who work for justice as they hope for peace. It is time to remind policy-makers who pursue those goals in our cities, nations, and the international community, that to ignore the poets is to risk losing their way. It is also time to encourage the poets not to give up on the city, as unresponsive and unpromising a that troubled social reality may appear to be.

And, of course, it is time to say thanks to Sam Hazo for his poetry and patient persistence. It will please him, I know, for me to leave you with these lines I like from Robert Frost. They speak to me of Sam's poetic persistence and serve as a measure of our debt to him.

Our very life depends on everything's Recurring till we answer from within. The thousandth time may prove the charm.

A thousand thanks, Sam, for your answers from within. May you long continue to serve both city and citizens so generously and so well.

BUSINESSES AND SCHOOLS: INVESTMENT IN EDUCATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. GOODLING. Mr. Speaker, as we move closer-and-closer to the global economy of the next century, or schools and educational systems will play an increasingly important role in ensuring that our youth have attained a level of academic achievement sufficient to equip this Nation to be a competitive player in that economy. Seen in the context of our Nation's role in the global marketplace, the goal that our students be first in the world in mathematics and science by the year 2000 is truly a national goal and every citizen has a role to play in meeting that challenge. The task of educational reform cannot be left solely to school administrators or to government policymakers, but must be confronted by every one of us that has a stake in the economic future of this Nation.

Acknowledging its interest in our country's economic future, the business community has recognized the importance of quality in our schools and has made a tremendous investment in education. According to the October 21, 1991, issue of Fortune magazine, 24 percent of Fortune industrial 500 and service 500 companies donated at least $1 million to education programs and school reform in the past year. The Fortune article also indicated that, not only are these top tier businesses giving financial support, but employees at every level of the company hierarchy are giving generously of their time as well.

One hundred and thirty two of the most promising school-business partnerships were highlighted by Fortune and these programs dealt with topics as diverse as student-parent communication, dropout prevention, mathematics and science education, literacy, English as a second language, teacher development, and job preparation, to name a few. The concept of schools and businesses working in partnership to improve our schools and the quality of education we provide is one that was embodied in a bill I introduced, H.R. 2495, the Teacher Leadership Act of 1991. That bill included a model program called Business Partnerships for Classroom Leadership which was designed to foster relationships between schools and local businesses to bring new expertise into the classroom and to enable teachers to apply their skills in a practical setting through internship opportunities.

In reviewing the numerous exemplary programs included on the Fortune list, I was pleased to note the investment in education by two firms with a substantial presence in my district. Caterpillar sponsors a program with the Urban League that exposes high school students to the possibilities for business careers and offers summer jobs and college scholarships. Employees of Electronic Data Systems receive time off from work to volunteer as mentors and tutors in their community schools and the company also trains volunteers and teachers in positive parenting and child abuse prevention.

Too often business organizations are unjustly accused of having a single-minded profit motive and of exhibiting a lack of regard for some of the larger social problems that affect this Nation. The Fortune article highlighted for me the tremendous commitment to education, both in terms of money, and in terms of time, that many of our largest businesses have made. Each of these companies deserves our applause.

A TRIBUTE TO LETTY WICKLIFFE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. PURSELL. Mr. Speaker, every once in a while, a community pauses to recognize those residents who have added to the fabric and quality of life in a significant and longlasting way.

One such individual in Ann Arbor, MI, is Letty Wickliffe, whose mother was a native Ann Arborite and whose father was a former slave and Civil War veteran.

Letty was born on January 25, 1902, in Ann Arbor. Her productive adult years have earned her the rightful title of respected community leader.

Undaunted by sometimes overt, and other times subtle, racial prejudice in Ann Arbor, Letty emerged as an energetic and dynamic leader whose words and actions matched her commitment to a truly harmonious city.

Letty's Ann Arbor neighborhood is a model area where diversity flourishes. Many city leaders have sought Letty's leadership on issues ranging from education—(she holds a degree in education from the University of Michigan)—to community activities, recreation, housing, and city services. Letty has had a positive impact on these issues and many others.

More importantly, Letty Wickliffe has had an impact on the people of here neighborhood, her city, and her political party—she is a lifelong Republican. There are few people who have come in contact with Letty and not come away feeling as though she genuinely cared about them, celebrating their successes and soothing their disappointments.

Letty Wickliffe is unique—a true believer in the "can do spirit" and one who has never hesitated to roll up her sleeves and get a job done.

Earlier this year, Letty was featured in a video depicting the lives of three prominant black women of Ann Arbor. To this tribute I add my own, and ask my colleagues to join me in recognizing the achievements of this grand lady.

IN HONOR OF DON HENLEY AND THE WALDEN WOODS PROJECT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to honor the efforts to preserve a sacred site in America. Walden Woods in Concord, MA, the land made famous by Henry David Thoreau in the American classic "Walden," has always been renowned as a land where nature's beauty could help one find inner peace. But in early 1990, Walden Woods was in danger of being developed.

In April of 1990, recording artist Don Henley and several of my Massachusetts colleagues took action to prevent construction on this pristine land. Henley founded the Walden Woods project, an organization whose objective is to acquire and preserve areas of Walden Woods which are in danger of being leveled for commercial development. The land will eventually be turned over to a local land trust for public access.

The Walden Woods project's fundraising efforts kicked off on April 24 and 25, 1990, with Henley and various other entertainers participating in two benefit concerts at the Worcester Centrum in Massachusetts. With the help of the Trust for Public Land, the Walden Woods project acquired 25 acres where condominiums were to have been constructed. This purchase, which took place only 8 months after the Walden Woods project's inception, totaled over $3.5 million. The Commonwealth of Massachusetts then contributed $500,000 to purchase the development rights for the adjoining 25 acres, thus preserving a total of 50 acres of this historic site.

While the mission was to preserve land, the Walden Woods project has not ignored the needs of the people who were counting on the condominiums. An alternate site has been found for the construction of units for low- and moderate-income families. The Walden Woods project is in the process of buying this land which will be turned over to the town of Concord and State housing authorities.

Yet a business development, Concord Office Park, is still set for construction on Brister's Hill, an 18-acre site only 700 yards from Thoreau's cabin. For more than a year, Henley and others have tried to negotiate with the owner of Concord Office Park to preserve this important piece of American history.

This past summer Henley raised close to $300,000 from his North American concert tour; with the assistance of Pollack Media Group, Henley enlisted the aid of several radio stations around the country to auction off tickets for his concerts. Most recently he has compiled a book entitled "Heaven Is Under Our Feet: A Book For Walden Woods," featuring 67 chapters, including ones by Senator EDWARD KENNEDY, former President Jimmy Carter, Senator JOHN KERRY, Congressman CHET ATKINS, Jack Nicholson, Robert Redford, Janet Jackson, and many others. Five dollars from each copy sold will go directly towards the project.

Of the $7 million or so needed, over $1.5 million has been raised. The Walden Woods project hopes to eventually link the newly protected land into the existing trail system around the pond. A series of tasteful interpretive markers throughout the trail system would promote understanding and respect for Thoreau's life and work, and would provide an opportunity for visitors to the Walden area to learn more about the environment which shaped the thoughts of one of America's greatest authors.

Don Henley's personal involvement and dedication in this important endeavor should be an inspiration to everyone. While celebrities often lend their names to causes, Don Henley has given his time, money, and compassion to this project and is largely responsible for its success to date. He has shown that we as individuals can make a difference when we come together for a worthy cause.

I ask my colleagues to join me in honoring Don Henley and his cochairmen, Michael Kennedy and former Senator Paul Tsongas, and the project director, Kathi Ro Anderson, for their efforts in the Walden Woods project. His recent concert series, which opened in New York City's Madison Square Garden this month, has helped to support these honorable attempts to preserve Walden Woods. I am glad my hometown was able to assist this noble effort.

INTRODUCTION OF THE WESTERN HEMISPHERE ENERGY SECURITY PROMOTION ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 30, 1991

Mr. SYNAR. Mr. Speaker, I'm pleased to join with my good friend and distinguished colleague from West Virginia, Mr. WISE, in introducing H.R. 3679, the Western Hemisphere Energy Security Promotion Act.

Those of us on the Energy and Power Subcommittee have spent many months working to develop a comprehensive energy policy for the United States. One of our most crucial goals is to reduce this Nation's heavy dependence on unstable foreign suppliers of oil, and particularly those from the Persian Gulf. Clearly, we all agreed than enhancing our long-term energy security means doing more to increase and diversify our domestic resource base. In this respect, I have sponsored my own bills and strongly supported other proposals to increase domestic oil production in the lower-48, increase our production and use of natural gas and alternative fuels, and a variety of other measures to promote U.S. self-reliance. But even if we are successful in those efforts, the United States will continue to be dependent on imports to some degree. As a result, it is critically important that, to the extent we do import foreign oil, we rely increasingly on more stable sources. Otherwise, we are simply setting ourselves up for one supply threat after another in the years ahead.

This legislation is designed to address that problem, and its purpose is very simple: It enunciates our general policy goal of enhancing U.S. long-term energy security by enhancing the overall production capabilities and security within our hemisphere. Let me re-emphasize that the goal is not to displace U.S. oil with oil from other Western Hemisphere countries. To the contrary, our hope is that increased reliance on more stable supplies of oil from the Western Hemisphere—particularly Venezuela and Mexico—will displace those supplies we currently import from less stable regions. We can accomplish that goal by making sure that U.S. policies give proper consideration to the need for continued development of production capabilities in this hemisphere.

As my colleagues may know, in January 1990, I traveled with other members of my subcommittee to Venezuela, at the invitation of the Venezuelan Energy Ministry. During that visit, we had an opportunity to discuss Venezuela's energy potential, Western Hemisphere energy security matters generally, and related issues such as increased opportunities for energy industry investment and expansion. I was greatly encouraged by those discussions and by their mutual desire to work closely with the United States on cooperative energy security efforts. We will all gain through closer cooperation in this area, and I look forward to working in the months ahead with other Members who share our goal of promoting a more energy-secure Western Hemisphere.

I invite our colleagues to join us in the support of this goal and this legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 31, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 1

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for October.

SD-628

NOVEMBER 4

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SR-332

NOVEMBER 5

10:00 a.m.

Commerce, Science, and Transportation

To hold oversight hearings on the Office of Barter and Countertrade, Department of Commerce.

SR-253

NOVEMBER 7

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 461, designating segments of the Lamprey River in New Hampshire for potential addition to the National Wild and Scenic Rivers System, S. 606, designating segments of the Allegheny River in Pennsylvania as a component of the National Wild and Scenic Rivers System, S. 1230 and H.R. 990, to authorize additional funds for land acquisition at Monocacy National Battlefield, Maryland, S. 1552, designating the White Clay Creek in Delaware and Pennsylvania for potential addition to the National Wild and Scenic Rivers System, S. 1660, to authorize funds for implementation of the development plan for a segment of Pennsylvania Avenue in the District of Columbia, and S. 1772 and H.R. 2370, to alter the boundaries of the Stones River National Battlefield, Tennessee.

SD-366

10:00 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings to examine U.S. trade with eastern Europe and the Soviet Union.

SR-253

NOVEMBER 8

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings to examine whether the Federal Government's purchasing practices are environmentally conscious.

SD-3442

NOVEMBER 12

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings to examine competitiveness in the U.S. computer software industry.

SR-253

Select on Indian Affairs

To hold hearings on S. 538, to restore Federal recognition of, and assistance to, the Miami Nation of Indiana.

SR-485

NOVEMBER 14

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on how the Federal Government can improve its message to the public on child health and nutrition.

SD-342

NOVEMBER 15

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 1607, to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe.

SR-485

NOVEMBER 19

10:00 a.m.

Commerce, Science, and Transportation

To hold oversight hearings on title 5 of Public Law 100-418, authorizing the President to conduct a study on the effect of foreign mergers, acquisitions, and takeovers on U.S. national security.

SR-253

NOVEMBER 20

10:00 a.m.

Select on Indian Affairs

To hold oversight hearings on Federal court review of tribal court rulings in actions arising under the Indian Civil Rights Act.

SR-485

POSTPONEMENTS

NOVEMBER 6

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 538, to restore Federal recognition of, and assistance to, the Miami Nation of Indiana.

SR-485