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SENATE—Thursday, July 23, 1992

The Senate met at 9:20 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

In a moment of silence, let us remember Senator BURDICK, who is in the hospital in Fargo, ND; and the son of Senator STEVENS, Walter, who had serious surgery yesterday.

* * * *Blessed be the name of God for ever and ever: for wisdom and might are his: And he changeth the times and the seasons: he removed kings, and setteth up kings: he giveth wisdom unto the wise, and knowledge to them that know understanding.*—Daniel 2:20, 21.

Eternal God, everlasting Father, Lord of history, the times and the seasons are known to You, the end from the beginning and all in between. History, its origin, and its consummation are ordered by You, its author, not its victim.

Ruler of the nations, You know the schedule of empires, their derivation, their development, their decline, their demise. You know where we are in our American journey. God of the macrocosm, the cosmos is Your creation, and You plan every moment and movement of its existence. God of the microcosm You know when a sparrow falls to the ground, You know every detail of our private and corporate lives, from conception to death. Lead us in the way You have planned for us, in the way of justice, righteousness, and truth—the way of love. Save our Nation from such total fragmentation lest, like Humpty Dumpty, “* * * All the king’s horses and all the king’s men couldn’t put (it) together again.”

In the name of the Prince of Peace, incarnate Love and Truth. 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, July 23, 1992.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be permitted 10 minutes to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection the Chair recognizes the Senator from Minnesota [Mr. WELLSTONE] for 10 minutes.

Mr. WELLSTONE. Thank you, Mr. President.

THE HIGHER EDUCATION ACT

Mr. WELLSTONE. Mr. President, I think we are at a moment in the history of our country where people all over the country are redefining national security. I think what people are saying is that a big part of the definition of national security for our Nation is going to be not only, of course, to have a strong defense in military terms, but also to have a strong economy.

People are talking about how we can invest in our economy so that we have an economy that does well for busi-

nesses, and that also produces the kind of jobs that people can count on, jobs that pay a decent wage under decent working conditions.

It is in this context, Mr. President, that I would like to talk about the Higher Education Act, which will be signed by the President today. And I will immediately acknowledge the important vision, and really the leadership, over the years, of Senator PELL, who is chairman of the Education Subcommittee, that I really feel privileged to serve on.

Mr. President, I just want to make a few comments about this bill. First of all, I want to make it crystal clear that as a former teacher, I am absolutely convinced—and I think 99.999 percent of the people in our country are convinced—that education is crucially linked to economic performance.

That is to say, we will not do well unless we have a literate, trained, productive work force. So to invest in education in our country is really to invest in our economy.

Second of all, let me make a point which is not made as often, which is that I think education is critical to a democracy. We simply have to have women and men who can think on their own two feet, who understand the world that they live in, and who understand what forces of action are available to them to make our country better, to make the world better, and to make life better for their children and themselves.

Mr. President, I am pleased with this Higher Education Act. I was privileged to sit on the conference committee, and to be a part of how this public policy was formulated in the U.S. Congress. It is not all that I would want, and as Senator PELL well knows—he has been here far longer than I—we still have to work with the Appropriations Committee and make sure we have the funding for the programs that have been authorized.

But there are a couple of features of this bill that I would like to emphasize, because I really think they are rooted in hearings that Senator PELL gave me permission to conduct in the State of Minnesota.

* This “buller” symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

I went out to Minnesota, and I had a hearing in the Minneapolis Community College, and then another one up at the University of Minnesota in Duluth. The focus of these hearings was on the non-traditional students.

I had taught at a college where just about all the students were ages 18 to 21 or 22. But what I realized, after holding these hearings, was that maybe the nontraditional students have become the traditional students. Students are no longer all 20 years old and living in the dorm. So many students in our country are older and going back to school; many women, many single parents. This represents, really, a transformation in our society, and the sooner we adjust to that, the better we will be as a nation.

So I would just like to highlight a number of aspects of parts of this bill that I was able to work on with the support of many people in Minnesota, that I am really proud of.

First of all, I am really pleased with an amendment that I offered that was accepted by Senator PELL to this bill which calls for \$20 million for institutions for child care services. Twenty million dollars is not a huge amount of money, but, finally, we are acknowledging the fact that if we are serious about providing educational opportunity for students in this country, a good number of those students are older. And many of them, again, are women; many with children. So child care and support for child care is critically important.

The bill goes on to make it clear that child care allowances are to be figured in as part of the definition of need, of the cost of attendance. Again, we are finally coming to terms with the new kind of student and with the new reality within our country.

Then finally, within the Pell grant, we provide for a \$750 allowance for child care.

Second, Mr. President, another concern that was voiced by Minnesotans and people all over this country was where the middle- and moderate-income families fit into this.

One of the things that we have done in this bill that I think is very important is we have removed home and farm equity from being considered as part of need assessment. For those people that come from farm or agricultural areas, you know what I mean when I say you can look rich on paper in terms of farm assets, and you might not even be cash flowing.

So I think what we have done in this Higher Education Act is extremely important in terms of the availability of loan programs, not just for low-income, but for middle- and moderate-income people, as well.

Third, we have not made the Pell Grant Program an entitlement program. I think we should. I think it is in the national interest. But the maxi-

mum level has been raised to \$3,700 in 1993 with a maximum increase of \$200 per year over the next 4 years.

Again, by raising the definition of who is eligible so that it includes the moderate middle-income range, and by raising the maximum grant level—if we can now be successful with the level of appropriations, we will have taken an important step toward making sure that higher education will be affordable and that students will not have to rely just on loans, because there will be more grant money available. That is terribly important.

Fourth, and I think this is really something that I would not want people to lose sight of, we have made sure in this bill that Pell grant assistance will be available for part-time students—that is very important—without a time limit. All too often, what has happened has been that part-time students have been ineligible for Pell grants. It is a catch-22. They are going to school parttime because they do not have the money, and they are not eligible for Pell grants because they are not full-time students. We have now made sure they are eligible. I heard students testifying about this over and over again at the community college and at the University of Minnesota, Duluth.

Finally, I would like to express my appreciation to Senator PELL, Senator KENNEDY, and Representative FORD, and others, that we were able to restore authorization for funding for 2-year medical schools such as the University of Minnesota, Duluth. The University of Minnesota, Duluth has done a stalwart job in training med students who go on to practice family medicine in rural, small town communities. So often, those communities are underserved. I think this program is extremely important. I am delighted that we have authorized the funding.

There will be much discussion about the direct loan program. I thank Senator SIMON and Senator PELL, and I thank Senator DURENBERGER, and others. I think it is important that we set up this demonstration model, that we have eliminated the middle man, and I think this could be a very successful program.

In conclusion, Mr. President, for my own part, this is the way I thought it would be. You go home, you hold hearings, you listen to what people say, you come back, you translate that into specific initiatives, you work with your chair. Senator KENNEDY is now here on the floor, and I appreciate his support. You work hard, you dig in, you get it into the committee bill, you work on the conference committee, and then you see some tangible results. I am very pleased that there is a good deal of support for nontraditional students in this bill. I am very pleased that the Pell Grant Program and the Stafford Loan Program will reach well into the middle-income range. I am delighted

that the President will sign this bill. It makes me very proud that we have really passed a piece of legislation that I think directly leads to the improvement of people's lives.

Mr. President, I hope we will do well in appropriations. We have authorized it and we need to have the appropriations for it, because I think this is really a very important step forward for those of us who believe education is so important in our country. I think it is not just those of us in the Senate or the House, I think this is something that the vast majority of the American people support.

Mr. PELL. Mr. President, I thank my friend and colleague from Minnesota for his very kind words. I observe also that, without the support of the Senator from Massachusetts [Mr. KENNEDY] this bill would not have gone through.

This legislation has one priority: the needs of students and their families. It recognizes that financing a college education is a hardship that begins with those who are not well off and extends to hard-pressed middle-income families who today find themselves unable to obtain federal student aid.

In determining a family's ability to pay for a college education, we make several historic changes that will help low and middle income families alike. We remove the consideration of home and family farm equity in determining financial need. Often, this did not measure a family's ability to pay for a college education, but instead penalized families for whom the home was the only real asset.

For families who previously have been punished if they scrimped and saved for their children's education, we will now protect those savings. And, we call a halt to the practice that required students to save an unreasonable amount of their summer and school year earnings for their education.

For the first time, we will have one system for analyzing and determining need. We will have a simplified application and reapplication process with shortened forms printed in plain and simple language. What a relief these changes will be to families who have found applying for Federal aid a detailed, complex, and virtually incomprehensible process.

We stress the importance of the Pell grant as the foundation of our Federal student aid efforts, and call for increasing the maximum grant to \$3,700.

But we also recognize that the grant is unable to cover the cost of paying for a college education. Accordingly, we provide for modest increases in loan limits. Most important, we provide a new loan program for middle-income families who may not qualify for a regular Federal student loan, but still need help in paying for their children's college education.

We have also made many changes designed to improve the operation and

administration of the Federal loan programs. We prohibit participation by schools with default rates above 25 percent, and do not allow the use of commissioned salespersons to recruit students. We require fair and equitable refunds for students, and provide stiffer penalties for those who would cheat students and the Federal Government.

We significantly strengthen the process of accreditation, eligibility and certification, and State licensing. We have new Federal requirements to insure that this process is both strong and credible, and that only good institutions make it through. Our goal is a simple one: to make sure that students receive a quality education wherever they go to school.

This legislation is the product of almost 2 years of very hard work.

It is legislation that brings the opportunity of a college education within the reach of millions of young and adult Americans who, without our financial help, would not be able to attend college.

It is legislation that opens education and training possibilities to individuals who otherwise would find none available.

It is legislation crafted to make sure that a quality education is available to every American pursuing postsecondary education.

It is legislation truly designed to keep America strong where it counts the most—in the education and character of its people.

Mr. KENNEDY. Mr. President, first of all, I think all of us in this body want to pay tribute to our friend and colleague, the chairman of the Education Committee, Senator PELL, as well as the minority ranking member, Senator KASSEBAUM, for their extraordinary leadership in bringing us to the position where later on today the President of the United States will sign this legislation. I think all of us are very much aware of the extraordinary contribution that the Senator from Rhode Island has provided in this very basic and fundamental area which is of such enormous importance to families in the United States, and that is in the area of education. We pay tribute to Senator PELL for his continued leadership.

Mr. President, I join in commending President Bush for his decision to withdraw his veto threat and sign The Higher Education Amendments of 1992. This legislation will greatly expand opportunities for students to enroll in higher education. It is an indispensable part of our efforts to restore domestic growth and competitiveness in world markets. Our increasingly technological and complex modern workplace demands highly skilled and educated workers. We cannot afford to have members of our work force hindered by incomplete education or poor preparation.

Unfortunately, over the last 15 years, the cost of college education has increased much faster than the cost of living. Higher education has increasingly moved out of reach for low- and middle-income Americans. Unlike other industrialized democracies, America expects its students and their families to bear the primary burden of paying for higher education. This bill will ease that burden, give millions more students the chance to pursue a college education and achieve their full potential, and build a stronger America in the coming decades.

One of the central goals of this bill is to expand student aid for low- and middle-income families. The legislation accomplishes that goal by authorizing a long overdue increase in the size of Pell grants, and by raising loan limits and expanding eligibility for Stafford loans in order to help students keep up with the rising cost of tuition.

In addition, we have eliminated consideration of home and farm equity in determining eligibility for student aid. No longer will the value of a family home or farm disqualify hardworking middle-income families from student aid. A second provision of the bill greatly simplifies access to student aid. The current process discourages many students, especially in lower income families, from applying for student aid. The bill establishes a single need analysis formula to calculate eligibility for aid, and it also mandates the use of a single, simple application form.

A third issue of serious concern is the fraud and abuse in the current Student Loan Program. In the past 5 years, we have seen a massive increase in loan defaults. Most of these defaults are caused by fly-by-night schools that fail to deliver on their promise to prepare students for the job market. Too often we have seen a proliferation of schools more interested in making a profit than educating students.

To achieve reform here, we have strengthened various aspects of the school approval process and we have adopted many recommendations by Senator NUNN following his excellent and extensive investigation of abuses in the Student Loan Program.

A fourth reform involves teacher recruitment, retention, and development. A new Teacher Corps Program will provide college aid to prospective teachers, in return for a commitment to teach in underserved areas. We have expanded programs to recruit nontraditional teachers and other outstanding individuals into teaching, and we have established national and State teacher academies for in-service teacher training and school leadership training.

A fifth major reform is the expansion of early intervention initiatives. To prevent students from dropping out of high school, and to encourage them to pursue a college education, we must

reach out to them as early as possible in the educational pipeline. These initiatives will identify at-risk students early in the education pipeline and make funding available for early intervention programs to keep them in school. These programs, operated by community-based organizations or local schools in conjunction with the State educational agency, will continue throughout high school and provide supportive services throughout high school.

Finally, in one of its most innovative features, the bill includes a direct loan demonstration program—and I commend our colleagues, Senators SIMON, DURENBERGER, BRADLEY, and others, for the support of that—to enable colleges to make loans directly to students, instead of relying on the current costly practice of using banks as a middleman. I believe that direct loans are the way of the future, and I look forward to the results of this important test. Direct loans offer substantial savings and will enable us to stretch our scarce college aid dollars much further.

It is no secret that this legislation survived many serious obstacles. It is a great relief to many current and future college age Americans that the President decided to withdraw his objection to the expansion of aid to the middle class and the Direct Loan Program. The enactment of this bill will almost certainly rank among the most notable achievements of this Congress.

Nonetheless, a critical challenge lies ahead—to match our rhetoric with our resources in the appropriations bill to come. Shortchanging college aid is shortchanging America. It is time to take down the dollar sign that too often blocks the path to our colleges and universities. If the higher education bill is fully funded, it can do as much for our country in the years ahead as the GI bill of rights did a generation ago.

Educational excellence is the key to competitiveness in today's world. The Higher Education Act is one of the most effective means the Nation has to help students achieve their full potential, and help America reap the rewards of their accomplishments. It is a central part of our longrun goal to revitalize our economy and invest in our future and I commend all those in Congress, the administration, and on campuses across the country who have helped us to fashion these far-reaching reforms.

Mr. President, I ask unanimous consent that a factsheet summarizing the act may be printed in the RECORD.

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

MAJOR IMPROVEMENTS IN REAUTHORIZATION OF HIGHER EDUCATION ACT¹ AS AGREED TO BY THE CONFERENCE COMMITTEE

- (1) EXPAND STUDENT AID FOR MIDDLE-INCOME FAMILIES
- (a) Increase size of Pell grants (increase minimum and maximum grants).
 - (b) Raise loan limits and expand eligibility for Guaranteed Student Loans.
 - (c) Eliminate consideration of home and farm equity in determining eligibility.
 - (d) Factor cost of tuition into determining size of Pell grants.
 - (e) Make student loans available to all students, regardless of financial need.
- (2) SIMPLIFY ACCESS TO STUDENT AID
- (a) Establish single need analysis formula to calculate eligibility.
 - (b) Provide simplified, single application form.
 - (c) Establish automatic eligibility for neediest students.
 - (d) Create new, streamlined reapplication process.
 - (e) Exclude all assets from need analysis for families filing 1040EZ tax return.
- (3) IMPROVE INTEGRITY IN THE LOAN PROGRAM
- (a) Strengthen three parts of school approval process (federal eligibility and certification, state licensing, and private accreditation).
 - (b) Make schools with default rates over 25 percent ineligible.
 - (c) Eliminate short-term proprietary school programs and correspondence schools.
 - (d) Implement provisions of Nunn report on curbing fraud and abuse in student loan programs.
- (4) EXPAND PELL GRANT PROGRAM
- (a) Increase middle income eligibility to \$42,000.
 - (b) Increase maximum grant from \$3,700 in 1993 to \$4,500 in 1997 (current maximum is \$2,400).
 - (c) Automatic eligibility for AFDC recipients.
- (5) EXPAND EARLY INTERVENTION EFFORTS
- (a) Establish new National Early Intervention Scholarship and Partnership program to encourage the establishment of tuition guarantee programs (such as Eugene Lang's "I Have A Dream").
 - (b) Provide early notification of college opportunities to elementary school students and continuous academic and social counseling.
 - (c) Establish Kohl Be All You Can Be program to advertise college opportunities.
- (6) STRENGTHEN ACADEMIC ACHIEVEMENT
- (a) Create Presidential ACCESS scholarship program to reward students who take rigorous academic courses in high school.
 - (b) Expand Byrd Scholarship program for high school students with outstanding records.
 - (c) Strengthen existing provisions on academic achievement as a condition of receiving federal student aid.
- (7) STRENGTHEN TEACHER RECRUITMENT, RETENTION, AND DEVELOPMENT
- (a) Establish new Teacher Corps programs to provide college aid to prospective teachers in return for commitment to teach in underserved areas.
 - (b) Expand programs to recruit non-traditional and outstanding individuals into teaching.

¹S. 1150, The Higher Education Amendment of 1992, complies with all aspects of the Budget Enforcement Act. The new provisions and improvements have been paid for by offsetting reductions in other programs.

(c) Establish national and state teacher academies for inservice teacher and school leadership training.

(d) Expand Christa McAuliffe Teacher Program to recognize and retain outstanding teachers.

(e) Expand early childhood teacher training.

(f) Support alternative routes to teacher certification.

(8) STRENGTHENING GRADUATE AND PROFESSIONAL EDUCATION

(a) Assure supply of highly trained faculty members and research personnel.

(b) Increase access for underrepresented Americans to graduate and professional schools.

(9) ESTABLISH A DIRECT STUDENT LOAN DEMONSTRATION

(a) Test the effect of making loans directly to students and eliminating subsidies currently paid to middlemen.

(b) Includes an income contingent repayment feature for many borrowers.

(c) Authorize a large number of colleges and universities to participate in a direct loan demonstration program.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. DURENBERGER].

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER, Mr. KOHL, and Mr. DASCHLE pertaining to the introduction of S. 3011 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURENBERGER. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois [Mr. SIMON].

THE HIGHER EDUCATION ACT

Mr. SIMON. Mr. President, this afternoon or late this evening President Bush is going to sign the Higher Education Act. That is a significant step forward—not as big a step forward as Senator DURENBERGER and I and some of the members of the committee wanted to make, but it is a significant step forward. And we have to give credit to Senator KENNEDY, Senator PELL, Senator KASSEBAUM, as well as our colleagues on the House side, Congressman FORD, and particularly the one aspect I want to speak about, Congressman PETRI. The Republican Senator from your State, Mr. President, has been very helpful in this area.

What we were able to get into this bill is \$500 million as a demonstration for direct lending. According to the GAO if we had gone as far as Senator DURENBERGER and I wanted to, we would have saved \$1.3 billion, believe it or not, that we make in the subsidies to the banks.

I am grateful to the banks for the assistance they have provided our students, but the bill, after all, is a Higher Education Assistance Act not a Banking Assistance Act. And we particularly ran into the opposition of the

Student Loan Marketing Association, Sallie Mae, which we created to help students. They became a barrier. I have just looked at the latest report, and my colleague from Minnesota will be interested. The compensation of the chief executive office of Sallie Mae this past year was \$2.1 million and the fifth ranking executive makes about two and a half times what the President of the United States makes.

They were out sounding like they were defending the rights of students. They were defending their own little bailiwick that we created. I do not suggest they have not made a contribution, but I think as we move along we are going to have to take a look at Sallie Mae and what we have created there.

This particular provision helps students because it is universally available regardless of income, it is not income contingent. The original bill would have had it all contingent. Thirty-five percent of the schools will benefit from this, and the Secretary will have to pick for the \$500 million. That will be 250 to 400 schools that will benefit from that. So that you pay back on the basis of your income. Right now there is a flat sum regardless of your income and we have a high default rate as a result.

This year, we will spend \$3.4 billion, believe it or not, on student loan defaults. We had this set up where you pay the Treasury rate plus 2 percent, and that 2 percent will more than take care of what defaults there may be because of death, or people unemployed, or whatever it may be.

But if you make \$100,000, you pay back more. If you are a social worker or teacher and do not make that much, you do not pay back that much. Or if you are unemployed, you do not pay back anything, but you are not losing your credit and you are not doing harm to yourself.

Students benefit. Schools benefit. It is simpler. And the taxpayers benefit because we do not end up harming the budget with huge student loan defaults. The country benefits because more students will be able to take advantage of education.

My hope is that we can move beyond where we are on this, and do it quickly. I hope, whether it is Bill Clinton or George Bush, that we can move after we come back in and take a look at where we are and do something even more significant.

I heard Senator KENNEDY a few minutes ago refer to the GI bill after World War II. The Presiding Officer and I may be the only two here old enough to remember the GI bill after World War II. If you take that and put an inflation index on it, that today would average a grant, not a loan, of \$8,100 a year. That was conceived of as a gift to veterans. It turned out to be a massive investment in our own future.

Economists do not agree on very much, but whether it is Lester Thurow and his new best-selling book "Head to Head," economists agree on one thing: Our Nation is going to have to invest in education. That is our future. And this bill is a step in the right direction.

I am grateful to my colleagues on both sides of the aisle for their work on this, as well as our House colleagues.

And I particularly want to commend my colleague, Senator DURENBERGER, for joining me in this effort that did not go as far as we wanted but is a significant step forward.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am prompted by those comments and those of our colleagues from Rhode Island and Massachusetts, and my colleague from Minnesota, to say something about what is going on in our offices right now. This is the 23d day of July. Parents and prospective students are going to the campuses of their choice trying to sign up for one form or another of student aid, since the cost of higher education in this country is now rising about as fast the cost of health care and everyone is looking around for some kind of help.

Somehow or other, even though the President has not yet signed the bill, the word has gotten out that the effort that my colleague from Illinois has just detailed, the demonstration of the value of investing in students who are willing as beneficiaries to return the payment for that investment, the word has gotten out and people are calling all of our offices for information about how they apply for this form of sort of investment assistance.

I think we are going to have, and I hope we have, over the next few months some kind of a reaction, if you will, to the fact when people get to the campuses and talk to the financial aid officers—many of these financial aid officers are enthusiastic about our proposal and many others not so enthusiastic about it—they are going to have to explain why providing an up-front investment in young or older people in higher education, which they are willing to repay out of their income, not a handout, not a freebie that you do not have any personal investment in, why this is not available today, and particularly when it would have positive Federal budget consequences in the near-term as well as the long-term to do it.

If we had been able to pass the legislation that we have proposed, if we had been able to do that, we would have saved, as my colleague from Illinois says, \$1.3 billion a year, \$1.3 billion a year. That is conservative. I think the first figure was \$2.1 or \$2.7 billion. That is the most conservative estimate of the savings when you see the current system as \$3.4 to \$6 billion in default.

That is an immediate savings to the Federal deficit and future generations that are funding that deficit. But the long-range savings to people who are able to get an education, people who are able to select the kind of educational program, the kind of educational institution that they want, not the one they have to go to because they cannot afford the one that they want, that investment in the future of this country is immeasurable.

So I stand here, No. 1, disappointed that we were not able to make this program available to all Americans; and pleased that those of my colleagues who presented this case, particularly the chairman of Labor and Human Resources, who is still on the floor, who spoke to this issue 12 or 13 years ago, and who made it possible this year; the chairman of the Labor Committee in the House of Representatives, BILL FORD, who did not think much of this idea for some period of time but when he became familiar with it became very committed to it. It was the leadership in these committees and particularly on the Democratic side that made this possible.

So I rise to—I hesitate to do this, I suppose—I rise to compliment that leadership, and I rise to compliment the Democratic platform. I have read the Democratic platform. It says that all Americans ought to have the opportunity to invest in their own education as long as they are willing to repay the cost of that education out of the value they receive from that education.

People ought not to be penalized for going into low-income jobs, for going into public service, for going into teaching and social work, and so many of these professions we need so desperately; being family care doctors rather than superspecialists. They ought not to be penalized by the current system.

On top of \$2 million for Sallie Mae, on top of the transactional costs in banking, we are depriving the Nation of what we really need, and that is people who will work in public service professions; who will work in those kinds of professions like the family practice of medicine and not be driven by the cost of education into some of those selective high-paying professions.

I hope since we still have 3 or 4 weeks before my party goes to the convention in Houston, I hope that those who are platform writers for my party will go out and listen to the young people who cannot get into college, to the people who want to go into what are currently called low-paying professions, whose parents who are striving to make ends meet in their families and having a difficult time anticipating the cost of 4 or 5 years of higher education, I hope they go out and listen to them and go to our convention and do what the other party's convention did and endorse the concept, which today is a demonstra-

tion, will not happen for 2 years unless the President of the United States comes back from the convention, comes back from the election and says next year we are going to make this a permanent program. It is good for America, it is good for the young and the older people of this country.

I congratulate those of my colleagues, particularly those who have been named, and particularly my Republican colleague, TOM PETRI from the House of Representatives, and his staff, Joe Flader, particularly, who slaved on this issue for 11 years, for their commitments to seeing that this job gets done.

I congratulate the people of my State of Minnesota for their support for the IDEA bill, the Income-Dependent Education Assistance Act, which my colleague and I introduced. I congratulate BILL BRADLEY, a leader on this issue, SAM NUNN, and others here on this side of the aisle. I just hope the people of this country who currently are out there searching for opportunities to get into college will recognize this as their opportunity and will make it clear to all elected officials and all people seeking elective office that this is a crucial element in building a strong future in this country.

I yield the floor.

Ms. MIKULSKI. Mr. President, today the reauthorization of the Higher Education Act becomes law. This is a law that will give help to those who practice self help.

What do I mean by that? Mr. President, last year I stood on this floor and put forth my own education framework. A kind of navigational chart for middle-class families who are drowning in debt trying to send their kids to college.

I am proud to say that many of the provisions I put forth at that time are in this bill today.

This bill opens doors and creates opportunities for middle-class families and for those who would like their kids to have some opportunities they never had themselves.

First, under this bill, more middle-class families will qualify for student loans. Far too often families who worked hard to take care of their families and put a little aside were punished for their efforts.

So if you had two earners in the family and together they made more than \$35,000, the Government said they couldn't get a student loan.

And if that same family had any assets—a home or farm—it was even worse. The value of that home or farm would be added to the income and knock hard-working families right off the chart.

This bill fixes that problem. It takes homes and farms out of the calculations. So more middle-income families will have access to the funds that are available.

Second, this bill makes applying for loans easier. You used to need your own accountant just to understand and fill out financial aid forms. As I traveled through Maryland I heard many people say they just couldn't get past the application. Some gave up. Now, there will be just one simple form.

Third, the bill raises the amount of money given out in individual Pell grants.

And finally, this bill has a built in mechanism to help pay for itself. This bill is paid for and it's a good use of Americans' money.

This bill cracks down on student loan defaults and tightens up the whole Student Loan Program—to ensure accountability and timely repayment.

Mr. President, that was truly a problem that had to be dealt with. The cost to the Federal Government from student loan defaults increased dramatically, from \$239 million in 1980 to \$3.4 billion in 1992.

It's high time we cracked down on those defaulters. We can use the funds they owe to help others enjoy the same opportunity.

With the reauthorization of the Higher Education Act we expand the scope of opportunities. And we are doing what government is meant to do, help those who work hard to help themselves.

Mr. SARBANES. Mr. President, I rise today in support of the conference report on S. 1150, the Higher Education Amendments of 1992, reauthorizing the Higher Education Act for 5 years. As you know, when the Higher Education Act was first enacted in 1965, opportunities were created and doors were opened for millions of citizens who otherwise would not have had the chance to obtain a higher education. I was very pleased to be able to participate actively in the reauthorization of this act which provides the basic statutory authority for our Nation's commitment to educational opportunity and excellence and look forward to its enactment later today.

The passage of this legislation is particularly significant in my view in light of the repeated attempts by administrations over the past decade to reduce drastically the role of the Federal Government in student aid programs. The Reagan and Bush administrations have consistently tried to minimize the role of the Federal Government in helping students finance their higher education—actions which have resulted in a fundamental shift in the balance of Federal assistance available to needy students. For example, in the mid-1970's, approximately three-quarters of Federal student aid was available in grants, intended to be the foundation of Federal assistance to financially needy students. However, by the late 1980's, loans had replaced grant aid as the primary source of assistance, with about two-thirds of aid to needy

students for postsecondary education available only in the form of loans. While still falling short of what I think we need in terms of financial aid in the area of higher education, I am pleased that the Congress has taken steps in this reauthorization bill to begin restoring the relationship between grants and loans originally intended for Federal Student Assistance Programs.

In the same manner, although the Higher Education Act reauthorization legislation we submitted to the President yesterday is not everything I would like it to be, it does sustain our Nation's longstanding commitment to access, choice, and opportunity in higher education. Every society places a premium on education in terms of developing a skilled and trained work force in the next generation, and the more complex economically the world becomes, the more urgent it is to address this aspect of developing our human resources. In our society, however, education carries two other very important responsibilities which make this whole complex of programs we are talking about essential to the health and vitality of the society.

The first is that we are one of a handful of countries that has maintained a democracy over a sustained period of time. Obviously, education is essential to a literate citizenry capable of making democracy work. The other dimension is that education in America represents a ladder of opportunity. We take great pride in being an open society in which people can move up and forward, and the way they do that is essentially through the educational ladders provided in the programs we are reauthorizing in the Higher Education Act. However, all of the programs we are addressing in this legislation are not solely to benefit the individual, as important as that part of it is. These programs are part of our national effort to include people in our society rather than excluding them, an essential concept in my view to the harmonious working of American society.

The enactment of the reauthorization of the Higher Education Act is a critical step in our efforts to maintain access and choice in higher education. We must continue to acknowledge the vital importance of education in this country, to sustain and hold on to the educated base we have created, and to commit ourselves to a quality education for all our Nation's citizens.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

Mr. CONRAD. Mr. President, last night we had a vigorous debate on the question of the transportation of trash across this country. Last night the debate was a question of who decides whether or not trash can be sent into a State or not.

Last night the Senator from Nevada offered an amendment, along with the Senator from South Dakota and myself, that would have provided the Governor of a State could stop the importation of trash.

Mr. President, that amendment went down last night, although we had a vigorous debate. Mr. President, I believe we made a serious mistake. I have additional evidence this morning that relates to my home State which I believe indicates clearly how serious a mistake was made last night and how deeply flawed the bill before us really is.

Mr. President, I have now received the story from my home State press entitled "GM's Sludge Coming to North Dakota." It is a fairly stunning story, Mr. President. This is non-hazardous waste. That was what we were talking about last night—non-hazardous waste. Now we find out waste from 100 General Motors Corp. factories, according to their story, will roll into North Dakota for a disposal at a landfill site near Sawyer, ND. A company called Municipal Services Corp. will accept all nonhazardous industrial waste generated by the giant auto maker. There is nothing the State of North Dakota can do about it.

My colleagues who do not represent North Dakota may be thinking, well, so what? North Dakota is going to get all the waste from GM plants all across the country. That is not our problem.

Mr. President, it may not be your problem today, but it may be your nightmare tomorrow because, under the bill we are passing, once a community has entered into a contract, there is nothing the Governor can do to stop it. There is nothing the State can do to stop it. And despite all of the promises that we heard yesterday about this bill protecting States, the only States that are getting protected are the big trash importing States, the four of them, that are taking more than 1 million tons a year. If you are not one of those States, if you are not Virginia, if you are not Pennsylvania, if you are not Ohio, if you are not Indiana, you are in trouble.

Last night there was sort of an attitude of, well, this is better than nothing. You know, you take something or you get nothing. And those who are the big trash-exporting States were here threatening. They are saying, well, if you do not take this, we will filibuster the whole bill and the whole bill will go down. Maybe the other side, maybe those of us who are offering the amendment ought to operate that way.

Maybe we ought to have been threatening last night. Maybe we ought to act like the bully if that is what it takes around here to get fair treatment.

Mr. President, there is something wrong here. My State of North Dakota, 630,000 people, a rural State with a pristine environment, where the air still smells sweet, the cleanest air in the country, the first State in the Nation to meet the environmental standards on clean air, and we are being told that because one small town allowed a contractor to come in and establish a landfill, that contractor has now entered into a contract with the giant General Motors Corp., the biggest industrial corporation in the world; that my little State, that little town of Sawyer, is going to take all of the waste from 100 GM plants across this country, and there is not one thing that can be done to stop it.

This bill that is held out as the savior and as the hope is an absolute sham; absolute sham. There is no protection here because, unless the community agrees that has entered into this pact, the Governor can do nothing. That is not what has been represented to people, but that is the fact. Unless that local community agrees, the Governor can do nothing. It does not matter that surrounding communities are all affected.

I know the facts in this case very well. Where is this landfill? In the south or middle of nowhere? I think some might look at it and see that—if they did not know what is beneath the ground, if they did not know that this landfill sits right on top of an aquifer—it is the water supply for thousands of people. That is what we are dealing with.

Now the waste from 100 GM plants is going to come into that State, is going to be dumped in that landfill, and if it leaks—God knows, human beings are not perfect when they build landfills or do most anything else. And if that aquifer is damaged, the lives of thousands of people will be affected.

And it does not end there. When the trucks start rolling, there will be hundreds of trucks bringing GM waste from all over this country to the little town of Sawyer, ND. When those trucks start rolling and they start beating up the highways of North Dakota, that has an effect not just on the people of Sawyer, ND. That has an effect on the taxpayers statewide. Yet they have no say in it. The people of the neighboring town of Minot, ND, have no say in it. Sawyer is a small town, a very small town; Minot, a town of 40,000. A very small town enters into an agreement; the larger town has no say. The Governor has no say. The State has no say, and we are passing a bill that is held out to be a bill that is protecting people from the trash merchants.

Mr. President, if all of that is not bad enough—and if my colleagues think,

well, this is an isolated incident, it is way out there in North Dakota, we do not have to worry about that, Mr. President—wait until it is your turn. Wait until it is my colleagues' turn where some big company makes a deal with some small community, hard pressed economically, and they decide they are going to dump all of their sludge from all over the United States in this little town in their State, and there is not one thing they can do to stop it, not one thing they can do to keep the hundreds of trucks from rolling with that garbage. And wait until they find out that the company that is managing the landfill is not exactly coming with clean hands. Wait until they find out, like we have, that the company involved has a record at other waste facilities that it operates that involves—let me read the record, Mr. President—hundreds of violations and millions of dollars in assessments and penalties against 12 other facilities operated by the same company.

Hundreds of violations, millions of dollars in fines and assessments, because this company has been irresponsible. And now we learn a special prosecutor is investigating the activities of one of the subsidiaries, activities in connection with efforts to build a hazardous waste incinerator in Pennsylvania. The investigation concerns allegations of illegal lobbying, real estate acquisitions and violations of securities laws.

Mr. President, we are about to make a big mistake. We are about to make a huge mistake, because we are going to pass a bill that suggests to the American people that we are actually doing something about this problem.

Mr. President, if you are in Virginia, if you are in Pennsylvania, if you are in Ohio, or in Indiana, this bill does give you some comfort, because you are importing more than 1 million tons of other people's trash a year. Your Governor is going to be able to freeze at least the amount of that trash, based on 1991 and 1992 levels. But if you are in the other 46 States, forget it, because you are not even going to have that protection. Oh, yes, they say, we have provided the means by which the Governor, in conjunction with the local community, can abrogate new contracts.

You know, it has a good ring to it. I was sitting in the chair last night when this was all discussed and explained, and I remember feeling some comfort in that language until I started asking questions about what it really meant. What I found out, Mr. President, is that it means next to nothing, because unless that local community that has entered into the contract concurs with the Governor, asks the Governor to abrogate those new contracts, there is not one thing the Governor can do.

So, Mr. President, I say to my colleagues: Maybe North Dakota today,

maybe South Dakota tomorrow, maybe Minnesota next week, maybe Nebraska, and Iowa, and Kansas, and Oklahoma, and Wyoming; it might even be Colorado that is picked out by some large company, and they might find a small, vulnerable community and make them a deal they cannot refuse.

I was told last night that small, hard-pressed communities are being offered the Moon. These trash merchants are going in and they are telling that small, hard-pressed local community, "You know, if you will just take this waste dump, we know that your school is getting old and needs to be replaced; we will build you a new school. And, you know, we have seen that dilapidated city hall of yours falling down and in ill repair. We will completely renovate that city hall for you."

And that small town that is suffering economically, streets are in ill repair, and maybe some of the streets and towns in my State are not even paved, and they come in and say, "You know, another thing we want to do for you is pave those streets, the ones that have never been paved. We want to take care of that for you here in the community, those streets you cannot repair anymore and maintain because you have been through a tough economic time. You know what, we are a good corporate citizen, and we want to repair Main Street for you. We want to provide a maintenance budget for all of the streets in town. While we are at it, we want to replace the lights in town, and while we are at it, the water treatment facility is in trouble. We know that EPA has been to your local community and said you have to spend several millions of dollars bringing your waste water treatment facility up to standards. We are willing to take care of that for you. By the way, just so that your local leaders are completely familiar with what a good job we do, we want to take your local leaders and look at landfills around the country that we operate, and we want to fly them by corporate jet out to our landfills out in California, and February might be a good time to do that, or late January when it is really cold; that might be a good time to come visit our landfill in southern California. By the way, why do you not bring along your wife and all of the members of the city council. Why do they not come along and bring their spouses along, and we can go down to southern California and look at our landfills there and, just to show you that it is not just one coast that we are operating on, we will take you to Florida, too."

Mr. President, this is a serious matter. I can just feel where this issue is going, when people find out that a small community can enter into an agreement with a big company, and they can start taking the waste from 100 facilities of the major automobile

manufacturers in the world. The entire State is going to feel the results, but they have nothing to say about it. Just that little town and a few people in that town can make a decision that affects everyone else, and nothing can be done. That is the kind of legislation we are passing here today, and we wonder why the people in this country think we are disconnected from reality, and we wonder why people feel we are not performing.

The bill is not solving the serious problems the communities are going to be faced with. And we are not talking theoretically; we are talking of a specific example of how this legislation absolutely will fail to protect people that deserve protection. We had an amendment offered last night, endorsed by this Nation's Governors, and this Chamber just blew it off. It did not matter that the Governors have said, hey, we are going to have this garbage coming into our State; we ought to be able to make a judgment on whether that is in the State's interest. I indicated last night that I have four towns in my State that are incorporated, that have less than 10 people, and those towns could make a decision that affects the whole State, and the Governor cannot do one thing about it. That is wrong.

Mr. President, I hope that cooler heads will prevail and that we will think very carefully of what we are doing, because today it might be North Dakota; tomorrow it might be your State.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, is this Senator correct that we are still in morning business?

The PRESIDING OFFICER. The Senator is correct.

Under the previous order the Senator is to be recognized for up to 10 minutes.

Mr. GORTON. Thank you, Mr. President.

Mr. President, throughout the debate over the spotted owl and old growth in the Northwest, I have maintained the position that we must strike a balance between a complete, or near complete, lock up of our national forests and a return to historic harvest levels. Natural resources in the Northwest are under extreme pressure, both from those who use those resources and those who wish to preserve them.

If true balance is to be achieved, we in Congress must find a way to address both pressures: we must be sensitive to wildlife and aesthetic values and we must ensure a stable supply of Federal timber, albeit at a level below the historic harvest. This is balance and this is what I support.

When Secretary Lujan introduced the preservation plan for the northern spotted owl in March of this year, it was roundly criticized as being an "extinction plan," newspaper articles reported that it would allow the northern spotted owl to die out on the Olympic Peninsula and in the north Cascades, and Secretary Lujan was accused of violating the Endangered Species Act. Mr. President, those predicted outcomes are unacceptable and I would be unable to support a plan that resulted in these alleged atrocities. They were not, however, features of the Lujan proposal.

Even so, when I introduced legislation implementing the preservation plan, I found myself accused of the same goals attributed to Secretary Lujan. But my legislation went well beyond the Secretary's plan. I added ecosystem management approaches on the Olympic Peninsula and in the north Cascades. I added spotted owl protection zones where owl habitat would otherwise go unprotected. And I retained the prohibitions against physical injury to owls outside the habitat preserves in the preservation plan. My legislation added three additional layers of protection beyond those of the preservation plan.

On the socioeconomic scale, my legislation is a far cry from the two bills considered by the Agriculture and Interior Committees in the House. Those bills would reduce employment from historic levels by 19,000 and 21,000 jobs respectively in Washington State alone. My legislation would save 5,000 to 7,000 of those loses in Washington, just 3,000 fewer than those in the preservation plan.

From both perspectives socioeconomic and ecological, my bill is truly balanced.

I have no desire to allow the spotted owl to die off on the Olympic Peninsula and the northern Cascades.

The scientific review panel for the preservation plan itself said "The probability that the northern spotted owl would become extinct across the range in 100 years under this alternative is low, meaning that it is highly unlikely that extinction would occur within this period." It is clearly not an extinction plan and the scientists have confirmed that. So, I would add three additional layers of protection for spotted owls in those areas.

Finally, two giant national parks and several wilderness areas totaling just over 3 million acres lie at the core of the Olympic Peninsula and the northern Cascades. As we all know, Federal law prohibits any timber harvesting on those 3 million acres. Spotted owl habitat inside those national parks and wilderness areas will not change when the preservation plan is implemented.

No, Mr. President, the administration has not proposed and do not support an extinction plan.

The preservation plan was the first scientifically credible plan for the spotted owl to strike a balance between the needs of timber communities and the stability of owl populations. For that reason, it set a precedent. That is why I introduced legislation to implement it. I continue to believe, however, that the best vehicle for resolution of the entire problem is a so-called process bill that allows for the implementation of a long-term substantive management plan through a decentralized planning process, rather than a bill that implements a plan immediately upon passage.

The best vehicle, therefore, is the Forest and Families Protection Act and so I urge the Senate Energy Committee to act on that bill. I am prepared to offer my legislation, with modifications, as an amendment to unrelated legislation unless I am convinced that the Energy Committee is making progress on the Forests and Families Protection Act.

There remains a small window of opportunity this year for the resolution of this thorny issue. We must put aside the misunderstandings and misrepresentations. We all talk about balance, but when our positions are not accurately perceived, the framework for that balance is shattered. I urge my colleagues in this body and in the House to review the preservation plan and my bill, the Northern Spotted Owl Preservation and Northwest Economic Stabilization Act, S. 2762. These bills strike the necessary balance.

I would also like to take a moment to discuss a matter that has had a tremendous impact on the supply of timber from Federal forests on both the eastside and westside of my State. The Forest Service's administrative appeals regulations have served little more than as a tool for preservationist organizations to stop completely the harvest of timber from Federal lands. The same organizations that complain that the Forest Service sells its timber for a price below the cost of preparation are themselves driving those costs through the roof by tying practically every timber sale in knots with administrative appeals.

In 1991, nearly 1,400 appeals were filed in every resource area of the Forest Service, including the timber program, where appeals were filed against 636 timber sales. This represents more than a 600-percent increase over the number of appeals filed annually in the early 1980's. The 1991 appeals cost approximately \$11 million and used up 152 years of staff time for the Forest Service. An administrative appeals process is worthwhile if it results in actual modifications to the underlying management decisions, for one would assume that modifications are the true objective of a citizen appellant. Yet, the 1,400 administrative appeals in 1991 led to changes in only 6 percent of the underlying management decisions.

The worst example of appeals abuses are the cookbook appeals. College students at Wesleyan University in Connecticut have developed a computer software program that allows them to generate administrative appeals on timber sales they have never even set their eyes on clear across the country in Oregon and Washington. This group simply has filed over 30 timber sale appeals in the past 2 years in Oregon and Washington and these appeals have cost the Forest Service an estimated \$238,000 to process. The only difference between the 30 appeals is that the name of the timber sale is changed from appeal to appeal.

The Department of Agriculture has proposed a set of changes to the Forest Service administrative appeals regulations. These changes will expand predecisional public participation and limit the availability of administrative appeals to forest plans and their revisions and amendments. The Forest Service estimates that these new Forest Service appeals regulations will save the agency nearly \$150 million in future savings.

This is the best method I have seen yet for eliminating below-cost timber sales and I applaud Secretary Madigan and Chief Robertson. I simply urge the Secretary to move forward with this proposal and issue a final regulation as soon as possible. The supply of timber in the Northwest does not need any additional obstacles than already exist in the spotted owl and Federal court injunctions.

MEASURES PLACED ON THE CALENDAR

The PRESIDING OFFICER. There are two bills to be read a second time. The clerk will read H.R. 1435 the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 1435) to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior.

The PRESIDING OFFICER. Is there objection to the further consideration of the bill at this time?

Mr. PRYOR. Objection.

The PRESIDING OFFICER. Objection is heard from the Senator from Arkansas.

The bill will be placed on the Calendar of General Orders pursuant to rule XIII.

The clerk has a second bill to be read a second time, S. 3008.

The assistant legislative clerk read as follows:

A bill (S. 3008) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

The PRESIDING OFFICER. Is there objection to further consideration of this bill at this time?

Mr. PRYOR. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the Calendar of General Orders pursuant to rule XIV.

Is there any Senator seeking recognition?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the period for morning business be extended until 11:10 a.m.

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

The period for morning business is extended until the hour of 11:10 a.m.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. I thank the Chair.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 3012 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR. Mr. President, I see no one else asking for recognition. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt runup by the U.S. Congress stood at \$3,982,449,525,016.30, as of the close of business on Tuesday, July 12, 1992.

On a per capita basis, every man, woman, and child owes \$15,504.42—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to \$1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the

interest alone—comes to \$4,511.40 per year.

EXPERIENCES OF MONTANA DELEGATION

Mr. BAUCUS. Mr. President, I am pleased to submit for the RECORD articles from the New York Times that appeared in the July 13 and July 18 editions regarding the Montana delegation's experiences in New York City during the Democratic National Convention. Delegates from Montana at the convention were: Kelly Addy, Jean Atthowe, Evan Barrett, Nadine Brown, Steve Bullock, Dana Christensen, Representative Mary Ellen Connelly, John "Harp" Cote, Lynne Fitzgerald, Peggie Gaghen, Carra George, Mike Gustafson, Mary "Peg" Hartman, June Hermanson, Holly Kaleczyc, Helen Kerr, Kenneth Kubesh, Larry Mavencamp, Kathleen Meyer, John Morrison, Donna Small, Don Sterhan, Bill Whitehead, and Don Wilkins; pages were Pat Isabell and Jenny Kaleczyc.

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

[From the New York Times, July 13, 1992]

DELEGATES FROM MONTANA SHARE FAITH IN THE PARTY

(By Sara Rimer)

Two days after the Phillips County Democratic Central Committee collected \$120 in a one-pickle-jar fundraiser at the Westside Cafe in Malta, Mont. (population 1,800), Larry Mavencamp was coming into Manhattan on a bus from La Guardia Airport.

"I like this city," said Mr. Mavencamp, a farmer's son who is the committee's chairman, tilting his head to take in the tall buildings.

At the age of 25, Mr. Mavencamp is the youngest member of the Montana delegation to the Democratic National Convention. In the seat in front of him was the oldest member, 71-year-old Carra George, a retired elementary schoolteacher from Laurel (population 10,000), also in eastern Montana. Mr. Mavencamp has never been to New York before. Mrs. George has been here once—in 1940, for the World's Fair.

"I wanted to come to the convention more than I've wanted anything in my entire life," said Mrs. George, who was wearing her yellow "Carra for Clinton" button. Yes, anything.

Everyone knows Bill Clinton is going to be the nominee, and the party's platform is not expected to hold too many surprises. The convention is a four-day formality, apparently of so little interest to vast numbers of Americans that the networks have sharply curtailed coverage this year.

But to Carra George and Larry Mavencamp, and many of the others among the 4,319 delegates, this week is the fulfillment of their work in the political trenches, their chance to be players, too.

Mrs. George and Mr. Mavencamp are not jaded about the campaign; they haven't had the opportunity. None of the candidates, with the national news media trailing behind, has visited Montana so far.

"People told me, 'Carra, if you want to be a delegate, you're going to have to campaign for it,'" Mrs. George said.

And she did. So did Mr. Mavencamp. Neither of them got to New York because they knew the right people or donated big sums of money or are related to anyone famous. They got it because they worked for it. Mrs. George has spent her adult life walking door to door for candidates and causes (aerobic campaigning, she calls it), making telephone calls late at night, attending meetings of everything from the Laurel Democratic Club (she is president) to the National Organization for Women.

She recently lobbied a young man who had come to fix her toilet. She said, "I said, 'Mark, what has the Republican party done for you?' He didn't say anything. I said, 'I'm waiting.' I said, 'What has George Bush done for you?'"

Mrs. George was one of 11 children raised on a farm in northern Alabama. She can talk forever about what one President, Franklin Delano Roosevelt, did for her family.

"They couldn't make the payments on the farm, and they were about to lose it," she said. "My mother wrote a letter to President Roosevelt. I remember my dad saying, 'It won't do you any good to write to the President.' She wrote anyway. A letter came back from Washington telling her to go to the Federal Farm Bank in Gadsden. They went, said they saved the farm."

Last spring Mr. Mavencamp went to the courthouse with his father, Norman. After years of struggle with creditors, the Federal Government was auctioning off much of his farm.

"They advertised it in the newspaper," Mr. Mavencamp said. "It was humiliating."

Mr. Mavencamp, who has been repairing his father's farm machinery for sale, is still trying to finish college. He keeps having to drop out to go to work—busing tables in Washington or laying underground telephone cable in North Carolina.

Montana's youngest delegate is from a long line of Republicans. But losing the farm helped make him a Democrat. "I don't think George Bush can relate to regular people," he said. "They're just worried about making the payment on their house, and the insurance is due."

For five days and six nights in New York, Mr. Mavencamp has a budget of \$1,500. That includes his \$400 round-trip air fare and the \$300-a-night suite at the Kimberly Hotel that he is sharing with two other delegates. He would obviously have preferred cheaper accommodations.

"I'm counting on a lot of free food at parties," Mr. Mavencamp said.

The first one was Sunday night, at Windows on the World. The host, New York Life, had originally planned the affair for the Rainbow Room, but an employee strike intervened.

Still, the Rainbow Room is where Mr. Mavencamp was at midnight Thursday. He got there in his pick-up. And he didn't have to cross a picket line, or wear a jacket to get in. This Rainbow Room, in Hinsdale, Mont. (population 200), has peanut shells on the floor. And the view is of the ceiling, where local farmers pay a small fee to inscribe their names. Drinking a beer, Larry Mavencamp could look up and see his father's name.

[From the New York Times, July 18, 1992]

MONTANA DELEGATES HEAD HOME AFTER A ROUSING GOOD TIME IN NEW YORK

(By Sara Rimer)

Larry Mavencamp went home to Montana yesterday with a Yankee cap and a briefcase full of mementoes of his first political con-

vention—Clinton-Gore buttons, newspaper clippings, autographs from Senators Bob Kerrey and Joseph R. Biden Jr. and, the one that means the most, a snapshot of himself with the Rev. Jesse Jackson.

The picture had been taken near midnight Wednesday when, lingering in the lobby of their hotel on East 50th Street, Mr. Mavencamp and another Montana delegate, June Hermanson, looked up and saw the man who had electrified them from the podium the night before.

"He walked right over to us and said, 'Hi, I'm Jesse Jackson,'" said Mr. Mavencamp, a 25-year-old farmer's son from tiny Saco (pop. 171). "I believe he asked where we were from; I don't even remember, it was so exciting. Someone that powerful, and he was right there, talking to us. Especially Jesse, who's always spoken for the farmer. You see these people, and they're up on stage, and you're listening to them, and it's great. Hearing Bill Clinton was great.

But Jesse was right there."

Mr. Mavencamp lives across a gravel road from the railroad tracks in a place where not even the freight train stops anymore, a place, he says, that "isn't on the edge of the earth, but you can see it from there." But for four days in New York, he and his 23 fellow delegates from Montana were right there, too, in ringside seats at the Democratic Party's quadrennial show.

WE GOT PLUGGED IN

"You feel like you're out in the wilds of Montana," said Kelly Addy, the vice chairman of the state Democratic Party. "This week we got plugged in." Montana only has 810,000 people, and Bill Clinton has not campaigned there.

Devoid of any real decisions, the convention was four days of political symbolism, a pep rally for a bruising campaign to come. For the delegates, and especially for Mr. Mavencamp, who is from eastern Montana, where Democrats are hard to find, it was a perfect America: Everyone was a Democrat, and everyone voted.

"It's about finally having some hope that things can be different," Mr. Mavencamp said. "It's given me the drive to do twice as much as before. It's just a crock that all these politicians are no good. We're willing to believe in Clinton and Gore."

Mr. Mavencamp didn't listen only to the politicians, but also to the delegates from all over the country who rode the courtesy buses to Madison Square Garden. "This older man from Charlotte told me, 'You young people should be mad, why aren't you mad?'" he said. "I thought, 'Yeah!' When we got to the convention, I gave him my Montanans for Clinton and Gore button."

Four years ago, Montana's youngest delegate was so alienated he didn't even bother to vote. But this spring, after watching his father, Norman, lose most of his farm to his creditors, the Federal Government, Mr. Mavencamp became the chairman of the Phillips County Democratic Central Committee. The 15-member committee meets in the library in the town of Malta. Seven members had collected \$120 at a fund-raiser at the Westside Cafe to help send Mr. Mavencamp to New York. He has been repairing his father's farm machinery for sale and his father paid him an advance on his wages to cover the rest of his expenses.

New York was full of politicians with agendas this week, and Larry Mavencamp had one, too: He told everyone who would listen: "We have to do something about saving the family farm."

He also tried to persuade his Senator, Max Baucus, who headed the delegation, to show

up at the Phillips County committee's \$10-a-plate fundraiser on Sept. 5. Mr. Baucus seemed interested, but said he would have to check his calendar.

Carra George, a 71-year-old retired school-teacher from Laurel, said she could not remember a time when she had not watched the convention on television or listened on the radio. "I remember in 1952 we didn't have television and I was listening to the radio, and suddenly it went dead," she said. "So I ran out to the car and listened until I wore the battery down. Then I ran to my neighbors and asked if she had an extra radio I could borrow."

This year for the first time she was there, and not just in the delegates' stands, but on stage, one of those chosen from all over the country to stand there with Bill Clinton and Al Gore as the convention closed Thursday night. These were, she said, the four greatest days of her life.

She went home with plans to start campaigning door-to-door—her specialty—on behalf of Bill Clinton.

Mr. Mavencamp may find people a little more willing to listen, at least at first. Before he left, his participation in the convention had rated only three sentences on page three of the weekly Phillips County News. In this week's issue, he made the front page. The headline: "SACO Democrat Makes It Big in New York."

TUBERCULOSIS PREVENTION AND CONTROL AMENDMENTS ACT OF 1992

Mr. FOWLER. Mr. President, I rise today to alert you to one of the most serious public health threats to emerge in this country in recent years, namely the ominous return and resurgence of tuberculosis [TB]. Many people mistakenly believed that TB had been conquered by modern medicine, but it has once again appeared all across this country, striking persons of all ages, and walks of life.

After decades of decline, TB rates have climbed dramatically in the past several years. In 1990 there were almost 26,000 reported cases of the disease. That is a 9-percent increase over the previous year and the largest single increase since nationwide reporting began back in 1953. Between 1990 and 1991, my State of Georgia saw a dramatic 14-percent increase in new TB cases. But my State is not unique. This outbreak is occurring all across the country. It is affecting cities, suburbs, and even rural areas, with more than half of all cases reported in communities of less than 250,000 persons.

Mr. President, even more ominous is the emergence of a new deadly strain of TB that is resistant to traditional medical treatment. This strain, known as multi-drug-resistant TB or MDR TB, is expensive to treat and, more alarming, is fatal in up to 75 percent of all cases.

TB poses great threats to all types of people, but it particularly hurts the poor, homeless, and persons with HIV. Those who work with the poor and homeless in shelters or public service agencies, and those who care for the sick in our hospitals are also particu-

larly vulnerable to this dreaded disease. Even our children and senior citizens are susceptible because of their frail immune systems.

Health officials across my State and this country have warned us that this recent outbreak in the more vulnerable segments of our society is a grim warning of what the general population may soon face, if we do not act now to stem the tide of this growing epidemic.

The good news is that TB is preventable and, in most cases, a curable disease. Treatment for TB generally is a regimen of up to three or four drugs taken daily for between 6 and 9 months. However, failure to follow this regimen faithfully or to complete the full course of medication can result in the development of MDR TB.

To combat this scourge we desperately need more public health workers to monitor and ensure the successful completion of a patient's drug therapy program. This program, known as directly observed therapy, is a tried and true method of TB control which imprudently has been neglected in recent years. Furthermore, we need to bolster our current CDC and NIH programs to improve testing methods and to find a cure for MDR TB. Finally we must reequip our hospitals which treat the largest number of TB cases.

Because TB is transmitted through the air by coughing, many hospitals will find it necessary to improve ventilation systems to control the flow of bacteria-infected air. Hospitals will also need to install UV lighting, which is known to kill airborne TB, in waiting rooms, hallways, and wards.

The bill that I introduced on Monday along with Senators AKAKA, BUMPERS, COCHRAN, CRANSTON, D'AMATO, INOUE, and MOYNIHAN will address all these needs. This legislation increases authorizations for current Centers for Disease Control [CDC] TB prevention and control programs and for National Institutes of Health [NIH] TB research programs. I want to point out that these TB prevention programs are highly cost effective. HHS has estimated that we save between \$3 and \$4 for every dollar of TB and prevention and control funds expended.

My legislation will also provide for Public Health Service grants for TB-related capital improvements to hospitals. Finally this legislation will allow States to extend Medicaid eligibility to those who test positive for TB and meet a State's poverty guidelines.

Mr. President, the deadly resurgence of TB should have never occurred. We are experiencing the dramatic comeback of this dreadful disease because we have failed to maintain vigilance in this area of public health. And let me stress, it is not the fault of our doctors or public health officials, who were able to steadily reduce the TB rate until the mid-1980's. The blame lies in the mistaken health care cuts of the

past decade which have rendered our Federal TB programs helpless against this brimming tide of TB.

We know how to combat and fight this dreaded disease. We must act now to curb this outbreak before the problem worsens. Delay will only unnecessarily threaten thousands of more lives and increase health costs exponentially.

I ask my colleagues to help stop this deadly resurgence of TB by supporting this bill.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor to speak in support of the Tuberculosis Prevention and Control Amendments Act of 1992. This bipartisan legislation addresses the serious and often deadly disease of tuberculosis and the difficult medical, social, and economic problems caused by a resurgence of this disease—a resurgence happening not only in New York but also in the urban and rural areas of all parts of the United States.

This bill will give us the weapons we need to fight this deadly resurgence of TB by significantly increasing the funding available for TB prevention and control at the Centers for Disease Control [CDC] and National Institutes of Health [NIH].

Only recently, tuberculosis was viewed as a disease of the past. Unfortunately, after decades of decline, tuberculosis is coming back—and in epidemic proportions. In 1990, the rate of tuberculosis increased 9.4 percent as compared to 1989—the largest increase since national reporting began in 1953.

This deadly disease can affect all segments of our population. It hits hardest among populations such as the homeless, the elderly, the HIV-infected and the drug-abusers. We are now seeing the disease in our newly arrived immigrant populations. We are also seeing the disease striking particularly hard in minority communities, and at an earlier age. We are seeing a dramatic increase in the number of cases in children, especially in children under 5. In New York City, the tuberculosis rate among children under 15 years of age rose 97 percent over the 1989 rate. We now have outbreaks of tuberculosis in crowded institutional settings, in hospitals, nursing homes, shelters for the homeless, and correctional facilities. Those whose immune systems are compromised by AIDS, cancer, or any other immune-suppressing diseases are especially at risk in institutional settings.

Of grave concern are the outbreaks of a multidrug-resistant strain of tuberculosis. While, with a long-term, monitored course of drug therapy, tuberculosis can be cured, the drug-resistant strains often develop in patients who do not complete the course of drug therapy. We are seeing the drug-resistant strains in hospitals, in patients and in health care workers.

TB can be, and often is, fatal without proper medication and treatment. Untreated, TB kills half its victims within 2 years after symptoms appear. CDC estimates that TB causes 26 percent of preventable deaths around the world.

To successfully combat this new epidemic of tuberculosis we must ensure that those who have this deadly disease receive and complete a course of treatment and that those who have had contact with infected individuals receive preventive therapy. To prevent future outbreaks, we need better testing methods, with faster results, more effective training and equipment and capital improvements to hospital facilities—better ventilation, more UV lighting.

This legislation will address these urgent needs by authorizing badly needed funding for CDC to expand therapy programs, purchase and distribute medication, purchase new diagnostic and testing equipment, and provide training and materials for health care workers. NIH will fund needed research to develop new testing methods and ways to combat multidrug-resistant TB. The Public Health Service will receive funds to be used for project grants for capital improvements to hospitals to improve ventilation systems, install UV light and supply appropriate supplies and materials.

This legislation also permits the States to make individuals who test positive for TB and who meet a State's poverty standards eligible for Medicaid for TB services only. This will help us ensure that those who need treatment will receive that treatment.

I urge each of my colleagues to join in our bipartisan effort to address this disease. It is imperative that we provide adequate funding for prevention and control. For every dollar of TB prevention and control funds spent, we can save an estimated \$3-\$4. Equally important is the savings in terms of human suffering, repeated and prolonged hospitalizations, family disruption, and emotional damage.

Mr. President, let me again stress that the TB epidemic is not an isolated phenomenon limited to our Nation's urban areas. TB is an infectious disease that knows no geographic boundaries. It is spreading at an unprecedented rate. The good news is that, with the proper resources, we can control it. Let us commit the necessary resources to winning the battle against TB by passing this legislation without delay.

Mr. AKAKA. Mr. President, I rise today as an original cosponsor to speak in support of S. 2988, the Tuberculosis Prevention and Control Amendments Act of 1992. This urgently needed legislation, introduced on July 20, 1992, by my colleague from Georgia, Senator FOWLER, seeks to prevent, control, and eliminate tuberculosis [TB].

Many people think of TB as a disease of the past. TB, a contagious airborne

bacteria which can destroy the lungs, was the primary killer of Americans at the turn of the century. This disease was so deadly that it was called the "captain of all men of death." After World War II, antibiotics and public health efforts nearly wiped out the disease, and the infamous sanitariums were closed.

In recent years, however, there has been an alarming resurgence in the number of TB cases nationwide. This disease used to be 100 percent curable. Unfortunately, because people are not taking their medication properly, the disease became resistant to the antibiotics. Without monitoring, some patients fail to take the drugs for the full 6 months or more needed to wipe out the disease. These patients again become contagious with a more dangerous strain that does not respond to conventional treatments.

The dramatic increase in TB cases parallels the increase in AIDS cases. Persons with AIDS have a suppressed immune system. They are more likely to contract the disease if exposed to it.

In my State of Hawaii, TB is a definite threat to public health. In 1991, Hawaii reported the second highest tuberculosis case rate in the Nation. 17.2 cases per 100,000 behind only New York State. We have seen an increase in the number of cases reported every year since 1988. Our Hawaii State Department of Health reported 201 cases of tuberculosis in 1991 and expects 240 cases this year, a 20-percent rise.

According to Department of Health data, 75 percent of these patients are foreign-born. Most of them are recent immigrants from less developed countries in the Asia/Pacific region, where TB is highly prevalent. Hawaii has the highest percentage of such TB cases of any State.

A recent survey conducted by the Centers for Disease Control [CDC] found that Hawaii reported the third highest percentage of multiple-drug-resistant tuberculosis [MDR-TB] cases in the nation, behind New York and New Jersey. In Southeast Asia, where most of Hawaii's TB cases originate, the problem is compounded because TB drugs are available without prescription and are taken inappropriately.

We are not powerless against TB. This is a preventable disease; one that is usually curable. Curing active TB requires daily drug therapy for 6 to 9 months. If this regimen is not followed strictly, MDR-TB can develop. MDR-TB treatment is not merely lengthier and more expensive; only about half of the patients recover.

Mr. President, the bill we introduced earlier this week would help attack the TB problem by increasing authorizations for current CDC and National Institutes of Health [NIH] programs. The critical need is for more public health outreach workers to monitor and ensure the effective completion of pa-

tients' drug therapy programs. That is the key to controlling the alarming resurgence of this disease: monitoring treatment.

Hawaii's \$1.2 million program screens 28,000 people annually, x rays 15,000 people and treats about 200 active cases. About 30 active TB patients in Hawaii are at risk for developing MDR-TB. Only a third of them can be closely monitored by the Health Department's three outreach workers.

This legislation also creates new programs to stem this epidemic. It would permit States to make persons who test positive for TB and who meet a State's poverty standards eligible for Medicaid—for TB services only. It would also provide capital improvement grants to certain hospitals for the installation of UV lighting, known to kill airborne TB, and proper ventilation systems.

Mr. President, I strongly urge my colleagues to support the Tuberculosis Prevention and Control Amendments Act of 1992. We must act to target funds, especially to areas reporting a significant percentage of foreign-born and MDR-TB cases. Now is the moment to halt this epidemic in its tracks, before it needlessly claims more victims.

Mr. President, I ask unanimous consent that an article appearing in the June 17, 1992, Honolulu Star Bulletin be inserted in the RECORD immediately after my statement.

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

[From the Honolulu Star Bulletin, June 17, 1992]

STATE RINGS AN ALARM BELL ON TB THREAT
(By Linda Hosok)

To stop the dramatic spread of tuberculosis in Hawaii, state workers should literally watch sick people take their pills to increase their chances of a cure, a TB expert says.

The practice also would prevent people from developing drug-resistant TB strains, which can cost up to \$120,000 a patient to treat, said Dr. Lee Reichman, American Lung Association president.

"This disease used to be 100 percent curable," said Reichman at a forum yesterday at the Pacific Club. "But because we didn't make sure people took their medication appropriately," the disease became resistant to the antibiotics.

About 3 percent of the state's 201 TB cases don't respond to the two best drugs that treat it, said Dr. Azucena Ignacio, the state Health Department's tuberculosis branch chief.

Most of Hawaii's TB cases occur in people who immigrate from Southeast Asia, Ignacio said.

In New York City, about 33 percent of the cases are drug-resistant, Reichman said. New York has the nation's highest TB rate and Hawaii the second highest, with 17.2 cases per 100,000 people.

Both Ignacio and Reichman said they fear the disease could get out of control in Hawaii. The United States already has declared TB control a national emergency.

"This should have been wiped out," Ignacio said, adding that the local situation

will become explosive if people with AIDS get drug-resistant TB strains.

TB, a contagious bacteria that eats holes in lung tissue, was the No. 1 killer of Americans at the turn of the century. Antibiotics almost eradicated it, causing public health officials to close sanitariums and shift dollars to other diseases, Reichman said.

But without monitoring, some patients failed to take the potent drugs for the full six months, allowing the disease to make a comeback. Patients again became contagious, but with a strain that didn't respond to conventional treatments.

"It was entirely predictable," Reichman said, adding the alternative antibiotics are less effective, more toxic and more expensive.

Reichman also said the increase in TB cases paralleled the increase in AIDS cases. People with AIDS have a suppressed immune system, which means they are likely to get the disease if they are exposed to it.

TB is transmitted in the air but is hard to spread, Reichman said.

Exposed persons may never get infected, which means they have a positive TB test. And an infected person may never develop an active case. "You don't catch it riding the subway," he said, adding that a person exposed to TB for eight hours a day for six months has a 50 percent chance of getting it.

Nationally, rates began rising in 1984, jumping 0.4 percent in 1990. More than one-third of the world is infected; highest rates in Southeast Asia and Africa.

The TB problem in Southeast Asia is compounded because people can get TB drugs without a prescription and take them inappropriately, Reichman said.

Reichman praised the state's overall TB program but said it lacks resources to effectively monitor the disease. He said the state needs outreach workers to make sure patients take their pills correctly. And he said the state needs to track immigrants on a computer system.

The state's \$1.2 million program annually screens 28,000 people, X-rays 18,000 people and treats about 200 active cases, Ignacio said.

She estimated that about 65 percent or 170 take their medication on schedule. But that leaves about 30 who may be at risk for developing drug-resistant strains.

The department's three outreach workers closely monitor only about 12 patients, said Paul Tribble, an adviser from the Centers for Disease Control in Atlanta.

The state hopes to receive federal money for four more outreach workers in July, said Charlene Young, deputy director of health promotion and disease prevention. But the state projects an increase of 40 cases this year, she said.

Reichman said some mainland health care workers have caught drug-resistant strains, putting them at risk for death. Two Hawaii outreach workers have become infected since 1983, but neither has developed an active case, Ignacio said.

She said the number of TB deaths here increased to five last year, a number not seen since the 1970s.

Worldwide, tuberculosis kills 3 million people annually, Reichman said.

BLATANT ABUSE OF FEDERAL FUNDS

Mr. PRYOR. Mr. President, I am here today to address an act that I still cannot believe actually happened. I refer to information obtained by the Associ-

ated Press under the Freedom of Information Act, that revealed that the Agriculture Department has spent \$750,000 to redecorate the offices of some of its highest-ranking employees.

In a blatant abuse of Federal funds, \$750,000 was spent to hang new drapes, install two kitchenettes, and construct scalloped cornices above some windows. As if that were not enough, construction workers were called in after hours and paid overtime to move offices from one end of the USDA building to another.

Mr. President, this comes at a time when the outlook for the American farmer could be described as bleak at best. According to a report released by the USDA itself in May 1992, fully 55 percent of all farm households experienced losses from their farming operations. Yet \$750,000 was spent to make the bureaucracy more comfortable.

Mr. President, since 1980, expenditures in rural development programs have decreased by 65 percent or by \$17 billion—well, now we know where some of that money is going—to accommodate the bureaucracy. The same bureaucracy, I might add, that the administration has continually criticized.

Mr. President, I would like to quote my distinguished colleague from South Dakota, Senator TOM DASCHLE, who said, "The only thing that ought to be remodeled in the Department of Agriculture is their farm policy * * * if they were as determined to get a decent price as they are fancy offices, we'd have happy farmers instead of happy bureaucrats."

Mr. President, maybe the administration and the Secretary of Agriculture consider this criticism to be unwarranted, that in the overall scheme of a massive Federal budget, \$750,000 is a minor amount, hardly worth debating. Tell that to the family farmer who is struggling to repay a \$200,000 loan, tell it to the farmers who are having their assets sold by creditors because there is no market for their product. \$750,000, or just a fraction of that, could provide a chance to turn things around for some. What may determine the success or failure of a family farm that has existed for generations is mere pocket change to a bureaucrat who callously uses that money to redecorate.

Seven hundred and fifty thousand dollars. Mr. President, I would like to demonstrate what that amount of money could mean to some of the farms in my home State. In Arkansas, where we lost 1,000 family farms between 1990 and 1991, a small fraction of that money could be put to good use by the remaining farms. For \$135,000 to \$150,000 a farmer could buy a new combine, for \$150,000, a four-row cotton picker; or for \$90,000 to \$120,000 a new tractor depending on type. In the primary rice producing area of my State, the expected cost to drop a 10-inch irri-

gation well is between \$35,000 and \$50,000. In Arkansas, the average size farm is 337 acres. When one considers that on the average it costs \$15 an acre for fuel expenses, \$35 an acre for chemicals, \$25 an acre for fertilizer, \$10 an acre for hauling and \$25 an acre for maintenance, we are talking about real money.

Mr. President, I venture to say that if you took all of the farmers who made half of what the USDA spent on redecoration, you would not be able to fill up one of their new suites.

In defense of this expenditure, a USDA spokesman said, "We have cracked and deteriorating pipes, air-conditioning units that were in poor condition that allowed humidity to creep in and deteriorate walls." And so \$750,000 was tossed at the problem in order that the USDA's top administrators would have a comfortable atmosphere in which to work. But who are they working for? Who are they looking out for Mr. President? According to the USDA's own figures, almost 22 percent of all farm households have total income below the poverty line.

"Cracked pipes," and "deteriorating walls" are the least of rural America's problems. Many family farms would probably like to redecorate too, but when faced with overwhelming debt, little or no substantial government policy, and a noncompetitive export stance from the administration, physical comfort is the least of concerns.

Unfortunately, the poor condition of the administration's offices was the closest that they would ever come to the poor condition of the family farm. But in a response that was so typical of the administration in general, the real problems were glossed over, concealed by the new drapes hanging in the offices.

Mr. President, most of us have had the pleasure of sitting around a campfire at one point in our lives. As you might recall, there was warmth and comfort sitting around the fire and we were all able to see each other clearly in the darkest of night as long as we stayed by the light of the flames. But we must remember, Mr. President, this administration especially, that men who surround themselves in light have a limited range of vision. So, while all is well in the Secretary's office, the family farmer is engulfed in a darkening economic horizon. What the Secretary of Agriculture and the administration need to remember is that men in darkness see all.

WET PROCESS PHOSPHORIC ACID PRODUCTION WASTES

Mr. DOLE. Mr. President, on June 13, 1991, after 12 years of extensive EPA study, investigation, and judicial review, EPA issued a final regulatory determination, pursuant to the Resource Conservation Recovery Act [RCRA], on

wet process phosphoric acid production wastes (56 Fed. Reg. 27,300). In related action, prior to EPA's final determination, 19 Senators joined in letters to the Administrator on this matter, including myself and Senators BURNS, DIXON, SYMMS, PRYOR, SIMPSON, CRAIG, BOREN, MCCONNELL, COCHRAN, CONRAD, HARKIN, MACK, HEFLIN, GRASSLEY, NICKLES, KERREY, EXON, and DASCHLE.

Based on EPA's investigation, EPA determined that the regulation of wet process phosphoric acid production waste as a hazardous or nonhazardous waste under RCRA would impose unsustainable costs and impacts. EPA estimated that RCRA subtitle C and D regulation, the hazardous and nonhazardous regulatory Programs, of wet process phosphoric acid production waste could cost \$1.287 billion per year. These costs would be in addition to other environmental regulatory compliance costs imposed under other State and Federal laws.

Therefore, EPA determined that the development of a management program specifically designed to address wet process phosphoric acid production waste should be considered under other pertinent environmental statutes. EPA's regulatory determination also reserved the right of the agency to address any imminent and substantial endangerment that might be posed by such waste under RCRA. The environmental community did not challenge EPA's June 1991 regulatory determination in court.

The proposed amendment, that I will not offer here today, but needs to be addressed at some point in the future, preserves EPA's regulatory determination concerning the regulation of wet process phosphoric acid production wastes while leaving EPA free to exercise its RCRA imminent and substantial endangerment authority, as reserved in the regulatory determination.

The proposed amendment does not exempt wet process phosphoric acid production wastes from Federal regulation. By excepting these wastes from RCRA's definition of solid waste, except for the purposes of EPA's imminent and substantial endangerment authority, this amendment simply echoes EPA's June 1991 regulatory determination, shifting regulation to the Toxic Substances Control Act [TOSCA] which allows broad authority to regulate production of a chemical, require certain production methods, labeling and/or warnings, monitoring and record-keeping, particular disposal methods, and provides citizen petitions for rulemakings.

Mr. President, I would ask that additional background material regarding the need for phosphoric acid be included as a part of the RECORD.

AGRICULTURAL NEED FOR PHOSPHORIC ACID

Phosphoric acid is an essential agricultural nutrient that is of utmost im-

portance to our Nation's high agricultural productivity.

This important agricultural nutrient is provided solely by U.S. domestic procedures either headquartered in or have production facilities in Illinois, Kansas, Mississippi, Florida, Louisiana, Texas, Idaho, Montana, Wyoming, and North Carolina.

The top 20 ranking States for agricultural nutrient consumption and for top agricultural production in 1991, were: Illinois, Indiana, Kansas, Ohio, Texas, Iowa, Minnesota, Nebraska, California, Missouri, Michigan, Florida, Arkansas, Wisconsin, Oklahoma, Kentucky, Mississippi, North Dakota, Tennessee, and North Dakota, Tennessee, and North Carolina.

Our Nation's crops need the nutrient phosphorous to grow. U.S. corn and wheat farmers need about a pound of phosphate to produce a bushel of corn or wheat.

Phosphorous is a nutrient essential to all living things, and must be present in every living cell of all plants and animals. Animals and humans obtain phosphorous in the food they eat. The most abundant source of phosphorous for food crops comes from phosphoric acid.

Wet process phosphoric acid production is necessary because phosphate is an extremely hard and insoluble material for food crop or animal feed use. Because of its insolubility, phosphate material is an inefficient source of crop phosphorous or for animal feed. Chemical treatment of phosphate material is necessary to produce water-soluble phosphoric acid that is readily used by farmers as fertilizer or as an animal feed supplement. A necessary byproduct of phosphoric acid production is a high volume, low hazard processing waste.

Animals get some phosphorous from the levels that are present in hay, pasture, grain, and protein feeds. Their further phosphorous needs must be supplied by a supplemental source, the type that is manufactured for farmers by the U.S. phosphate industry. Phosphorous dietary supplements for beef cattle, sheep, goats, turkeys, laying hens, and poultry for the human diet are produced from phosphoric acid. There are also special supplements with a high calcium content using phosphoric acid for dairy cattle. Phosphoric acid is also present in food products such as soft drinks and processed foods.

Phosphorous is essential for sustaining America's abundant supply of food and maintaining our competitive position in a global economy. U.S. crops consume large amounts of phosphorous from the soil. For a corn crop, when averaged over the growing season, phosphorous must be completely replaced six or seven times each day. This means the nutrient phosphorous, in the form of phosphate fertilizer,

made from phosphoric acid, must be added to the soil in order to maintain high levels of U.S. food crop production.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

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

The legislative clerk read as follows: A bill (S. 2877) entitled "Interstate Transportation of Municipal Waste Act of 1992."

The Senate resumed consideration of the bill.

Mr. BAUCUS. Mr. President, I believe the Senator from Vermont [Mr. JEFFORDS] would like to enter into a colloquy with me, and I urge the Chair to now recognize the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from the great State of Montana for his willingness to enter into a colloquy with me. I certainly want to commend him and the Senator from Rhode Island on their tremendous diligence in trying to take what may, to some, seem like a rather simple issue but becomes very complex and yet very important.

I confess, though, that I have a few concerns about this bill, but I do not want to impede its progress. I also do believe my colleague from Montana was on the floor yesterday when I thanked him for consideration of a national deposit law, so I would like to thank him again while he is here in saying that he would be happy to have a hearing. I do not know about happy but have a hearing anyway on that issue.

There is one outstanding issue that is particularly troubling to me: What happens in conference? We have all worked hard on reauthorizing RCRA, but there are still a few issues remaining to be resolved. Some have speculated that this bill will conference with RCRA on the House side and become a RCRA conference report. Given the hard work of the chairman of the subcommittee and all the subcommittee members, I do not believe it appropriate for this bill to become RCRA in conference.

Will my colleague commit to bringing only interstate provisions back from the conference?

I am happy to yield to my colleague from Montana.

Mr. BAUCUS. Mr. President, my colleague will understand it is impossible to anticipate the exact context of the upcoming conference with the House.

However, I believe the Senate has spoken very strongly on the issue of interstate transport of municipal waste, and it is my intention to resist any changes outside the scope of that issue. We are working on legislation which addresses the interstate transport of municipal solid waste only.

We are not dealing with other Resource Conservation and Recovery Act issues. Waste minimization is one example. Recycling would be another example. The bottle bill, which the Senator from Vermont is so interested in, would be a third example. It is my intention to resist any changes that would lie outside the scope of the legislation we are now considering. I will urge my fellow conferees to do likewise. I cannot fully anticipate what the circumstances of the conference will be, but it is my very strong intention to resist the changes.

Mr. JEFFORDS. I yield to my friend from Rhode Island.

Mr. CHAFEE. Mr. President, I am committed to oppose attempts to broaden this interstate waste bill in conference with the House.

By passing this narrow bill on interstate waste the Senate is not authorizing us to expand this bill into a full-blown RCRA reauthorization bill in conference.

The conference on this bill just is not the place to do a RCRA reauthorization. RCRA reauthorization is far too important to write in conference in a haphazard manner.

I am strongly in agreement with the position of the Senator from Vermont.

Mr. COATS. Mr. President, there has been a strong and widespread consensus here that every attempt will be made to maintain what we call a clean interstate waste bill. I appreciate the responses of the floor managers of this legislation. Also I want to assure the Senator from Vermont that I share not only his concerns, but I believe that every attempt will be made to keep this legislation free from additions to it, which in my opinion would jeopardize final acceptance of this legislation.

The administration has clearly indicated that they do not see this as an appropriate way to deal with important RCRA legislation, and it would jeopardize it—probably doom—the opportunity to pass this year an interstate provision as we are seeking to do on the floor.

So I want to add my assurances to the Senator that I will make every effort to make sure that this does not happen.

Mr. JEFFORDS. Mr. President, I appreciate the comments of the Senator from Indiana, and the sponsor of the bill. I agree with him; that this is an important issue as we are seeing as each day passes, and having it doomed by actions in conference I do not think anybody wants to see.

I have a couple of other questions just on a few points. Two reasons. One

is to let you know I read the amended bill; second to clarify these issues.

With respect to what is or is not grandfathered under the bill, the bill says that landfills cannot be grandfathered unless the landfills or incinerators are in compliance. What cost does this mean? Does it mean in compliance. What cost does this mean? Does it mean in complete and total compliance at all times with all regulations?

I yield to the Senator from Montana for his reply.

Mr. BAUCUS. In response, I would say that the landfill serving out-of-State municipal waste must be in compliance on the date of enactment with all applicable State laws related to the design and locational standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure care and corrective action. If a landfill is not in compliance with the State requirements, then the landfill could be prohibited from receiving out-of-State waste. Whether or not a landfill is in compliance will be based on EPA criteria for determining compliance.

Mr. JEFFORDS. I appreciate that answer. I think we will find that there will be attempts along the way, probably by those who have other desires to try to get away from what was intended in the bill.

Second, does this bill apply to waste generated during interstate commerce? What is the point where generation occurs? This may seem silly but I want to close a possible loophole.

Suppose a train leaves from Atlanta for Indianapolis. Which State gets credit for the waste generated by the passengers, Georgia or Indiana? If we say Georgia, technically, Indiana might have to ban these wastes or open her borders to anyone.

I think in my hypothetical example the State of Indiana is the State in which the waste is voted out. Can we agree the waste provided by this bill is not waste provided by individuals during transportation, or what insignificant amount of their own waste that private individuals may carry across State lines? In other words, the waste haulers cannot try to get around the law by citing such incidental interstate waste transport.

I yield to the Senator from Montana.

Mr. BAUCUS. It is my intent, I say to the Senator from Vermont, for the bill not to regulate waste generated by private individuals during transportation across State lines. In fact, in subsection (d)(4), the bill explicitly exempts from the bill any solid waste generated incident to the provision of interstate, intrastate, foreign or overseas air transportation.

Mr. JEFFORDS. I thank the Senator from Montana for those answers. I know they will help us make sure this bill works as well as we hope it will.

I would like to thank my colleagues for their time and their hard work. At this point, I would like to place a short written statement into the RECORD raising some issues I hope my colleagues can address in conference. I did not want to raise these points as amendments so as not to impede your progress.

I would ask my colleagues to consider two issues in conference. First, there are no provisions in this bill to allow for emergencies. Provisions should be added to this bill for a Governor or the President to temporarily waive the provisions in this bill in times of emergency. Bad things happen in this world, and we cannot foresee every eventuality.

This bill precludes a Governor from discriminating against any State. In other words, if you take wastes from one State, you may have to take wastes from all States. As a general rule, I think this is fair. But, I believe we should give a Governor temporary authority to open the State's borders to another State in a discriminatory fashion for some small amount of time just to account for all the unknown events that could arise. Suppose for example, you are on the Eastern Shore and the Chesapeake Bay Bridge is knocked down and that there is not enough capacity for Maryland wastes on the Maryland portion of the Eastern Shore. Are wastes to be trucked all around the bay? Suppose another hurricane strikes putting landfills temporarily out of commission. Do we want waste piling up? I do not think so. I believe we should consider giving a Governor some temporary emergency authority to override local interests on an emergency basis until public hearings can be held. Given the politics of garbage, I do not think this authority would be abused. Any Governor abusing this authority would come to regret it.

Second, I have concerns about making this a permanent part of American law. Our laws should reflect our unity and our need for unity. I can understand why this legislation is important while we sort out the larger question of our solid waste problem. I would suggest a 15-year sunset. By then, nearly every landfill in existence today will probably be closed, and we should have a national recycling program to make sure everyone is doing their part. Then, we should be encouraging the use of the best landfill, not the use of the politically expedient landfill.

I ask my colleagues to consider these thoughts in conference.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, we do not have many amendments remaining. We are working on the colloquy now between Senator INOUE and myself.

In addition, an amendment by Senator BINGAMAN will be in order. He is not able to come to the floor. I will offer the amendment in his behalf.

It is my understanding that the Senator from Michigan [Mr. LEVIN] also would have a second-degree amendment concerning a study of interstate municipal waste transportation issues between Canada and the United States. That would be a second-degree amendment to the Bingaman amendment. There are some questions concerning that study at this point. But once we get those worked out, and I do think they will be worked out fairly quickly, I hope to be able to go quickly to third reading of this bill.

So I urge the Senator from Michigan to come to the floor so he can offer a second-degree amendment. I hope in the meantime we can work out the colloquy with the Senator from Hawaii.

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. CONRAD. 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. CONRAD. Mr. President, earlier we heard the distinguished Senator from Indiana indicate the desire to keep this a so-called clean bill. I do not know how you keep a bill that is about trash clean, but perhaps that is possible.

Mr. President, as I indicated earlier in remarks on the floor, I believe if that is the outcome here, we will have made a very significant mistake. I explored this morning the new case that I have learned of in my State that involves industrial waste, that involves an agreement between General Motors Corp., the largest industrial corporation in the world, with a very small town in my State, a town called Sawyer, with 319 people. That little town is going to take all of the sludge and industrial waste from 100 General Motors plants, and there is nothing the Governor can do to stop it.

Mr. President, we had the debate last night with respect to municipal waste and the question of whether or not a Governor has some ability to influence an outcome that affects the whole State. That is clearly the case with respect to the case before us now. We made the decision last night, some of us vigorously opposing it, that unless the Governor is joined by the community itself in wanting to abrogate a new contract, it cannot be done.

In other words, Mr. President, we have a situation in which if a small town, economically hard pressed, enters into an agreement with a giant corporation to take all of their waste—that is what we have in North Dakota right now—take it all from 100 plants, there is nothing the Governor of that State can do about it. It does not matter that thousands of people in sur-

rounding communities are affected. It does not matter that the State road system is affected. It does not matter that the health and safety of the residents of the area are threatened. The Governor can do nothing about it.

Mr. President, that is just fundamentally wrong. In this bill, what we have is protection for the four large importing States, those that are now taking municipal waste of over 1 million tons a year. There has been a conscious decision, as they went through the process, to exclude industrial waste from this calculation. I just say to my colleagues: If you were in the shoes of the State of North Dakota and you were presented with a situation in which General Motors and the 100 plants of General Motors are going to dump all of their industrial waste in a town of 319 people, and there is nothing that can be done about it, you would expect your representative in this body to do something about it.

Mr. President, there has to be some rational outcome here. There has to be an ability for the majority of the State to be able to make decisions that fundamentally affect the State.

Mr. President, we look upon ourselves as the breadbasket of the country, out in my part of the country. The breadbasket, not the trash basket. We think it is just reasonable that a Governor of a State, the Governor of a sovereign State, ought to be able to have some say when a small community enters into agreement with a large corporation to take all of their trash. It does not just affect that community. It does not just affect that whole community. Who can seriously stand on the floor and say that taking all of the sludge from 100 General Motors plants in a town of 319 does not affect the people beyond the borders of that small town?

Mr. President, I hope that somehow reason will prevail here, and we will find a way to allow a State to have reasonable input into the decisionmaking process. If that means this bill has to be altered a little bit, then that should be done, because, very frankly, to solve the problems of some of the exporting States and a few of the large importing States and leave the rest of us hang is really not an acceptable outcome. That is just not an acceptable outcome. I hope that reason prevails, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am very sensitive, as I am sure all the members of the Environment Committee are, to the concerns voiced by the Senator from North Dakota.

I think we have to remember what we are dealing with here. We are dealing with a very narrow subject. This particular legislation deals solely with municipal waste, trash.

When you are talking about municipal waste, you are talking roughly 200 million tons a year, of which about 15 million tons are involved in interstate commerce. So I am not slighting the fact of 15 million tons; that is a sizable amount. But in the universe it is relatively small, because what the Senator from North Dakota is talking about is industrial waste. Industrial waste generates not the municipal waste which I said was 200 million tons a year; industrial waste is 8 billion tons a year, 8 billion with a "b." So you are talking a vastly increased amount over what we are concerned with in this legislation.

If we should try to tinker with this bill that we have spent now 3½ days on to include industrial waste, we would be getting into all kinds of problems, problems that we really do not know about. We have had hearings on this particular measure, and we have dealt with it, because the Senator from Indiana has been, as I mentioned before, doggedly pursuing this issue for 3 years. So we are familiar with it. We know who the exporting States are. We know who the importing States are. We know the amounts that are involved. We have had contact with the Governors and the attorneys general and a host of officials who were involved with this.

The Senator from North Dakota is stunned by this news of General Motors taking what is referred to as "sludge" to his State. And that is not carefully defined. Apparently, it is non-hazardous, as best we can tell from the newspaper article. The Senator is rightfully concerned that a small community in North Dakota, the town of Sawyer, is prepared to accept this. He says to us: Do something. But that is imposing on us a very, very difficult problem.

As the manager of the bill has mentioned several times, we have passed out of the committee RCRA legislation, resource conservation recovery legislation, and that is available to come on the floor. But that is a contentious item. And I do not think we will see it this year, because there are so many objections to it.

I do not mean to be facetious, and I am not trying to be ultrastern on North Dakota, but it is incumbent on North Dakota—and perhaps they have done this already—to subject its landfills to stiff requirements, as far as environmental soundness. Maybe North Dakota has done that. I do not know what has taken place in North Dakota.

But there is a suggestion—and the Senator from North Dakota knows much more about this than I—that it is inexpensive for General Motors to ship from all over the country to the Sawyer landfill in North Dakota, and I can only assume that is because the Sawyer landfill can charge low rates because the environmental requirements

for safety, environmental safety, are relatively modest. Otherwise, I would assume that the charges would be much higher because of the cost of putting in the various requirements that we are all familiar with.

And I would hope that in North Dakota they would review their environmental standards for their landfills. But what can we do at this late date? I think there is very little that we can do. Maybe somebody can come up with an ingenious assistance. But we are getting, again I want to mention, into an area of tremendous consequences and size.

When you are talking 8 billion tons a year of industrial waste, for us to tack that on to a bill that is dealing with 15 million tons of defined material—and in this legislation there is a definition of what municipal waste is.

So, it seems to me, that unless the Senator or somebody can come up with a modest fix of some type, that I do not foresee, it seems to me that the avenue for the Senator from North Dakota to pursue is the passage of the RCRA legislation, resource conservation recovery amendments, that we have reported out of committee but have run into roadblocks. And as it seems now we will have to reconsider it and, indeed, we will reconsider it, the first part of next year.

There, I would suggest the Senator from North Dakota or Senators from North Dakota—and indeed the chairman of our committee is from North Dakota—would pursue in that legislation a solution to the problem that the Senator is seeking.

But at this late date, on this narrow bill, it would appear to me extremely difficult to come up with a satisfactory solution that does not awake all sorts of slumbering giants that are involved with still wastes and will come to this floor realizing that their situations are affected as either shippers or receivers of industrial waste.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, it is always interesting to listen to the Senator from Rhode Island. I think if he were in our position he might have a different view.

If all of GM's sludge was headed toward Rhode Island, some small town there entered into an agreement to take it, we might hear a different argument from the Senator from Rhode Island.

The Senator from Rhode Island talks about the fact that the bill we have before us deals just with municipal waste. Indeed, it does, I understand that, and that is relatively small in terms of a comparison to the industrial waste problem in this country, which is really what we confront in North Dakota.

Mr. President, there is a principle embodied in this legislation that involves municipal waste that is going to

set a precedent for follow-on legislation that might deal with industrial waste. In fact, there are two principles here that I find very disturbing.

Principle one is a small community can make a decision that affects surrounding communities and, indeed, the entire State, and the State cannot do anything about it.

There is something wrong with that principle, and we have a specific example in my State now of what is wrong with it. The town of Sawyer, 319 people, entered into an agreement with a company that has now contracted with General Motors to take all of our industrial waste from 100 plants and put it in a little town in North Dakota, and the State cannot do anything about it.

When the trucks roll with their tons of sludge from these plants from all over the country and that affects the State of North Dakota and that affects the health of the residents in North Dakota and that affects the taxpayers of North Dakota—and who made the decision? Did the State of North Dakota make the decision? Did the Governor make the decision? Did the legislature make the decision?

No. The city council in little Sawyer made that decision.

If that is a principle upon which this legislation is based, I do not know how we can endorse that principle.

Principle No. 2 is, who is protected under this legislation? The large importing States are protected. If you are in Virginia, your Governor can freeze the amount based on 1991 and 1992 levels. If you were in Pennsylvania, in Ohio or Indiana, more than a million tons a year, you are protected. Everybody else, their Governors cannot even freeze the amounts based on 1991 or 1992 levels.

Mr. President, those two principles that are embodied in the legislation before us will serve as a precedent to what is to come. And it is really not reasonable, at least by this Senator's lights—and I might say I have talked to the Governor of my State this morning, talked to him about the specific situation that we confront, and he feels very strongly—very, very strongly—that we have to stand up for ourselves.

These principles are not right. It is not right that a little town can commit a whole State. It is not right that a little town can commit a whole series of surrounding communities.

Let me just remind my colleagues that were not here this morning, when I reviewed some of the facts here on the floor, the company that is involved here, we talk about clean hands not exactly a company that comes with clean hands, the company that is involved here has hundreds of violations.

Let me repeat that—hundreds of violations—millions of dollars in penalties have been assessed against 12 other facilities operated by subsidiaries of this same company.

And a special prosecutor is investigating activities in connection with efforts to build a hazardous waste incinerator by these same folks in Pennsylvania. The investigation concerns allegations of illegal lobbying, real estate acquisitions, and violations of security laws.

Mr. President, that is the vehicle we have before us. It solves problems for some people. It does not solve problems for my State. And what is worst, it embodies principles that you can be certain will serve as a precedent for follow-on legislation.

Mr. President, I think if my colleagues for a moment would think about how they would feel if they learned a small community in their State has just agreed to start taking all of the industrial waste from 100 GM plants, there is not one thing their State legislature or Governor can do to stop it, they would feel the necessity to try to stand on this floor and fight it.

I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Montana.

Mr. BAUCUS. Mr. President, I understand the concerns of the Senator from North Dakota. The announcement that General Motors, is beginning to send industrial waste to a town in North Dakota, the town of Sawyer, ND, is upsetting the Senator and it is upsetting I assume to some people in North Dakota.

I think it is important to realize what is going on here. First of all, Sawyer, ND wants this industrial waste. Nobody is foisting upon the town any solution that the town of Sawyer does not want. Sawyer, ND wants to receive this industrial waste.

Landfills and decisions as to whether a community accepts waste or not are essentially very local decisions. It is not like air pollution. It is not like water pollution, both of which cross State boundaries. We have very stringent regulations, national regulations, under the Clean Air Act which are very prescriptive. We have very prescriptive, precise national regulations under the Clean Water Act.

Solid waste is intentionally, under our scheme of laws, is given much more control by local communities, in combination with the States.

Mr. CONRAD. Will the Senator yield?

Mr. BAUCUS. I will later.

That is the reason, under the framework of the Resource Conservation and Recovery Act—particularly subtitle V, which handles solid waste—and solid waste decisions are left largely to States.

Now, it is true that many States both import and export solid waste. In fact, much more solid waste is imported and exported than many people realize; 42 States export solid waste, 43 import solid waste.

We set up a scheme which begins to crank down on the amount of solid

waste that will be exported to the various States. And the numbers show, and logic compels one to realize, that, as the standards that apply to landfills increase and become more stringent, a lot less waste is going to be shipped across the country, in many cases because the tipping fees, which are now low at many landfills, are going to be much higher. And they are going to be higher because the landfills will be more expensive to operate.

Again, Sawyer, ND, wants this waste. It is a decision that the community of Sawyer, ND, has made. If this bill does not pass, then not only Sawyer, but no other community in North Dakota or any other State will be able to say no to solid waste coming into the State.

The bill before us gives communities the power to say "yes" or to say "no." Because of the "not in my backyard" syndrome, most communities are inclined to say "no." Sawyer has said "yes." That is a decision for Sawyer, ND, to make. They have made that decision. Sawyer could have said, "no." But Sawyer has not said "no." Sawyer has said "yes." The people who live in that community, affirmatively want industrial waste to come there.

Now, the Senator from North Dakota says there is nothing the Governor can do. "The Governor cannot do anything about it." Those are his exact words. That is not correct. There is a lot that North Dakota can do about this problem. For one thing, North Dakota can enact regulations with respect to industrial waste.

The bill we are dealing with here today concerns municipal solid waste. It is the transportation of municipal solid waste, not the transportation of hazardous waste, not the transportation of industrial waste. Now, what can North Dakota do about industrial waste?

The Senator from North Dakota explicitly states there is nothing the Governor can do. That is not correct. There is a lot North Dakota can do about this if North Dakota wants to.

First of all, the landfill requirements in North Dakota are some of the lowest in the Nation with respect to landfills generally and with respect to the disposition of municipal solid waste. The lowest in the Nation.

In North Dakota, for solid waste landfills, there are no minimum requirements, and whatever requirements there are are determined on a case-by-case basis. With respect to non-hazardous industrial waste landfills—and essentially that is what we are dealing with here, as I understand the Senator from North Dakota—North Dakota has no minimum requirements and, instead, whatever requirements there may be are determined on a case-by-case basis. If one looks at the—

Mr. CONRAD. Will the Senator yield?

Mr. BAUCUS. Let me finish. The Senator will get plenty of opportunity to speak.

Mr. CONRAD. The Senator is going to have a long opportunity, then.

Mr. BAUCUS. Most other States, I would say 90 percent of the other States in the Nation, have stronger requirements.

So what could North Dakota do? Regardless of what North Dakota's present nonhazardous industrial waste requirements are today, North Dakota could raise its standards with respect to nonhazardous waste landfills to such a high level, if it would so decide, so as to effectively prohibit any community in North Dakota from receiving out-of-State nonhazardous industrial waste.

Now, it is true those same requirements would apply to all communities in North Dakota because, so far, we in the Congress have not passed legislation which under the commerce clause of the Constitution would allow a State to discriminate. But, nevertheless, the approach I outlined is one approach that some States have taken to reduce the disposal of nonhazardous waste into their State.

There are many other options the State could take. For example, a State could impose fees on all industrial waste. I am not talking about municipal waste. Or they could raise their fees.

Now, as I understand it, one reason why the nonhazardous industrial waste is potentially going to go to Sawyer, ND, is because of the very low fees that Sawyer, ND, has imposed. It is commercially more advantageous for General Motors to ship the nonhazardous industrial waste to a site where there are low fees.

Again, we are not talking about municipal waste. We are talking about nonhazardous industrial waste, which is the subject being addressed by the Senator from North Dakota. And the State of North Dakota could enact higher fees for nonhazardous industrial waste.

I do not know how many nonhazardous industrial wastesites there are presently in North Dakota. I would guess there are not very many. But, regardless, if the problem is the receipt or the disposition of nonhazardous industrial waste in a State, the Governor has many tools at his disposal to deal with that.

Now, what other actions can the Governor take? There are many. A State, in conjunction with the legislature, can say no landfills can be within so many miles or feet of a river or a lake or a stream or an aquifer or a national park or a State park or a geological fault. There are infinite numbers of actions a State can take to deal with this problem. So it is not true that there is nothing a Governor and/or a State can do. There are many things.

The fact is the problem we are discussing with the Senator from North Dakota is essentially a State problem. It is a North Dakota problem. Why do

I say a North Dakota problem? Because part of North Dakota wants to accept the nonhazardous industrial waste. I guess other parts of North Dakota do not want it. This is essentially an internal question.

Now, communities on their own, in a number of areas, decide whether or not they want to site facilities. For example, Sawyer, ND, might want a malting plant. They may want a number of different kinds of plants or operations. Maybe Sawyer, ND, wants a pulp mill. Should we, the Congress, say, through the commerce clause, to the Governors that they should have the authority to say no to communities that want to site a plant in their communities? I do not think we want to get into that. I do not think we want to do that.

Now, the response might be, well, this is garbage. Well, I understand that garbage has all kinds of overtones, all kinds of aromas, if you will. But the requirements, both the Federal and the State requirements, for landfills are getting very stringent, over time. For example, I know the Senator knows EPA has already promulgated new regulations which apply to all landfills across the country. They do not go into effect until January 1, 1993. That is not too far from now, 6 months, roughly.

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

Mr. BAUCUS. Just more minute and I will yield.

Those apply to all landfills. All landfills must be upgraded to meet the new requirements. That is going to make it more difficult to ship waste to North Dakota.

In addition to that, after 1995 all newly constructed landfills have to meet much more stringent requirements. That is absent any action the States take. States can always pass laws that apply even more stringent landfill regulations if they so desire.

There is, I think, a potential opportunity here for North Dakota because we are dealing with nonhazardous industrial waste, not municipal waste, which makes it easier for North Dakota to substantially raise fees or substantially raise requirements on a particular kind of landfill which I think could go a long way to dealing with the Senator's problem.

I would be happy to yield to the Senator from North Dakota.

Mr. CONRAD. The first question I would have for the Senator from Montana—and I appreciate the advice he has given to North Dakota on what it can do—the first question I would ask is, if we can do all these things and stop it, then why not allow an amendment that just states that the Governor has to be consulted and can stop it?

What is your problem?

Mr. BAUCUS. If the amendment were to be agreed to—first of all, as the Senator knows, there are Senators—not

this Senator, but there are Senators here—who are so strongly in opposition to the Senator's amendment that they would stand on the floor to prevent it from being agreed to. I do not know what the Senator has in mind.

But if the Senate were to amend the pending legislation to make it similar to, let us say, the Reid amendment, which gave the Governor the authority over the entire State, because of the "not in my backyard" syndrome temptation, Governors would be pushed politically to close the doors and prevent importation of municipal solid waste into their States. And that would totally disrupt a very complicated system that exists in our country today. Some 40 States both receive and export solid waste.

The legislation we are, hopefully, passing will crank down on the interstate transport of waste. It will give States and local communities much more authority than they now have to limit and prevent the importation of solid waste into their communities.

It is true the pending bill does not immediately give the Governors total control to stop it. But it is also true there are many provisions in this bill which will have the effect of reducing importation of waste.

Take my State of Montana. Because we in Montana today do not receive out-of-State municipal waste, if a company were to go to a local Montana community and say, "We would like to ship waste to you," that Montana community would have the option of saying "no; we do not want it." And we could ban it, as is the case for every community in North Dakota under this bill.

Let us not forget, this bill allows any community in any State to say "no", if no waste has been coming in prior to 1991, which is the case here. But it gives that discretion to the community.

We also have a mechanism in the bill which requires a local request to say "no" to be in conjunction with the Governor, through any solid planning district. So the Governor would have some say, in conjunction with local communities, as to whether or not to receive the waste.

This is a 50-State bill. The Senator from North Dakota several times has said this is a 7 State or 6 State solution to a 50-State problem.

It is true this is a 50-State problem. This is also a 50-State solution. And it is a 50-State solution because absent the passage of this bill, communities will be unable to say "no." With the passage of this bill, communities will have the right to say "no."

It just so happens that in North Dakota, a community which will have the right to say "no," wants to say "yes."

Mr. CONRAD. First of all, Mr. President, so many assertions have been made here, I am somewhat at a loss as to where to start.

First of all, we do not know, with respect to the specifics of this proposal, whether the community wants it or not. The community has an industrial facility, and the company that owns that facility has made this agreement. We know the community wanted to permit ash to be dumped there. I do not know if the community has ever had a chance to speak on this question of the General Motors plant.

But let us assume for the moment that the community does want it. That is fundamental to the problem this Senator has with the legislation before us. It embodies a principle that I think is flawed.

If a community of 319—or theoretically, a community of 10, because we have 4 incorporated towns in my State of 10 or less—decides they are going to take all of General Motors' waste, affecting thousands of people in surrounding areas, nothing can be done. The Governor cannot say "no" unless the community agrees. I do not understand that principle, frankly. I really do not.

This is industrial waste. All of the waste of 100 General Motors plants going into a town of 319, and the Governor cannot stand up and say that is not in the State's interest? There is something wrong with that.

No. 2, the Senator said this is not water and it is not air; this is trash. Or in this case, it is industrial waste. I wanted to know if the Senator would have a different view if water were involved?

I assume from the Senator's comments that he would have a different view if water were involved. I ask the Senator, does he have a different view if water is involved? The Senator's statement was: "This is not air and it is not water."

Would the Senator have a different view if water were involved?

Mr. BAUCUS. The fact is, Mr. President, we have a Clean Water Act which deals with water pollution in our Nation's lakes and rivers and streams; and nonpoint source pollution, point source pollution, and so forth.

And that is why it is as national and prescriptive as it is.

Mr. CONRAD. I just say to my friend, in this case, this particular landfill sits over an aquifer. The aquifer does not just feed 319 people in the community of Sawyer. It affects thousands of people in the surrounding area.

Mr. BAUCUS. If the Senator will yield for a question, if I may ask the Senator a question, why does the State of North Dakota then not pass legislation prohibiting landfills over aquifers?

Mr. CONRAD. Mr. President, I presume that perhaps is an option open to the State of North Dakota.

Mr. BAUCUS. I think it is.

Mr. CONRAD. I do not know the answer to that question. I say this: An aquifer is involved.

So we know we have a situation in which potentially water is involved. Maybe 319 people in Sawyer want to take that risk. Maybe the larger community that is affected does not. But, you know what? The larger community has no role in the decision under the principles embodied in this legislation.

There is something wrong with that. People who are affected ought to have some role in the decisionmaking.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. BAUCUS. The majority of the people of North Dakota do have a say. They do. They can go to their legislature and say: We do not want industrial, nonhazardous waste landfills to be placed over aquifers. The people downstream—above ground or below ground—can march to the State legislature and the Governor and say "no." They do have a say.

Mr. CONRAD. The problem is we are faced with the situation today. The situation is today. The trucks are going to start rolling.

Our legislature only meets once every 2 years. We do not have a situation like some States, where the legislature meets every year. Our legislature meets every 2 years. So we are faced with a situation today.

Mr. BAUCUS. But it meets next January. It meets 6 months from now.

Mr. CONRAD. Let me go further in answering the Senator's points, Mr. President, because the Senator said there are a lot of things North Dakota can do. "North Dakota can raise their fees on everybody." That is a great solution.

We can raise fees on everybody. That is exactly what is wrong around the country. Minnesota has done exactly that. They raised the fees on everybody making all of their industry less competitive. We wonder why the United States is in trouble with this kind of thinking: Raise the fees on everybody in order to keep out somebody else's and force them into the neighboring State. That is exactly what is going on, and it is not good for the country, it is not good for the industries of America, it is not good for our competitive position. But that advances the answer: Just erect a high fee wall that affects everybody.

I do not think that is seen as much of a solution. We in North Dakota would like to encourage industry in our State. I will tell you what we do not want to encourage. We do not want to encourage other States' industry to foul their nest, fill up all their waste sites, and then shove it over into North Dakota, and North Dakota cannot do very much about it. The only way the Governor can stop it, the only way under this legislation, the principle embodied here is that the Governor has to act in concert with the local com-

munity. If the local community wants it, the Governor cannot stop it. That is precisely the point I made earlier, and it is precisely the point under this legislation. The Senator says a lot of things the State can do to stop it. If that is the case, why not let the Governor in on the deal right from the start?

Mr. President, the problems that I have with this legislation—and I understand it is municipal waste versus industrial waste—is the principle involved. The principle is, if a community wants it, no matter how small, 10 people can decide, they can affect thousands around them, they can affect the State's taxpayers, and there is no recourse for the Governor, except, I suppose, to raise fees on everyone in the State. I do not know what kind of a solution that is. That does not strike me as a very good one.

Mr. President, this bill, which purports to solve one problem, sets a precedent that I think is a fatally flawed one for the much larger problem which is to come. Frankly, we do not take much relief in the idea that there are other ways we can deal with this. Why not the straightforward way?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, as I did last evening, I appreciate the concerns that the Senator from North Dakota has raised. The issue that he faces is similar to an issue that many of us have faced. But I think it is important to note here the distinctions between the Senator's situation and the situation that we are dealing with in this particular legislation. There are many types of waste that flow between our States. There is industrial waste, construction waste, hazardous waste, even nuclear waste.

No one is saying that we should not address this national problem of transfer of waste between States. What we are attempting to do with this particular legislation is address a segment of that because, at least to this point in our legislative battle, we have not been able to address it at all on a comprehensive basis. The Senator knows that the RCRA legislation is bogged down for a number of reasons. We are attempting to deal with a certain type of waste, municipal solid waste, garbage, the everyday ordinary type of waste that people dispose of in their garbage bags and put out at the curb or take to the local collection point.

That is a significant problem in our country, a significant problem in terms of shipment between States, and we are trying to deal with that in this bill. To expand this now to include every other type of waste to address a particular problem that the Senator from North Dakota faces is, I think, by general consensus, something designed to defeat this narrow effort.

So we are trying to do what we can with a certain type of waste. We understand that to expand it to deal with the Senator's particular problem is to open it up to all kinds of other types of waste and the particular problems inherent in that and to, therefore, end up with no legislation this year, which certainly does not advance a solution toward the Senator's particular problem.

Second, the contention that this is some kind of special deal for just a few States is simply not true. It is not factual. The Senator made that argument last evening. He makes it again today. It is not a valid argument. This Senator from Indiana was the one who insisted on expanding the rights to all States that originally were intended for the four largest recipient States. And the language of the bill before us, which is now accepted by a strong majority of the Senate, extends that privilege and that protection to every State in the Union, including the State of North Dakota.

In our survey of the amount of out-of-State municipal waste received in the State of North Dakota, the North Dakota Department of Health indicated to us that about roughly 60,000 tons of out-of-State waste is received in North Dakota. That level now can be frozen because of the extension of the authority to the State of North Dakota included in this bill. The four States that the Senator alludes to as having some kind of sweetheart deal are talking about freezing levels at millions of tons. They have accepted that as a way to stop the increase and as a way to advance this legislation and ultimately deal with the problem. So it is not correct to say that authority is not extended to States like North Dakota. The authority that is extended would allow that State to freeze at an extremely low level, relative to most other States in the Nation, the amount of out-of-State waste that is coming into North Dakota.

Mr. CONRAD. Will the Senator yield for a question on that specific point?

Mr. COATS. I will be happy to.

Mr. CONRAD. Is it not true that the State would only have the authority to freeze at the request of the local community?

Mr. COATS. That is my third point that I want to make to the Senator. It is. But the whole bill is premised on the fact that we give the people the option of deciding whether or not they want the solid waste or do not want the solid waste.

The Senator keeps talking about this principle, the principle that the decision of a community in his own State denies the rest of the people in his State options to go forward to restrict them. But that works both ways. What the Senator wants is, in order to preserve the right of a State to make a decision on behalf of every community,

he is taking away the right of every community in every State in the United States to make a decision. So to protect one right, he is taking rights away from all the other communities. What if a Governor says, "I do not see any problem with interstate waste, I do not see any problem with sludge coming into North Dakota," and the people of Sawyer say, "Wait a minute. Do we not have a say in this?"

I have a town in Indiana of 250 people called Center Point. Center Point is the landfill and is the situation that prompted this whole debate and discussion, because the 250 people of Center Point suddenly found themselves the recipients of out-of-State waste and there was nothing they could do about it. Those people decided that they wanted to do something about it, and this legislation is, frankly, the result of their efforts. That is where all this emanated from in the first place. That community is now granted the right, under this bill, as is every other community, to say no to out-of-State waste. But in order, as I said, to protect the right the Senator wants to establish for a particular Governor, he wants to take away the rights of every other community in every other State in the United States that are protected under this particular bill.

Finally, I would say to the Senator, who is searching for a solution—it is a valid search—I simply repeat the arguments of the chairman of the committee which are simply, if the State of North Dakota wants to assert authority over this particular situation, there is nothing to stop the State from doing so. The Senator seems to want to come down to this floor and argue that because his State, his Governor, or his legislature is not willing to assert authority over this particular problem, only Congress can fix it.

There are numerous options open to the State of North Dakota to deal with this particular problem. The Senator from Montana outlined a number of those options. The reply of the Senator from North Dakota was, well, our legislature is not in session. If it is enough of an emergency, the Governor can call a special session of the legislature. If it is a threat to the water supply of North Dakota, that certainly would be enough of an emergency to call a special session of the legislature and impose restrictions on what types of landfills can be established over aquifers. There are a number of options open in terms of what restrictions can be placed on receipt of industrial waste.

So the Senator seems to be arguing that because the State of North Dakota does not want to do something about this now, it wants Congress to do something. It is not precluded from taking action in this particular regard.

I say to the Senator, I appreciate his problem. We are not without sympathy to the situation that exists. I think the

Senator from North Dakota understands that were we to attempt to try to find a specific single fix to this particular problem, we end up with no legislation at all. All if we end up with no legislation, at all, the Senator's situation is not solved and we have then not solved a number of other problems which exist in all 50 States across the Nation.

Mr. BAUCUS addressed the Chair.

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

Mr. COATS. I will be happy to yield.

Mr. CONRAD. I say to the Senator from Indiana, my friend, when did the Senator switch positions?

Mr. COATS. The Senator has not switched positions.

Mr. CONRAD. I was on the side of the Senator—

Mr. COATS. I appreciate that.

Mr. CONRAD. In the good old days when the Senator stood for the Governor being able to protect his State borders at least to some degree. I was with the Senator. Now, all of a sudden, I hear this great argument from the Senator from Indiana about how we ought to retreat from that principle. I do not know why. I have not retreated.

Mr. COATS. I would like to reclaim my time to respond to the Senator's statement. This Senator has not switched his position. This Senator has said there is a way in which we can accomplish what the Senator was trying to do by enacting legislation that not only gives Governors backup authority but gives our committees the first right of defense. That is a stronger defense from out-of-State waste than just simply giving one person in one State the authority to act.

That is much stronger, because I give every citizen in the State of Indiana the authority to say no to out-of-State waste, No. 1. No. 2, this Senator is working for this particular piece of legislation because, as we all know, the only hope of stopping the flow of out-of-State waste is this piece of legislation which is before us today.

We all know that if we revert back to the proposal of the Senator from North Dakota, it is going nowhere. I know that because for 3 years I have tried to get it to go somewhere, and we have not been able to do so. This is the only thing possible that can break the deadlock and give every citizen the right to say no. I think it is a superior right. I would much rather give the 5½ million citizens of Indiana, even the 250 in Centerpoint, IN, the right to say no than to simply vest it in one person and not know what that one person might or might not do. We had a vote on it last night, and the Senate clearly expressed its will by a 2-to-1 majority.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, the problem with the argument of the Sen-

ator from Indiana is that it is just not so. We have not given the ability of every citizen in the State of Indiana or every citizen in the State of North Dakota to stop this. That is not what we have. The fact is one small town can enter into an agreement and nobody can stop it.

Look, I have it. I was arguing on the participle last night. I find out I have the real world situation right now. All of GM's waste is going to be dumped into a town of 319 people and the State cannot stop it, the legislature cannot stop it, and the Governor cannot stop it. How much is it? The Senator was referring to the small amounts of industrial waste we have in the State of North Dakota. Absolutely true. It is all going to change. They have an operation that, according to the latest press reports we have just received, can take 400 tons a day.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. I have not finished my point. Then I will be happy to yield.

They are going to take 400 tons a day. And the only way they can freeze at those previous levels is if the local community agrees. The local community thus far has not agreed, and there is nothing that can be done.

The trouble I have with this bill—the Senator says this deals with the municipal waste problem. It is a small part of the problem, but it is a part of the problem. If we do not do this, we do not do anything. The problem I have with that is the principle embodied in this legislation which is if a small town decides to go out and cut a deal with some company, that is it. They have made the decision. They have made a decision that can affect thousands of people, and there is little or no recourse.

That is the problem I have.

I am happy to yield to the Senator from Montana.

Mr. BAUCUS. I have learned in public life, and I know the Senator from North Dakota has, sometimes everything you read in the newspaper is not entirely accurate. Sometimes there are inaccuracies.

My office just called North Dakota and the information we have as to the amount of industrial, nonhazardous industrial General Motors waste is different from what is in that newspaper report the Senator from North Dakota is referring to.

According to the State of North Dakota, from a telephone call to the relevant department in North Dakota just about half an hour ago, the amount of waste is really much less than that. North Dakota says it is not all of GM's waste. North Dakota says it will be 2 to 8 percent of GM's industrial waste—not all, but 2 percent.

In addition, this Sawyer facility has two 3,000-yard storage cells that could temporarily accept waste, and there

has been one shipment. But the landfill site in question, Sawyer, will have a double 60-mil liner as well as a composite liner, and it has received one load of waste. Liners are going in starting on July 27. The facility will take 15 to 30 loads a week. The average load will be 18 cubic yards. And this amounts to 2 to 8 percent of GM's nonhazardous industrial waste.

I do not know if that information is accurate. I do not know if the information as reported in the newspaper is accurate. I only know the information that I just gave to the Senator from North Dakota comes from the relevant department in the State of North Dakota. That is their information.

There is another conclusion that one can draw from all this, and that is this is a very recent development. We really do not have the facts. It is probably inappropriate for Congress to legislate a solution over something we know very little about, particularly when there are other solutions as I and other Senators have outlined for North Dakota. Sawyer, ND, is putting in double liners, one 60-mil liner and also a composite liner. That is pretty hefty.

In my home State of Montana I spend 1 day a month in the workplace. I show up at 8 o'clock in the morning, bring a sack lunch and work all day. I tease people at home by saying 1 day a month I do an honest day's work. I worked at a plant in Miles City that makes these liners. It was interesting watching this machine make these liners. I can tell you that a 60-mil liner is a pretty hefty liner.

Mr. CONRAD. Mr. President, let me just say that for me it is not a question of if it is 20 tons or 400 tons a day. That is not the thing that sticks in this Senator's craw. What sticks in this Senator's craw is the underlying principle that one small town can cut a deal and they can affect others outside that town, and there is nothing anybody else can do about it, or not very much they can do about it.

Oh, yes, there are some things. They could raise fees on everybody. There are some other things you could do that affects everybody. That just does not strike me as the solution.

I just say to my colleague, from press reports that I have, it says the first shipment last week contained 20 tons. That is according to the Grand Forks Herald. I would just read from the Grand Forks Herald report from July 22, which says:

Municipal Services Corporation is holding a giant open house for its Echo Mountain landfill near Sawyer, North Dakota, which began accepting nonhazardous industrial waste from the auto-making giant last week. By the end of 1993, the facility will be accepting all such waste generated at about 100 GM factories. MSC's open house features tours of the facility, which includes an administration building, a lab, processing building, and the storage cell designed to swallow up the 400 tons a day of waste.

Mr. President, I find it interesting in looking at these press reports about some of the other details from this facility. The company involved has hired 31 workers, ranging from clerks and technicians to administrators and equipment operators. The company promises to employ 50 workers eventually. The signs displayed Wednesday said that by the end of 1993 the company and its workers will be paying \$550,000 in State taxes. But that does not comfort many area residents who fear the landfill will have adverse consequences for area water and air.

The Senator from Montana was talking earlier: This is just waste; it is not air, it is not water. Local residents do not see it that way. Many of them, are refusing to sign good neighbor agreements that the company is offering under which the company would provide \$60,000 a year for community projects in exchange for the community's support—\$60,000 a year for community projects in return for the community support, and a town of 319 can take all of GM waste from 100 plants.

The company is also acquiring more land adjacent to the site, and some residents fear the first cell is just a foot in the door. "We are just going to be a garbage State," said a woman who is involved in organizing the community against this project. She said, "North Dakota should think better of itself." People touring the site Wednesday had little comment but they had plenty of questions.

Mr. President, the thing that troubles me the very most is the principle that is being applied in this legislation, the principle that a community can go out and cut that deal and everybody else who is affected has no voice in the decision.

The Senator from Indiana was a giant on this subject some time ago and now he has retreated in the face of resistance, in the face of threats from the exporting States.

Mr. President, I do not know where this can lead. I have not ever been an obstructionist in the U.S. Senate. I have been here 6 years. I have never been an obstructionist. I have never tried to stand in the way of something even if I disagreed with it to the extent of engaging in an ongoing filibuster. But I must say, Mr. President, this is very, very troubling to me, and it is troubling to my State, and troubling to my State's Governor.

I simply say to my colleagues I would hope that we could find some way to send a message of some sort that the Governor in a State ought to be able to have a way if there is an agreement that is going on between a community and a company that is absolutely unacceptable. I hope we are able to work something like that out.

I yield the floor.

AMENDMENT NO. 2740

(Purpose: To provide for a study of solid waste management and solid waste management issues associated with increased border development)

Mr. BAUCUS. Mr. President, I send an amendment to the desk, and it is on behalf of Senator BINGAMAN, Senator LEVIN, Senator RIEGLE, Senator DECONCINI, and Senator MCCAIN. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BINGAMAN (for himself, Mr. LEVIN, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCAIN, and Mr. D'AMATO) proposes an amendment numbered 2740.

Mr. BAUCUS. 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 new section:

SEC. . BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free-Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in sections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free-Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992-1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and

(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

Mr. BAUCUS. Mr. President, this is a combination amendment essentially offered by the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Michigan [Mr. LEVIN] for studies of interstate transport of municipal solid waste, on the one hand Mexican-United States transport of municipal

waste, and on the other United States-Canadian municipal solid waste. It is asking the Administrator of the EPA to study a boundary for the municipal solid waste studies.

I think it is a good amendment. It has been cleared all the way around. I urge its adoption.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator D'AMATO be added as a cosponsor to the Levin amendment dealing with Canada.

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

Mr. CHAFEE. I agree that this is a good amendment. It is a study of both the Mexican border and the Canadian border to be conducted by the Administrator of the EPA.

Mr. BINGAMAN. Mr. President, I rise to offer an amendment on behalf of myself, Senator LEVIN, and others to the legislation currently before the Senate that addresses a problem of increasing urgency: The disposition of solid waste along the United States-Mexico and United States-Canada borders. As the United States, Mexico, and Canada formalize and strengthen their trade relationship, increased border development is inevitable. With that development comes new challenges for the transport and disposal of solid waste. This is not just an issue for the Governments of the United States, Canada, and Mexico. It is also an issue for the border States that will deal with the waste itself and will do so on an interstate as well as an international basis. To capitalize upon the opportunity offered by the North American Free-Trade Agreement, we are going to have to plan for it. This means conducting the necessary research on the scope of the challenges.

This amendment directs the Administrator of EPA to conduct a study of solid waste management issues associated with anticipated increased border use, in order that States and localities can properly plan for waste treatment, transportation, storage, and disposal. The study will address six key issues:

First, planning for additional landfill capacity;

Second, relative impact on border communities of a regional siting of solid waste storage and disposal facilities;

Third, research on methods of tracking the transportation of materials to and from border industries;

Fourth, the need for materials safety training for workers;

Fifth, the adequacy of existing emergency response networks in the border region; and

Sixth, a review of solid waste management practices in the border region.

Mr. President, it was my original intent that this amendment include a study of hazardous waste issues, including a review of the manifest tracking system for the transportation of hazardous materials in the border region and a study of the relative impact

on border communities of siting hazardous waste disposal facilities. However, I understand that the managers of S. 2877 are urging Senators to refrain from offering amendments that do not directly relate to the interstate transportation of municipal waste. Accordingly, I will plan to offer an amendment dealing with border hazardous waste issues when the Senate considers comprehensive RCRA legislation.

It is my expectation that the Administrator, in order to fulfill the requirements of this amendment, may enter into a contractual agreement with one or more qualified entities such as universities, university consortia, or other public or private institutions.

Mr. President, I am convinced that the North American Free-Trade Agreement will create economic opportunities for New Mexico and States in both border regions. If we manage these opportunities correctly, we can create prosperity without compromising our health and environment. This amendment is a useful step toward that goal.

Mr. LEVIN. Mr. President, I am pleased that the managers of the bill and Senator BINGAMAN, the author of the amendment, are willing to accept my modifications to this amendment. It will add the United States-Canada border region to the area in which the EPA must perform a study of numerous important solid waste management issues. The amendment will also require that these studies be completed and reported to Congress within 2 years. Additionally, EPA will have to propose a method by which border traffic in solid waste between the United States and Canada, and the United States and Mexico, can be tracked by source and destination.

My intention is not to create a paperwork burden or force any requirements that would violate our current trade agreements. However, the State of Michigan, and I am sure many other states along the United States-Canadian border, have experienced a great back and forth flow of garbage which no one is tracking. For long-term planning and safety and environmental reasons, Michigan requires the data that will be produced by this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New Mexico? If not, the question is on agreeing to the amendment.

The amendment (No. 2740) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KOHL. I commend the Senator from Montana and the Senator from Indiana on their efforts to address the complicated issue of interstate trans-

port of municipal solid waste, and to grant States explicit authorities to regulate the waste coming into their borders from other States. I would like to clarify however, the effects of this bill on Wisconsin's recycling law, which includes certain interstate solid waste transport provisions.

Wisconsin's recycling law, as of January 1, 1995, prohibits the disposal of any amount of specified types of recyclable solid waste in Wisconsin landfills, unless the municipality where the solid waste is generated has an effective recycling program (as specified in S.159.11, WI. stats.) This requirement applies not only to Wisconsin communities, but also to out-of-State communities disposing their solid waste in Wisconsin landfills.

Since this recycling requirement is the basis of Wisconsin's law, and since this requirement applies equally to in-State and out-of-State waste, it is expected that the effective recycling program requirement of the Wisconsin law will be upheld if challenged on constitutional grounds, and therefore needs no specific congressional authority to be valid.

With this understanding, it is my further understanding that S. 2877 would in no way preempt Wisconsin's law, or otherwise prevent its implementation. As the chief sponsor of this bill, is this the understanding of the Senator from Montana as well?

Mr. BAUCUS. Yes, absolutely. The purpose of this bill is to give States more authority to control the solid waste that they import, in light of recent Supreme Court cases restricting that right. Because the effective recycling program provision of Wisconsin's recycling law places the same restrictions on out-of-State waste entering Wisconsin landfills as it does on in-State waste entering Wisconsin landfills, and absent a court ruling that the Wisconsin law is unconstitutional, it is certainly not the intent of this legislation to preempt Wisconsin's law. And it certainly should not have that effect.

Mr. BREAUX. Mr. President, I rise to make a brief explanation to the Senate. It was my intention to offer an amendment to this legislation that would have expanded the authority granted to local and State governments by S. 2877 to cover restrictions on the importation of out-of-State municipal sewage sludge. I have decided not to offer this amendment in the interests of allowing this legislation to go forward.

My State of Louisiana receives imports of this noxious material, the most infamous instance of which was the so-called poo-poo choo-choo that brought 63 carloads of stinking sewage sludge from Baltimore to sidings near Shriever, Labadieville, and Donaldsonville, LA. These 63 open cars full of sludge were to be disposed of in a landfill in my State. Fortunately,

after weeks of exposing these small towns to open cars full of sewage, the private landfill operator in question was forced to send the train back where it came from.

The amount of sludge that the United States will have to deal with in the future is growing. Within the last 16 months, New York City and 8 surrounding New York and New Jersey communities finally halted ocean dumping of sewage sludge. New York City had been dumping approximately 3,878,125 wet tons per year into the Atlantic Ocean, 10,625 per day. The surrounding communities had been dumping a similar amount, for a total of nearly 8 million tons per year. These communities are now in the process of building treatment works for the sludge they used to dump into the ocean, but completion is 6 years away. This sludge now needs a home—a place to be disposed of. I find it disturbing that while my State and a number of others import sludge, the State of New Jersey does not allow any landfilling of sewage sludge in that State—either at monofill or codisposal sites. Western and Southern States should not become dumping grounds for other States' sewage sludge any more than they should become dumping grounds for municipal solid wastes.

My amendment would not have interfered with interstate shipments of sewage sludge that were destined for beneficial uses, such as agricultural fertilizer and soil nutrition. Beneficial use is an acceptable disposal practice, so long as sufficiently stringent State and Federal regulations regarding the content of sludge are followed. This bill, I would remind Senators, deals only with shipments bound for landfills and incinerators.

Mr. President, if we are going to address the municipal waste problem, I would have liked to see us address the whole problem. Sewage sludge shipments are every bit as controversial and potentially hazardous as municipal solid waste. I have other problems with this legislation—it does not adequately protect those States that are neither large exporters nor the largest importers. We will be the recipients of the waste that is left over. However, I will conclude by saying that it is indeed unfortunate that we are not finishing the task we started three days ago on the Senate floor.

Mr. BOREN. Mr. President, the Breaux amendment would have included municipal sludge under the provisions of the bill. This measure is extremely important to my State which has seen a rapid rise in the number of companies interested in applying municipal sludge to land in Oklahoma. However, were this amendment to succeed, it would effectively prevent the bill from being passed by both Houses. We simply cannot afford to let another year pass without taking at least a first step to solve the interstate garbage problem.

Let me explain why the Senate needs to address the sludge issue in the future. Most often, the communities which are targeted by waste disposal companies have no idea what metals or other hazardous materials may be included in the sludge. An analysis of municipal sludge from New York City performed by the Oklahoma Department of Health found it to be very high in hazardous metals. The sludge contains significantly higher levels of heavy metals like copper, zinc, arsenic, and lead than communities throughout Oklahoma in which levels of these toxins are barely detectable.

Because the imported sludge does not undergo as much pretreatment as local sludge, out-of-State sludge often exceeds State guidelines outlining permissible levels of heavy metals.

Only through the extraordinary efforts of grassroots organizations have communities in Oklahoma been able to fend off the disposal of sewage sludge in their community.

In order to ensure the health of rural communities, we must arm local communities with the right to refuse municipal sludge coming in from other States. We must respect and support the efforts of communities to guard and preserve their land.

The bill before us gives communities the right to say no to municipal waste coming in from out of State. I think the bill would have been better had it included municipal sludge, and I will work to see this issue resolved in the future.

Mr. INOUE. Mr. President, it is with reluctance that I ask permission of the Senate to withdraw my proposed amendment to S. 2877, which would have added language to the Resource Conservation and Recovery Act to authorize the Administrator of the Environmental Protection Agency to accord tribal governments a status similar to State governments for purposes of certain provisions of the Resource Conservation and Recovery Act. This language is identical to a provision that is contained in the bill, S. 976, that was reported by the Committee on Environment and Public Works to reauthorize the Resource Conservation and Recovery Act.

In my view, the amendment is germane to the measure before us because it is absolutely necessary to consider Indian lands when addressing matters of interstate transportation of solid waste, if we intend not to create a significant gap in a comprehensive scheme. The jurisdiction of Indian tribal governments over lands within the exterior boundaries of their reservations is critical to the resolution of these matters. However, I respectfully concede to my colleagues, Senators BAUCUS and CHAFEE, that there may be others who would disagree with my assessment regarding germaneness. Therefore, in the interests of allowing

this legislation to move forward, I have asked the cosponsors of our proposed amendment, Senators MCCAIN, BURDICK, and WELLSTONE, for their agreement to withdraw the amendment. They have so agreed.

However, I would like to explore with my colleague from Montana whether he would agree that the Congress needs to adopt such an amendment in order to clarify that tribal governments may be accorded a status similar to that of State governments under the Resource Conservation and Recovery Act, just as tribal governments are accorded that status under all other major environmental statutes, including the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Comprehensive Environmental Response Compensation Liability Act.

Mr. BAUCUS. First, I thank my distinguished colleague, the chairman of the Select Committee on Indian Affairs, for his agreement to withdraw this amendment at this time. Certainly, I agree that such an amendment is needed and supported inclusion of identical language in S. 976. I should note, however, that I sponsored the amendment in committee with the specific understanding that the committee report states that the provision is "not intended to expand or limit the scope of existing tribal authority under applicable Supreme Court decisions."

Mr. INOUE. As my colleague knows, under the proposed language, the treatment of tribal governments as States would not be automatic. In order to be accorded such status, a tribal government must be recognized by the Secretary of the Interior, must be capable of carrying out substantial governmental functions, the functions must be within the tribal government's jurisdiction, and the tribal government must, in the judgment of the Administrator of the Environmental Protection Agency, be capable of carrying out the functions it is authorized to exercise. If there are provisions of the act where treatment of tribal governments as States is not feasible, the Administrator may include other methods for administering those provisions.

Mr. MCCAIN. I strongly support the proposed amendment and would like to assure my colleagues that, while I fully understand the reasons for withdrawing the amendment at this time, I am committed to enactment of these provisions in this Congress. While RCRA does treat tribes as municipalities for purposes of hazardous waste, it is silent on the matter of solid waste. Court cases have held that States do not have environmental jurisdiction over Indian lands. This means that Indian tribal governments must deal with the issues of waste management on their own until Congress can act to resolve the matter of delegating the same Federal authority to tribal governments that we now delegate to State governments.

Despite the fact that tribes have never been eligible for grant assistance, tribal governments are still required to meet RCRA waste disposal standards. In addition, these standards can be enforced against a tribe for non-compliance with RCRA. Recent case law supports the conclusion that sovereign immunity may be waived under RCRA and a tribal government may have to participate in remediation costs. It is ironic that a tribal government may be liable for damages in a given situation because of its inability to secure moneys to develop programs to ensure a healthy environment for lands under its jurisdiction. Such programs are clearly needed to address the environmental problems on Indian reservations. The protection of environmental quality on Indian reservations is in the best interest of all residents of a reservation community as well as adjacent non-Indian communities. In the event that S. 2877 becomes the subject of a conference with the House in which the House bill contains the Indian RCRA provisions, may I ask my colleagues if they would be willing to consider receding to the House?

Mr. BAUCUS. As my colleagues understand, it is impossible to anticipate the context of an upcoming conference with the House and, consequently, whether a provision such as this amendment will be an appropriate part of the conference report. However, I agree that this amendment is important, and I hope that we will have an opportunity to enact this and other important RCRA provisions soon, preferably as part of a comprehensive RCRA reauthorization, such as S. 976.

Mr. CHAFEE. Mr. President, while I support the Senator's amendment and would be willing to take up this language in conference, I must stress that I am committed to oppose attempts to broaden this interstate waste bill in conference.

By passing this narrow bill on interstate waste, the Senate is not authorizing us to expend this bill into a full-blown RCRA reauthorization bill in conference.

The conference on this bill is not the place to do a RCRA reauthorization. RCRA reauthorization is far too important to write in conference in a haphazard manner.

But, if the scope of the conference on this bill is expanded beyond the bill we are passing today, I will make every effort to include these provisions in the conference report.

Mr. MCCAIN. As an alternative, would my colleagues be willing to entertain the inclusion of this amendment in another bill in this session of Congress.

Mr. BAUCUS. I would be willing to entertain this amendment on an appropriate vehicle.

Mr. CHAFEE. Yes; I would also like to add that I too support the provision

that would treat Indian tribal governments as States for purposes of certain sections of RCRA. It is very important to bring all of our major environmental statutes into conformance in this very important area. As I stated in my additional views which were included in the report accompanying S. 976, I believe that the tribal government provisions are important and I certainly hope that the Senate can consider them at a more opportune time.

However, I must also note for the record that there are several members on our side that have serious concerns with this amendment.

Mr. INOUE. I thank my colleagues and wish to make clear my intention to include this amendment on a bill within the jurisdiction of the Select Committee on Indian Affairs but which does not address or raise any other environmental issues.

Mr. GORTON. Mr. President, I do not argue with providing tribes with federally delegated authority to administer environmental problems in Indian country as advocated by Senator INOUE, the distinguished chairman of the Select Committee on Indian Affairs and others. I understand that several other Federal statutes regarding environmental regulations, like clean air and clean water, allow tribes to be treated as States. I have no quarrel with the tribes exercising this authority on tribally owned land.

I do remain concerned that a tribe's authority to administer its own programs on its reservation conflict with the rights of private property owners who own land on reservations, be they Indian or non-Indian. I have discussed the conflict of private property rights versus a tribe's right to administer its environmental regulations with the EPA. I am pleased that the EPA has considered the issue of tribal enforcement of environmental regulations on private, non tribal land. I am concerned, however, that the EPA does not go far enough in protecting private property rights and misses a major constitutional point. I will briefly outline the Agency's position on the matter and my concerns.

The Agency believes it has protected the rights of private property owners in two ways. First, to receive delegation of environmental authority from the EPA, the agency requires a tribe to create an administrative review process regarding decisions reached by a tribe's court. Anyone with a grievance about a tribal court decision may appeal to this administrative review. The administrative review is designed to be outside of the control of the tribe's court, but it remains under control of the tribe's government.

Second, to further protect the rights of property owners, the EPA says it will review claims that a tribe is unfairly administering its regulations at the regional administrator level. I was

told that if the regional administrator finds enough evidence that a tribe is systematically denying due process to those it regulates, the EPA may withdraw delegation of authority.

I doubt that either an additional tribal review of a case or a subsequent revocation of authority will do much to please someone denied due process or discriminated against because he or she is not a tribal member or because the tribe wants to ensure the property is used for something other than that desired by the owner. The EPA is widely perceived as being indifferent to the concerns of the private sector, but at least its actions can be challenged in court. Those of tribal agencies cannot.

I am not just singling out tribal government here. I have the same concerns regarding nontribal governments. The difference is that State and Federal Governments are subject to the Constitution of the United States, tribal governments are not.

Just look at what other governmental entities have done with the kind of authority we are delegating to the tribes. Recently, the Supreme Court said in *Lucas versus South Carolina Coastal Council* that the State of South Carolina had overstepped the bounds of law by confiscating almost all value of a million dollar piece of property without compensation. It was only the individual's recourse to the Supreme Court that saved this individual's property from unwarranted seizure by the government of South Carolina.

Like the States, once the EPA's regulations are in place, tribes will be eligible to control almost all facets of environmental regulations on reservations throughout the country. This is sweeping regulatory authority that Congress is allowing EPA to delegate to the tribes.

Unlike the States, Mr. Chairman, the tribes' decisions with regards to these matters are not subject to the Constitution. It is the constitutional issue of the delegation of Federal authority to the tribe to regulate environmental activities which bothers me the most. The Court has ruled in several cases, including *Duro versus Reina*, that the Congress cannot delegate the implementation and enforcement of a Federal law to entities which are not subject to the Constitution.

Mr. President, at this point I will not offer my amendment to require tribes to be held accountable for actions taken under the Solid Waste Disposal Act. I will not do this because no provision of this bill refers to tribes being treated as States for purposes of that act.

I do intend to offer this amendment at the appropriate time and place. For the information of my colleagues, my amendment will not block the EPA from delegating authority to administer these programs to the tribes. It

will only require that, where a tribe exercises authority under the act which affects nontribal land, the tribe will be subject to the Constitution of the United States. Therefore, under my amendment, individual property owners will be able to seek State or Federal court relief from arbitrary tribal decisions affecting their property.

Mr. President, I do not believe it is unreasonable for Americans to be protected from the uncompensated seizure of property by any government, be it Federal, State, local, or tribal. I intend to provide this protection for private property owners as the Senate debates the Resource Conservation Recovery Act.

Mr. President, I ask unanimous consent that the text of my amendment appear in the RECORD.

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

At the appropriate place in the bill, insert the following:

SEC. . SOVEREIGN IMMUNITY.

(a) INDIAN TRIBE; MEMBERS.—Notwithstanding any other provision of this Act, or any other law, in each case in which an Indian tribe, following the date of enactment of this Act, exercises an option, otherwise agrees, or is required, under the Solid Waste Disposal Act to accept or have the responsibility for carrying out any part of such Act by reason of being considered to be a State for that purpose, or by reason of an inherent power, such Indian tribe, prior to exercising such option or acting pursuant to such agreement or requirement, or carrying out such inherent power, shall enter into an agreement with the Secretary of the Interior, in such form and containing such conditions and other matters, as the Secretary shall prescribe, pursuant to which the Indian tribe agrees:

(1) as to tribal members—

(A) to comply with the provisions of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.); and

(B) to waive its sovereign immunity in any civil action against such tribe, tribal government, agency, department, corporation, agent, contractor, or official in any United States court involving a claim or other action by a tribal member arising out of or in connection with the alleged failure of such tribal defendant to comply with the Indian Civil Rights Act of 1968; and

(2) as to those nonmembers of the tribe and non-Indians over whom the tribe possesses inherent authority—

(A) to comply with the provisions of the United States Constitution and all Acts of Congress, including but not limited to, the provisions of subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act); and

(B) to waive its sovereign immunity in any civil action against such tribe, tribal government, agency, department, corporation, agent, contractor, or official in any United States court involving a claim or other action by a nonmember of the tribe or a non-Indian arising out of or in connection with the alleged failure of such tribal defendant to comply with the provisions of the United States Constitution and all Acts of Congress, including but not limited to the provisions of subchapter II of chapter 5 of title 5, United

States Code (commonly referred to as the Administrative Procedures Act).

(b) NONMEMBERS; NON-INDIANS.—Nothing in this section shall be construed as requiring an Indian tribe, possessing inherent sovereignty over a nonmember of the tribe or non-Indian in a particular matter, to allow such nonmember or non-Indian the rights of a tribal member to participate in the tribal government of such tribe.

Mr. BAUCUS. Mr. President, the only remaining matter yet to be dealt with will be some technical amendments.

There are two leadership amendments. I do not know if either the majority leader or the minority leader intends to exercise their right to offer amendments.

But we are virtually at a point where we can finish this bill.

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. CONRAD. 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. CONRAD. Mr. President, as I have indicated repeatedly today, the underlying principle of this legislation causes significant trouble to my State. It caused us trouble before we knew of the specifics of this latest arrangement between General Motors and the small town in North Dakota.

I regret very much that I am put in this position of having to resist this legislation. But I do not know of an alternative. If what we have here is a rush to judgment in which we are saying that the principle that is going to guide us, not only with respect to this bill that involves solid waste, but the principle that we are setting as a precedent for future legislation, is the same as the principles that are the underlying fundamental principles of this bill, that is just not acceptable. I do not know how to say it any more clearly.

If the managers of the bill could find some way to have a statement that the principle here is not going to serve as precedent for future bill that would involve industrial waste, perhaps that would be a way that we could get around this hurdle. But I do not want to be a party to a bill going through that says that the way we are going to deal with these problems in the future is any community that goes out and cuts any deal—and the Governors, unless called on by the community, are just left out there hanging. They do not get to pass judgment. This is too serious an issue, and it is too important, and it is not fair.

So I hope that we will find a way to structure language that would make clear that this does not set a precedent for future legislation that would deal with industrial waste. I hope that can be accomplished.

I yield the floor.

(Mr. GRAHAM assumed the chair.)

Mr. BAUCUS. Mr. President, again, we are sympathetic with the problems of North Dakota. But, in a very real sense, the Senator is asking the Congress to solve North Dakota's problems, problems which North Dakota itself could solve.

I have many times yesterday and today indicated various options to North Dakota, options that North Dakota can take. I strongly urge North Dakota to seriously consider those options.

It is true that North Dakota's legislature is not in session. But it is also true that the next session of the North Dakota legislature probably is in 6 months, in January of 1994. That is the standard pattern.

One other point here. The public is somewhat frustrated with the Congress because they perceive gridlock. They feel Congress does not act to meet their problems. In many cases, that is true. In my experience, Congress has become more gridlocked over the last several years than it was in preceding years, and there are various explanations for that, a great number of reasons which have caused it.

But I think it has happened partly because different segments in America, different interest groups in America—whether they are States, communities, or interest groups that are defined in some other category—want to have it all their way only, and they are willing to stop the process in order to get all that they want. It is the principle of it. If I cannot get what I want, I do not want anybody else to get anything.

Well, I understand that. That is part of human nature. People want things for themselves. But if America is going to be great, if America is going to respond to the challenges of the 1990's and in the 21st century, it is this Senator's opinion that our country must work better together; that we need more teamwork; there must be more shared responsibility between various groups, whether it is business, Government, management, labor, States or local communities, or what not. There has to be more a sense of working together.

Interstate transport of solid waste is a very complicated problem. North Dakota has a point of view. New Jersey has another point of view. Indiana has a third point of view—50 States with 50 different points of view.

We have worked out a solution, although it is not perfect for any one single State. The Senator from New Jersey [Mr. LAUTENBERG] does not like this bill. The Senator from New York has several problems with this bill. The Senator from Indiana, by definition, must have concerns about this bill, because it is not in line with the earlier bill introduced, which was his preference. The Senator from Montana would prefer a different bill than this.

But we are a country, a nation, and we have to give it our best shot. And the vast majority—I say vast majority of the Members of the U.S. Senate—think this is a good solution. The evidence I have is the vote on the Reid amendment yesterday, which is essentially the view propounded by the Senator from North Dakota. Sixty Senators voted against the Reid amendment. They said, no, they like the system that is being worked out here, because it is an accommodation of various State interests.

The bill we have worked out is, while not perfect, good. No bill is perfect. We cannot let perfection be the enemy of the good. It might not be quite good enough of everybody, but for the country, for most States, it is quite good. It is far better than current law for all States, including North Dakota. It is far better than the present situation for all States, including the State of Montana, the State of Indiana, but particularly the State of North Dakota, because it does give local communities the right to say no, if they want to. It gives Governors the right to freeze, if they want to. It gives lots of power to both Governors and local communities if the local communities and the Governors, in their discretion, choose to exercise their right to say "no."

Does it immediately give Governors the right to say absolutely no to all imports of municipal solid waste in a State? No. For it to do that would cause unmitigated chaos in this country.

Garbage would pile up on streets. It would pile up who knows where. Why? Because Americans continue to generate garbage. We generate 4½ pounds per person per day. It has to go somewhere and, because over 40 States export solid waste to other States, if the Governors all said "no," where is it going to go? A lot of States do not have sufficient in-state landfill capacity today. Some do, but many do not. Where is it going to go?

It is clear that States must be much more self-sufficient in export, and this bill very much helps accomplish that. Frankly, if the Senator from North Dakota wants to go further, and I am sure he does, he can join with this Senator who, in conjunction with the other Members of the Environment and Public Works Committee, a committee of which the Presiding Officer is also a member, in helping us next year pass reauthorization of the Resource Conservation and Recovery Act. I wish we could have that bill up before us today. I very much wish we were considering that bill today. That was my first preference. But, because there are so many holds by so many Senators on that legislation, we cannot proceed to it.

So we can only deal with what we have, and sometimes a single step is better than no steps. Sometimes a partial loaf is better than no loaf. The

interstate transport of municipal solid waste now before us is a first step. It is a partial loaf. Does it take all the steps necessary we should take in this country? No. I wish we could, but we cannot do that today. Does it go as far as I would like it to go and as far as I am sure the Senator from North Dakota would go? No.

It does take several steps and empower communities and States, including North Dakota communities and North Dakota's Governor, to have a lot more power and to much more significantly restrict the amount of municipal solid waste that comes into his State.

Basically my main point is, no, it is not perfect. But if we are going to live up to it, if we are going to defy some of the American people's expectation that Congress cannot act, that Congress is always gridlocked, that Congress cannot do anything, at least we can get this legislation passed and address other issues at another day. And in the meantime, as I have said so many times, and I must continue to remind all Senators, all Governors, all legislators, all mayors, all county commissioners, that there is a lot that States can do in addition to the provisions of this bill to control and to deal with municipal solid waste in their States.

Now, the Senator from North Dakota, I must say mischaracterizes an earlier statement I made when I suggested fees. I did not suggest fees for all municipal landfills. I suggested fees only for nonhazardous industrial waste landfills. According to my information, there are four offsite nonhazardous industrial waste facilities in North Dakota. I do not know—perhaps the Senator can help me—where North Dakota exports nonhazardous industrial waste to any other State. You have no idea. If we were to close the door today, immediately close the door, say, on nonhazardous industrial waste, that is going to cause a lot of problems under Superfund. I could tell the Senator where we are trying to clean up Superfund sites, some sites which include nonhazardous industrial waste, a lot of that waste is exported. And those are issues we will deal with when we finally get the reauthorization of the RCRA considered. I hope that happens much sooner rather than later.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first I want to say as to the gracious offer of my colleague from Montana to join him next year on supporting RCRA, I am not going to be here. I am retiring at the tender age of 44 so I will not be around to participate in that effort. I wish him well in it.

Let me say, Mr. President, that certainly the American people are frustrated with gridlock. I think they are even more frustrated when we pass legislation that is not good legislation.

The reason I have taken the time to engage in this discussion today is I very much fear we are about to pass something that sets a precedent that is wrong.

Now, the Senator says last night we voted on this proposition. Indeed we did. One of the major considerations was that we were operating under a threat; the threat was if you did not pass this you are not going to get anything, because the other side is going to filibuster; the exporting States are going to filibuster.

I heard Senator after Senator told in the well last night, "You better vote for this, or we are not going to get anything, because the other side is going to filibuster."

I guess two can play that game. I guess we can have other people operate that way and say if it is not my way it is no way. I do not believe in operating that way. I have never conducted myself that way ever. But I say to my colleagues I believe this is so seriously flawed that I am going to resist until there is some movement so it is not just a local community making this decision.

I say to my colleagues, it would be a very simple change in this bill that I think would be reasonable. It would not give the full authority to the Governor, but it would not leave it all just with some small community.

As I have said over and over, I have 4 incorporated towns in my State with 10 people or less. The alternative that I would propose is on page 2 under "Interstate Transportation of Municipal Waste" on line 12, and I read the whole paragraph.

"(1)(A) Except as provided in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government and, if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit, a Governor may—

And I would simply insert the word "or" on line 12, and take out the word "both" on line 11. That would at least provide a situation in which a wider area than a local community has to be in on the agreement.

It certainly is not everything that I want, but at least you would have a situation in which a town of 10 does not make a decision that affects thousands, and the thousands have no say in the decision made by 10. There is just something wrong about that.

In addition, the Senator from Indiana had language that I think would be useful as well.

I understand the problem with it is the other side, the exporting States—I mean they have taken a very hardball stand here and they say, "My God, if every jot and tittle of the agreement that was made was not agreed to, we filibuster."

That is on their heads, I guess. I think this bill could be improved and

should be improved and I would like to contribute to that process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, it is interesting.

There are two responses really to that suggestion. One is that it does not solve the Senator's problem. It does not do what I think the Senator would like to do. And, second, if it does what the Senator thinks it does, it is going to run into a whole host of problems with other Senators.

Let me take the first one first. This is a municipal solid waste bill, so changing the word "and" to "or" on line 12, page 2, would be dealing with municipal solid waste, not with industrial hazardous waste. That is number one.

Mr. CONRAD. Mr. President, will the Senator yield on that point?

Mr. BAUCUS. Yes.

Mr. CONRAD. I hope the Senator understands, I am fully aware this will not deal with the specific problem we face in North Dakota.

Mr. BAUCUS. Right.

Mr. CONRAD. Mr. President, the thing that is important to me that it does do is set a precedent for the time that I hope we deal with industrial waste; when we deal with RCRA. Because if we fail to set the precedent now that this is more than just any local community, I very much fear when we get to the question of industrial waste, which does bear directly on the problem in North Dakota, we are left with the problem we have here today.

Mr. BAUCUS. If the Senator will yield, I am even more perplexed than I was earlier. Because it sounds like now the intent of this amendment is not to deal with any actual problem that exists in North Dakota. Rather, the intent of the amendment is to deal with the hypothetical problem that may occur in North Dakota, or may occur in any State.

I heard the Senator from North Dakota this morning and last night talk about nonhazardous waste, and he read newspaper articles about it. That is a whole different category of waste. That is nonhazardous industrial waste. That is the problem I heard the Senator address and keep talking about.

Now I hear the Senator say no, that is not the problem. We have a different problem.

That is perplexing to this Senator.

Mr. CONRAD. Mr. President, I do not know whether the Senator does not want to listen or is not listening. I have tried to be very clear and I have tried to be helpful, but apparently there is no desire to be helpful and no desire to have somebody be helpful. I guess that is where we are.

And if that is the case, then I am prepared to talk a long time.

Mr. BAUCUS. I was trying to be helpful by pointing out the Senator's amendment does not solve the industrial waste problems which I thought the Senator was addressing.

Mr. CONRAD. Apparently, the Senator did not listen to this Senator from North Dakota, who tried to be helpful and tried to be clear.

I understand it does not solve our problem. I also understand it at least sets a precedent that something other than one small town makes a decision that affects lots of surrounding communities. I do not know how I could be more clear.

I was willing to back off; not solve my problem in this legislation. I was willing to try to set a principle and a precedent for what I assume will come later.

But if there is no willingness to provide anything, fine. Then I am willing to talk a long time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as I understand it, the concerns of the Senator from North Dakota are, as he mentioned several times, the precedent that is being established. It is his worry that the adoption of the legislation that we have before us, in its current form, will be the model for subsequent legislation in RCRA that will deal with industrial waste.

And thus the Senator believes, or is concerned, that this will be accepted in toto; that is, the outline that we use, the approach that has been used here, where there is a requirement that the request originate by the local elected officials.

And, as I understand—and I think I am correct in saying that—the Senator from North Dakota believes that we will be setting the precedent, and I think he used the word "precedent" several times, so that when we deal with subsequent legislation, we will use this as a model.

Am I correct in that, if I might ask the Senator from North Dakota?

The PRESIDING OFFICER. Does the Senator from North Dakota yield for a question?

Mr. CONRAD. I do, Mr. President. I would be happy to respond.

The problem that I have is twofold.

One is with respect to the municipal solid waste legislation we have before us, the underlying principle being that a single community can make decisions that affect many others, and the others have no say. So I have a concern with respect to the municipal waste problem that is before us in this legislation.

Beyond that, as the Senator from Rhode Island correctly states, I have a concern with the precedent that we are setting, the precedent that could be followed in follow-on legislation that would involve industrial waste, which

is the specific case of concern in North Dakota that I have referred to with respect to the General Motors Corp.

So I have two concerns. And my initial position was the Governor ought to be able to block these determinations. I understand there are problems with that. Well, there is an alternative to that: Not just to leave it to the local community, but to have a planning district that is between the local community and the Governor. At least, they have a broader area of responsibility and concern.

As I have said over, and over, and over, I have a situation where I have 4 towns of less than 10 people. Are we going to set in stone legislation that says any one of those towns can go out and make a deal with General Motors and dump all their garbage in there, and nobody else has any say?

It is not right. It is not right.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I recognize, as the Senator from North Dakota said several times, he has these communities that are very, very small. I think he indicated that there are 4 communities in his State where the population is 10 or less. And that is unique; no question about it.

The trouble with the suggestion of the local solid-waste planning units is, it seems to me, twofold.

First, these are appointed entities that have no accountability. Yes, eventually they can be replaced, but they are not elected entities. And the Senator from North Dakota would suggest—or he has proposed—by substituting the word "or" in place of the word "and" on page 2, line 12, he would give these local planning units tremendous power.

First of all, as I mentioned before, they are appointed, and thus they lack the accountability that exists with the local government.

Second, they frequently involve interstate entities. In other words, they are not always just for that State, because it is all too often these situations arise across borders, entities that are close to the border of an adjacent State. And so that is a tangle.

Also, I think that the whole purpose of one of these solid-waste planning units is to take care of their own dumps. And I think the answer would be inevitably that they would appeal to the Governor to shut off imports.

And one of the worries we have here in devising this legislation is, as has been mentioned several times, 43 States in the Nation export solid waste—or in this instance, garbage—and 42 import. So this is not something that is some figment of our imagination and we can just sit here and draw up laws that can affect various States, thinking: Well, none of it is happening now, and this will prevent it from oc-

curing. Already we have tremendous interflow.

Somebody pointed out yesterday that if you drew a map of the United States with arrows going from one community to another community, and from one State to another State, it would look like a jar full of polliwogs—lines all over the chart. So, therefore, we have to proceed with considerable caution here.

I would like to, if I might, address the concerns of the Senator about precedent and principle. I do not think that because this is the way we have handled this particular problem of municipal waste, that inevitably it follows that that is exactly what we will do when we come to industrial waste. Industrial waste is a far larger problem than municipal waste. I gave those statistics earlier. I think my statistics show there are 200 million tons of municipal waste and 8 billion tons of industrial waste. So we are going to start fresh when we deal with industrial waste. Industrial waste is so much more complicated.

So I do not think the Senator's concerns that whatever we do here is going to be etched in stone are really justified. He feels that way, but I am trying, to the degree I can, to reassure him that certainly this Senator, who has been on the committee and acted on it for many years, is not necessarily going to say, "Well, that is the way we did it with municipal waste, that is the way it has to be done, this is the way we have to handle industrial waste. Take that prior act we passed in July last year—and just take the language right out of it—and that is the way we will handle it."

The Senator has mentioned he is not going to be here. I regret he is leaving, but I think his concerns about precedent and principle should not be so overriding. I do not know whether he will accept some form of solace it or not.

Mr. CONRAD. I appreciate the Senator's attempt, but it does not provide much solace, frankly. The Senator makes the point, if we alter the language in the way that I propose, that gives a lot of power to the planning district, the solid waste management district.

I say to the Senator, what we have here gives veto authority to a town that may be as few as 10 people; a veto authority over the planning district, a veto authority over the State, a veto authority over the Governor, a veto authority over the State legislature, and there is just something wrong about that.

I know how legislation works around here. I have been here long enough to see what happens. I have been here long enough to have heard the arguments, over and over, "That is the way we solved the problem in the last bill, and that is the way we will handle it in the next piece of legislation."

The thing that troubles me very much is that, without any change, we are left with this underlying principle that I believe will serve as precedent for what is to come.

Not only am I concerned about the precedent, I am concerned about this bill, too. That is why I was vigorous in my defense of the amendment that was offered by Senator REID last night. I remember very well one of the key arguments that was made against that amendment, which would have given the Governor a say in what happens within his State's boundaries, was that, if we do that, if that amendment would have passed, we would have then faced a filibuster by the Senator from New Jersey and we would have no legislation and no bill.

My own view is that this legislation is so flawed I am not sure it is worth much anyway. I guess it is worth something if you are in Indiana. It is worth something if you are in Ohio. It is worth something if you are in Pennsylvania. It is worth something if you are in Virginia. It is worth something if you are an exporting State like New York or New Jersey. They were all up on their feet singing its praises. I guess I can understand that.

But, if you are in a State like mine, there is not much here because individual, vulnerable communities can get picked off one by one and nobody else has much of a say. There has to be a better way than that.

Mr. President, might I add, the Senator from Indiana has some language—I do not know what has happened to the Senator from Indiana. He had some language that I thought was very helpful. It would have been useful language to put into this legislation. I do not know what happened to that language or what happened to the Senator from Indiana. But it just seems to me we have a significant difference of opinion, and there ought to be some way to resolve that difference of opinion.

Mr. President, 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. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so that I may proceed for 7 minutes as if in morning business.

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

Mr. SPECTER. I thank the Chair. (The remarks of Mr. SPECTER pertaining to the introduction of S. 3019 are located to today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

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

The PRESIDING OFFICER. The regular order is the consideration of S. 2877, the Interstate Transportation of Municipal Waste Act.

Mr. BAUCUS. Mr. President, I also have a series of technical amendments to the bill.

AMENDMENT NO. 2741

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2741.

On page 4, line 7, strike "(date of introduction)" and insert "June 18, 1992".

On page 5, line 10, insert "annual" before "amount equal".

On page 5, line 22, strike "such landfills" and insert "each such landfill".

On page 5, line 23, insert "annual" before "volumes".

On page 6, line 2, strike "or" and insert "and".

On page 7, line 4, strike "section" and insert "paragraph".

On page 7, line 15, insert "from" before "a Governor".

On page 8, line 11, insert "as determined in accordance with subparagraph (C)" after "1992" and before the comma.

On page 8, line 13, insert "under subparagraph (C)" before "as having".

On page 10, line 11, strike "location" and insert "locational standards".

On page 10, line 12, insert "constructed" after "landfill cells".

On page 10, line 22, insert "the land or" after "over".

On page 11, line 11, strike ", glass, and rock" and insert "and glass".

On page 12, line 8, strike "the" before "property".

On page 12, line 11, insert "generated" after "solid waste".

On page 12, line 16, insert a comma after "composition".

On page 12, line 19, strike "such other" after "mixed with".

On page 13, line 6, strike "(date of introduction)" and insert "June 18, 1992".

On page 10, line 12, insert "on and" after "cells".

On page 12, line 4, strike "industry" and insert "industrial facility".

On page 2, line 26, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 5, line 13, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 7, line 9, after "and", insert "the first six months of".

On page 7, strike line 22 and insert "and the first six months of calendar year 1992, and".

On page 8, line 11, after "and" insert "the first six months of".

On page 2, strike lines 12 through 14 and insert "ment; and an affected local solid waste planning unit, if such local solid waste planning unit exists under state law, a Governor may—".

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Montana.

Mr. BAUCUS. Mr. President, these are simply technical amendments. We

do not need adoption of them. Once this bill goes to conference, we can do these in conference. It is not all that urgent. Since they are technical amendments, it makes more sense to clean up legislation as much as possible as we can as early as we can. I think it makes sense to adopt these amendments at this time regardless of what happens to the rest of this bill.

I urge adoption of these technical amendments.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

Mr. CONRAD. Mr. President, is there a consent request before us?

The PRESIDING OFFICER. The amendments en bloc are pending for adoption.

Mr. CONRAD. I object. The PRESIDING OFFICER. There is no unanimous-consent request.

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2741) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have attempted throughout the afternoon to try to find some way, first of all, to alter the bill before us so that we would not be left with the situation in which a tiny community can take action that would bind the other surrounding communities, bind the whole State, while also attempting to do that not only for the purposes of this legislation but in terms of the precedent for legislation that will follow. We have been unable at this juncture to reach a meeting of the minds.

I think it is important for people to understand what is at stake here. I think it is important for colleagues of mine to understand what is at stake here.

Last night, we debated the question of whether or not the Governor should have the ability to block the importation of out-of-State trash when a local community has made an agreement with a company, and we had a vote on that question. And the Senate spoke its mind. That is fair. I accept the judgment of the Senate on that question.

I argued last night that that was a very troubling concept because we can have the trash merchants coming into a State going to a small community. I indicated last night I have 4 towns with less than 10 people in them. A

company can make a deal with them to take out-of-State trash that affects surrounding communities, affects the taxpayers of the State, and there is no way to stop it unless the local community agrees and, of course, the local community is probably unlikely to do so if it has already entered into the contract.

So, Mr. President, we then developed the argument. As I say, we were unsuccessful in sustaining that argument. Then we learned this morning, something that was rumored last night, that General Motors Corp. had made an agreement with a small town in my State of 319 people, the town of Sawyer, to take all of their industrial waste to that facility. And there is no State agreement. There is no county agreement. There is no wider community agreement. Yet we are faced with the prospect of thousands of loads of industrial waste coming into our State because a handful of people have decided that is what is to happen. There is something wrong with that, Mr. President.

Mr. DASCHLE. Will the Senator yield?

Mr. CONRAD. I am happy to yield to my friend and colleague from South Dakota.

Mr. DASCHLE. Let me commend the Senator from North Dakota for again raising this issue. As he said, this was a subject of a very contentious debate for a while yesterday, last night. We had our vote. We failed to persuade many of our colleagues of the consequences of the decisions that we were making regarding waste in this issue.

So given developments in the last 24 hours in North Dakota, the Senator from North Dakota once again felt compelled to come to the floor to do what he could to explain what this once seemingly innocuous bill could be doing to the State of North Dakota. We have had virtually identical problems in the State of South Dakota in this regard—small communities cutting deals that look extraordinarily lucrative for that particular community but having extraordinary problems statewide.

Problems related to the quality of water, whether or not the aquifer under that community could be poison, is still a question left unresolved. Every community in that area is going to be affected. This is not just an issue related to Lone Tree, SD, one of the communities involved. This is an issue affecting a lot of communities all over western South Dakota. Questions having to do with transportation, a level of transportation, the tremendous amount of commerce, the tonnage far exceeds the capacity of the roads to tolerate it.

So what happens? Is it going to be Lone Tree that is going to come up with the highway network necessary to get the garbage from one end of the

State to the other? No. Lone Tree cannot handle that kind of garbage magnitude. Lone Tree is not going to build the roads. Lone Tree is not going to build the rail spurs. They are not going to be the ones to worry about it.

Somebody is going to have to come up with the money necessary to build the bridges, highways, rail spurs, to do all that it takes to set up the infrastructure required to ensure that small community can keep its deal with some out-of-State waste company. That is what we are talking about here.

So why not involve some entity at the State level to give them the opportunity to take into account these extraordinary economic and environmental and infrastructure situations?

We do not do that. That is why it is so abundantly clear to us that unless we make additional accommodations in this legislation, it is simply unacceptable to Western States. It does not take into account the problems this is going to cause.

I know how narrowly drawn the bill is, that in terms of scope, a lot of things are not covered here. The fact is that is also one of the problems, because if these areas are not covered, what do we do about them? How do we handle them?

The question of the Senator from North Dakota relating to industrial waste brings up that issue. How do we address that? How can you have industrial and municipal waste and decisions being made about one and then the other?

That was the reason we went to the floor last night.

It is the reason why again we raise the issue this afternoon, trying to accommodate the needs of these local communities who indeed, for many good reasons, may want to bring in municipal waste, may want to find some source for economic development, as dwindling as they are in size, and in economic viability.

But this is not the way. We ought not to paralyze or jeopardize the entire State or region of a country simply to ensure that one small community, 10 or 20 people, have the ability to cut a deal with an out-of-State waste company and leave the rest of that State, the rest of their population, at great peril. I do not think it is right.

Frankly, I think we have a lot of work cut out for us as we address these issues.

Somebody said last night that we are facing the prospects of no legislation at all if we cannot simply pass this. Frankly, Mr. President, I have come to the conclusion that this is not better than nothing at all. It creates the extraordinary problems for our State, environmental and infrastructure problems, and the wide range of problems that we have attempted to address both last night and again this afternoon.

So I only rise again to commend the distinguished Senator from North Dakota and to urge our colleagues to think very carefully about this legislation prior to the time we make what may be an irrevocable commitment to a path that will be extraordinarily damaging for many of our people and many Western States.

I yield the floor.

Several Senators addressed the Chair.

Mr. CONRAD. Mr. President, I yielded to the Senator from South Dakota for the purpose of a question. I did not lose my right to the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I regret that we have not been able to find some way to accommodate those of us who have a situation that is very serious. I would say to any of my colleagues, if you came in this morning or yesterday morning and learned that all of General Motors' sludge was coming your way from 100 plants, and a relatively small community had agreed to take it—in this case, it is not clear, by the way, that small community has agreed to take it. But for the moment, let us assume that is the case—and you found that there was nothing that your Governor could do to stop it, I think you would find that there was something wrong in the legislation we are about to pass.

I understand this relates to municipal waste. We also understand that is going to set a precedent for what is going to come regarding industrial waste.

In a small community in my State, where we have 4 towns of 10 or less, 10 people could have a veto on what is in the interest of thousands of people and, in fact, on what is in the interest of the whole State. That stands democracy on its head, absolutely stands democracy on its head. Since when do we have 10 people making a decision that affects thousands, and have absolutely no chance for others to have an affect on the outcome?

Mr. President, that just cannot be the final conclusion. Last night, so many people voted against the Reid amendment, which would have given the Governor the right to block these decisions—so many people said, well, if you do not pass this bill, you get nothing, and you will get no protection. Really, if you examine this bill, it is very useful for Pennsylvania, Ohio, Indiana, and Virginia. It is not so useful for other States; it is not so useful for North Dakota, and it is not so useful for South Dakota, when we can find that trash merchants move in, make a sweetheart deal with a small town, and in comes the junk and nobody can stop it. If anybody thinks, because of the debate they heard last night, that it is somehow different, and really there are ways to stop it, I tell you, look at the

North Dakota experience, because you will find, sadly, that all of the sweet mutterings about how you can intercede is not going to work.

Mr. DASCHLE. If I could ask the Senator from North Dakota, does he know, for this particular site the Senator is referring to, the degree to which environmental analyses have been done with regard to the aquifer, let us say, for example? Have there been any environmental studies done to determine the feasibility of a waste facility of that magnitude?

Mr. CONRAD. Well, I know this: There were permits that were in question with that facility, which is an industrial waste facility, who was going to take ash from out of State.

And that ash was going to go to that facility. The State challenged it on the basis that they were concerned about the effect on an underlying aquifer. The company challenged that determination by the State, and so now we are poised for a new hearing that will be held later this year.

As far as I know, there has been absolutely no analysis of the magnitude of the industrial waste that is contemplated under this agreement with General Motors. You can imagine taking all the still waste from 100 General Motors plants from around the country and sending it to this small town.

Mr. DASCHLE. If the Senator will yield again, that is exactly the experience we have had in South Dakota. There have been extraordinary cursory studies done with regard to the environmental consequences of sites such as this, and it is for that reason that we have found the need to draw into the discussion and the decisionmaking the State authorities to give us a better appreciation of the environmental consequences, to give us some ability to determine what effect, detrimentally or favorably, a facility of this consequence would have on surrounding areas.

Let me ask the Senator a second question. To what degree has study been accomplished with regard to the infrastructure needs that they are going to have to serve the site? Has any effort been made to better appreciate the infrastructure requirements for a site of this size?

Mr. CONRAD. That is a very good question, Mr. President. The answer is none. All of a sudden, the State of North Dakota is faced with the prospect of taking the waste, the industrial waste from General Motors plants from around the country. And obviously, that has an effect beyond the borders of that small town.

There is no analysis that has been done. Of course, why would there be, since, because of the terms of this legislation, a small community can cut a deal with a company and there is no State review unless the local community asks for it. You are stuck.

Can you imagine being a Governor of a State faced with a situation in which you have the responsibility for the transportation system—you have the responsibility, by the way, for waste planning—and yet, a local community can completely disrupt your statewide plan, a community potentially as small as 10 people can totally throw into question a statewide waste management plan, can totally throw into question a statewide transportation plan, and the Governor has nothing to say about it?

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

Mr. CONRAD. I am happy to yield.

Mr. DASCHLE. In South Dakota, we have communities that are served by merely county roads, that do not have any State roads coming in at all. So here you may have a community completely served by inadequate transportation routes now having just cut a deal for millions of tons of garbage, with absolutely no access to that community except for whatever the State will provide in as expeditious a way as possible.

What an incredible antiplanning approach that you conjure up here. I mean, to what degree is it the responsibility of the community to come up with whatever financing mechanism to ensure that there is adequate transportation? There is none.

They are going to say: It is in your lap, Mr. Governor. You find a way to make good the contract that we have just made with this waste company.

Mr. CONRAD. Mr. President, I just say in response to my friend, the Senator from South Dakota, I talked with my Governor this morning. You can imagine how he feels.

He said to me, "You know, on the one hand, down there in the Federal Government, you tell me I am responsible for planning statewide municipal waste. That is what you tell me. Then, on the other hand, you put legislation through like this bill that says, well, any local community out there can completely disrupt that State plan. It just does not make sense."

Just to give you some idea of the magnitude of what we are talking about here, I say to my friend from South Dakota, the company gave an open house the other day and featured tours of the facility, which includes an administration building, a lab, a processing building, a storage cell designed to swallow up to 400 tons a day—400 tons a day. And I say to my friend from South Dakota: That is a lot of garbage; that is a lot of trash; that is a lot of industrial waste.

And the implications for the road network, the implications for the infrastructure, and the implications for the air and water quality of the surrounding area are enormous. To take the industrial waste from 100 General Motors plants from all around this country,

and to stick it into a little town of 319 people—nobody can interpose objection; nobody can be involved at the State level in terms of fashioning a plan—there is something just radically wrong with it.

So that is the reason for the resistance that I am putting up here today.

It seems to me that there really needs to be some better thinking about what we are doing here, because this is just wrong. I do not think it can be sustained. I do not think it can stand the light of day. I do not think it can stand much attention or much focus, because sooner or later our colleagues who are listening are going to realize: It might be North Dakota today; it might be Montana tomorrow. It might be North Dakota today; it might be South Dakota tomorrow. It might be North Dakota today; it might be Minnesota tomorrow.

And when people have a chance to review what is being done here, they will realize that the siren song that you have got protection is not much protection here at all. It sounds good, but what you find out when you study this bill is the Governor can only act if the local community and the local planning authority asks him to abrogate a new contract. He cannot do anything; his hands are tied, otherwise.

Then they say: Well, you know, if you are a big importer, if you are importing more than a million tons a year, you have protection because the Governor can freeze the amount.

That is fine. How many States does that cover? How many States do you think that covers? Four.

Mr. COATS. Mr. President, will the Senator yield on that point?

Mr. CONRAD. I am happy to yield without losing my right to the floor, Mr. President.

Mr. COATS. This point has been made over and over, and I responded over and over on it: Freeze authority extends to all 50 States. It does not extend just to four States.

That was what the original proposal was. This Senator from Indiana insisted it was not fair to solve the problem of a few States, and simply to export that problem to an additional State or another State. So we extended the freeze authority to all States.

My question to the Senator is—I find the reasoning so curious—that because one of his towns agreed to accept out-of-State waste, the Senator's actions will deny every other town in North Dakota the right to say no to out-of-State waste? And his actions mean that tonight, tomorrow, the next day, an uninterrupted, unlimited flow of out-of-State waste could flow to every other town in North Dakota, without any of those citizens having the ability to say no to that?

And so to protect the town that has agreed to it is sacrificing every other town in North Dakota who might not agree to it.

That is very curious reasoning, to this Senator.

Mr. CONRAD. I will be happy to explain it, Mr. President. It is the position that the Senator from Indiana used to adhere to. He remembers that. That is when I used to support him when he was taking the very same position I am taking now. He used to be right on this issue, and now he has backed off. I can perhaps understand why he did it.

But the fact is I am adhering to the position that the Senator used to have, and he defended it very articulately and very well on this floor.

And the simple concept is: Look; I am faced with the reality of what is, versus the hypothetical.

I am faced today with the situation in which a small town is going to be taking all of GM's industrial waste from 100 plants, and nobody else can say anything about it. My Governor has no say; my legislature has no say; the community planning districts have no say.

Mr. COATS. But the citizens do have a say?

Mr. CONRAD. The citizens of one town have a say. Where are the rest of the folks? This is an interesting notion of democracy and representative government, when a city of 10—a city of 10—could make a determination that impacts tens of thousands. That does not make any sense. That is what we have before us.

Let me say, on the other point the Senator made, I appreciate the point that he makes.

It is also true, is it not, that in order for a community or a State to have a freeze, it has to be asked to do so by a local community?

Mr. COATS. That is correct.

Mr. CONRAD. So we are right back at the problem that causes my States so much difficulty. There is something wrong with legislation that, in principal, sets a precedent that a community of 10 can make a decision that affects tens of thousands, and the other folks, other than the 10 who make the decisions, cannot stop it.

Mr. COATS. Would not the Senator's proposal leave the decisions in the hands of 1 rather than the 10 or the 250 or the 3,000 of a particular community? Because what the Senator's proposal would do is say that the decision of one person, the Governor, would override any decision of a community. And were a Governor to agree that, for an economic benefit for his State, this was a favorite proposal, the citizens of the community in receipt of the waste would absolutely have no say whatsoever.

Mr. CONRAD. Well, I say to my friend, that is the proposal that I was part of last night, and I would like to see a Governor have the ability to represent a State's interest. I think the State's broader population ought to have their interest represented.

Mr. DASCHLE. Would the Senator yield?

Mr. CONRAD. Yes, I am happy to yield.

Mr. DASCHLE. That is why we elect Governors and Senators and Congressmen, to make decisions on behalf of all of us, to make the tough decisions, to take into account more than just one special interest. That is what we are talking about here, the special interest of a very select group of people, maybe 10 people.

And we talk as if those 10 people are unified. You may have a 6-to-4 vote in some of these towns, if South Dakota is any indication. It is a very divisive issue in these communities themselves. It may be that the powerful within that small community have had the ability to generate just enough to get over the top and have what would be considered a majority, but they certainly do not reflect any unanimity, any cohesion within the community itself.

But, certainly, when it comes to budget, when it comes to all of the decisions made regarding the long-term future, the overall effect of all of these issues on the people at large, we elect a Governor to help us make that decision, to set up mechanisms by which a more judicious decision can be made.

So it is not just one person, I say to the Senator from Indiana, it is a decisionmaking mechanism that we have subscribed to now for 200 years, at the Presidential level nationally, at the gubernatorial level in every State. And certainly I cannot think of a better alternative than that. To say that 10 people ought to be making that decision for, in our case, 700,000 people is something that is just not only unacceptable but, frankly, undemocratic.

Mr. COATS. Will the Senator yield?

Mr. CONRAD. Mr. President, I retain my right to the floor. I yielded to my friend from South Dakota for the purpose of a question.

I would be happy to yield to my friend, the Senator from Indiana.

Mr. COATS. I appreciate that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. As I said earlier, there are many of us here on this side of the issue that are very sympathetic to the arguments that the Senator is making, and we were trying to reach some effective way of addressing that particular problem. And I will not go through all the arguments that we have been through before.

However, the legislation itself defines the term "affected local government" as whatever body of people, whatever jurisdiction, pursuant to State law. So the State can define whatever jurisdiction or body of individuals in the State of North Dakota or South Dakota that it wants to in terms of the question of request for denial of the receipt of out-of-State wastes.

On page 10, under definitions, section (d)(1), it says:

The term "affected local government" means the elected officials of each city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

I suggest that as one option, and we have suggested a number of other options to deal with the Senator's problem. Because this is industrial waste, it does not fit the definition of municipal solid waste. It will result in no bill, which means no community is protected, including no State, yours or mine, because there are powers that flow to the Governor of a State, health authorities of a State, that your State currently has and can exercise relative to this particular situation. What we are asking is that your State exercise the powers it has. So it does not deny our States the opportunity to do something about the flow of trash that we can now not do a thing about.

So we are just asking, out of courtesy to the Senator from North Dakota, that his own State take action that it already has power to do and allow the other 49 States to deal with something that we do not have the power to do.

Mr. CONRAD. Let me answer that question if I might. It is a good question that deserves a respectful answer.

Let me just read the language to you of the solution the Senator proposes:

The term "affected local government" means the elected officials of each city, town, borough, county, parish, district, or other public body created by or pursuant to State law with primary jurisdiction over the use of the land on which the facility is located.

Now, I say to my friend, I used to be the State tax commissioner in North Dakota. In that position, I have dealt with a lot of the finest legal minds in the country. And I will tell you, I have done battle with some of the finest Philadelphia lawyers, I say in deference to the current occupant of the chair, Mr. WOFFORD. They are very good.

I can tell you what they will do. If the State of North Dakota would take the action the Senator from Indiana proposes, they would be in a court in a Philadelphia minute. Do you know what they would be asserting? "You are attempting to discriminate against the interstate transportation of a commodity." The commodity happens to be junk. The commodity happens to be industrial junk.

But, do you know what? They would probably prevail, because, unless the State of North Dakota made a decision to change the rulings for every jurisdiction which has primary jurisdiction over control of that land, that type of facility, you would be acting in a discriminatory manner with respect to that community that is set to act as a host community for that sludge.

And I say to my friend, it sounds good, but if you think about it and

think carefully about the rights of the company and their willingness to go to court—and by the way this company as already been to court once on a question of the use of this landfill—I do not find much relief in that proposal.

And I go back to the fundamentals of what is at stake here. Who decides? Who decides? Should it be just a few people in a town that decides something that impacts the lives of hundreds of thousands perhaps tens of thousands of people? I think not.

Mr. DASCHLE. If the Senator will yield, some would say there is another precaution, another way in which States can intervene, and that is the permit process, that they can simply require a series of permits that in and of themselves could preclude an out-of-State waste facility from being constructed.

The problem is that this has already been in the courts, and the courts have said that you cannot discriminate against an out-of-State waste facility; that whatever do you with your other facilities, you have to do with this one.

So regardless of the size, regardless of how ominous it may be for the entire State, regardless of how many problems, practical and otherwise, it may create, the permitting process has already been demonstrated to be ineffectual in dealing with this very problem.

So we really are defenseless. There is no way with which to address this issue. We cannot do it through the permitting process. This legislation precludes us from doing it through the State legislature or the Governor's office.

So if you are sitting 5 miles or 10 miles or 15 miles away from a community like this, and you have property values that are good, you have a pristine stream that runs by that is good, you have a quiet residential community that is good, you have a school system that is adequate, and you see all of that threatened with the prospects of this huge new GM facility or community facility that is going to put their waste dump next to your town, you say: "Look, I'm sorry. We just did not have the resources to stop them. There is nothing we can do."

So, what happens? What happens when the stream is gone and the transportation system is destroyed and the community no longer looks like it used to and property values have plummeted? I guarantee you then we will be back in this Chamber, then we will be starting to talk about the issues that are confronting us in a lot more realistic way.

As long as we can talk hypothetically it is no problem. We can just work it out. Let us see if we can understand one another. The problem is when that happens, it is too late. Then you cannot restore it.

The Senator from North Dakota and I have talked about another problem

that we continue to talk about prospectively that is all too real in our States and that is the loss of farm communities. We have told people with the legislation that has come before us time and time again, if we do this we are going to see the loss of farm communities.

It is happening. Our worst expectations in some cases are being realized, and there is a parallel here. There is a relationship between our warnings about the effect of legislation on these communities and the effect, again, of legislation we are describing today on those very communities. It is a double whammy—first with regard to rural policy that virtually does not exist and has not for 12 years. And now, second, another element of rural policy, which is: Just send the trash west. Let them take care of it. Give one community an opportunity to override the will and perhaps even the very best appreciation of what it takes to live in a rural America—override all of that and simply allow a small community to make up for the fact that we do not have a rural policy by taking trash somehow in the name of economic development.

It is pathetic. It is absolutely pathetic. Yet we are doing it again before the eyes of all of those who can appreciate this in North and South Dakota. We may be committed unalterably to a course that is going to accelerate the demise of these small towns.

I just hope people realize the ramifications of this before it is too late, and I thank the Senator for yielding.

Mr. CONRAD. I thank my colleague from South Dakota. It really makes the point the Governor of my State was making to me in a lengthy phone conversation this morning. He said, you know I thought it was summed up well in a letter to the editor by one of our constituents who said, "We are the breadbasket, we are not the trashbasket."

Now we are seeing a situation develop in which more populous States to the east, including our neighbor to the east, have raised all of their fees on trash and on industrial waste. So, you know what the companies are doing who are headquartered there, where they have the jobs, where they are supporting the tax base? They are looking around for a place to dump their junk. And you know what they are finding? Some nice little rural community in North Dakota that has been hit by 4 years of drought, low farm prices, an economic crisis that is forcing people to their knees. And a big company comes in and the company says, "Gee, you know, your schoolhouse needs tending. We can help with that. You know, we look at your streets, they need repair. We can help with that. And we notice a senior citizens center that is in need of some refurbishing. We can help with that."

The next thing you know that community has agreed to take the waste.

I tell my colleagues, if you think this is hypothetical, forget that. My State now faces the prospect of all of General Motors' industrial waste coming to one small town and nobody can do anything about it. My Governor said to me this morning, this is part of the pattern we are seeing play out. Our small, rural States that have been hit by very hard times economically, and we see our young people going to the big cities and we see our population actually in decline, and now what happens? We become the dumping ground for those urban centers, those places where we send our young people, where we send our capital, where we sell our goods wholesale. Now what do we get back? We get back the junk, the garbage, the industrial waste.

On the basis of a decision by a lot of people? By the legislature? By the Governor? By county authorities? No; the decision of one small community. As I said last night, we have a situation in which I have four incorporated towns in my State with less than 10 people.

Mr. DASCHLE. Will the Senator yield on that point?

Mr. CONRAD. I will be glad to.

The PRESIDING OFFICER (Mr. DODD). The Senator from South Dakota.

Mr. DASCHLE. I mentioned Lone Tree earlier. We have another community. The Senator mentioned four towns with fewer than 10 people. We have had similar situations in South Dakota. We had an incident a couple of years ago in Rosebud, where a company, Eastern State company, came in and cut a deal with an Indian tribe. It was all done largely in secret. Nobody knew about it until afterward. And, really, in one of the most spectacularly beautiful parts of the entire State, very near the area where the movie "Dances With Wolves" was filmed, with striking panoramic views and incredible beauty, wildlife. There were people living on the land as they have for hundreds of years undisturbed.

I can recall going up to Horseshoe Butte, looking out over this vast, extraordinarily striking, breathtaking area that had never been touched at all by commerce, by mining, by any one of a number of efforts in the past that have been made to try to get into this area. It was the protection of the land, the attachment to the land and appreciation of incredible beauty that for generation after generation has led decisionmakers to say no, we are not going to allow the disruption of this magnificent land.

Could we make money on it? Absolutely. Will we find ways in which to dig into this and from whatever resources there are, make huge amounts of money for this generation at the expense of the next and the next and the next? The answer was always "no."

Lo and behold, somebody came in, talked to these tribal leaders promis-

ing thousands of dollars to certain people, and ultimately the decision was made. We are going to disrupt tens of—perhaps, I think, hundreds of acres if not thousands of acres, if I recall, of this particular land that had never been touched before.

How are we going to get the garbage in there? Nobody could tell us.

What affect was it going to have on the aquifer below? Nobody could tell us.

To what degree was this decided by the community itself? No one could tell us.

Time and again, as hard questions were asked about the impact this particular site was going to have on the land and on the people, no one could tell us.

But, fortunately, many of those tribal leaders were thrown out of office shortly thereafter, simply because, as it became more public, as the commitment became better understood, the decision was unacceptable to the vast number of people.

But that is really what we are talking about here. Who is going to be there to ensure that the best interests of all the people are taken into account? Who is going to be there to ask the tough questions without the dollars dangling in front of the faces of those who are temporarily given charge to make decisions of this kind? Who will be there to argue for the next generation and the next? Who ought to value the land in all of its resources and beauty, as our predecessors have?

This issue has to be more than just about dollars. It has to be what we treasure most in life. The quality of life in our State is not measured, fortunately, in dollars. If it were, our quality would not be very good because we are a poor State. But I daresay we have quality of life second to none, in part because of our beauty, in part because of our land, in part because of all of the incredible resources we have, in part because of our people.

We endanger that real beauty and quality of life if we do not take adequate precautions, if we do not ensure there is a good decisionmaking process locked in before we commit ourselves to decisions that could cause devastating consequences down the road.

This is more than just a question of trash. It is a question of how well we can protect the quality of life for future generations. It is a question that goes beyond economics. It goes to the very heart of why it is that some of us live in South Dakota and in North Dakota; why it is we hold pride for the land we live on.

And so I hope that as we consider all this more carefully, we also consider what it is we are deciding here; that we remember that what may be a good decision for a local community could be an irresponsible decision for the State. What may be a very appropriate

money-making venture for a local community could be a money-losing venture for the State. What may be the opportunity for a couple of jobs in a local community could mean the loss of many jobs for the State. What could mean improved quality of life for one or two people in a community could mean a devastating loss in the quality of life for the State.

What we are saying here is, well, let us just see if we can work it out, let us see if the Governor and local community can somehow come to grips with this thing and we will give the local community for the first time veto power over the Governor as we try to come to some conclusion about these ramifications.

We cannot accept that. The problems are too significant, too consequential. They go way beyond what value they may be for one community.

It is not often this Senator comes to the floor to talk at this length about something of this consequence, but I must say that I do not know unless we talk about it to the extent that we have today and last night people are fully appreciative of what it is they are in store for. I do not want to have to say several years from now: We told you so. I do not want to have to say several years from now: If only back then we had decided differently. I do not want to have to say now that the deal is done there is nothing we can do.

But I daresay we are rushing headlong into that kind of a scenario, an unacceptable scenario for most of us, a scenario affecting reservations, farm communities, rural areas, tourism, recreation, and even the way we govern in Western States. We just cannot accept that. And if we cannot find an amendment that works, then we have to find another way to accommodate these concerns and these interests. The stakes are too high and the problems are too great.

And so, Mr. President, I hope that we consider this very, very carefully, and that is we consider the community of States, States with a lot of population who have a problem, and States with less population who may ostensibly on the surface appear to have a solution to that problem. Consider each other's interests more carefully, consider the way with which we must resolve these matters, and that is with a full appreciation and understanding that one person's solution may be another person's problem, because that is exactly what we have here.

I can see very easily why some of the larger States would view this as an ideal solution, out of sight out of mind, get the garbage out of the State and we will not have to worry about it, especially if it is for as low a price as has been proposed in my State, but out of sight out of mind does not work with garbage. It is never out of sight out of mind entirely. It would be very much

on the minds of those affected, those affected not only this generation but the next, and the next, and the next as we have to deal with it in a more comprehensive way.

So I hope, Mr. President, people understand that and deal with it and fully appreciate the problem that those of us from Western States have. We are not trying to be obstructionist, obstreperous. We are simply trying to find a way in which to resolve this problem in a more meaningful, a more reasonable fashion.

So I hope the experiences of South Dakota over the last several years can be understood, can be dealt with, and can at long last be put to rest. I do not want to have to come to the floor 2 or 3 years hence and give this body updates, further reports on the degree to which our quality of life has declined, simply because we failed to deal with it effectively in July 1992. That is really what we are up against.

So I know that the Senator from North Dakota feels as strongly about this as I do. Last night, the Senator from Nevada spoke passionately about the consequences this issue has in his State. The senior Senator from Arkansas came to the floor when fully apprised of the consequences for his State and spoke passionately and emotionally about how detrimental this could be for States like his as well.

It is not just a Western State issue. It is affecting every State that is faced as we are with companies who would like to buy off a community so as to move their trash out of sight and, therefore, out of mind. We just cannot accept that, not when the pristine beauty, not when the quality of life, not when the environmental consequences of these decisions are at stake to the extent that they are in this bill.

I know that there are many who say that this is just a first step; that there are ways with which to deal with this issue later on, but I fear with this step, we set our course irrevocably. I do not know if once we set this precedent we can go back with regard to industrial waste or any one of the other environmental issues that ultimately we are going to have to address with RCRA and say: Even though we made one set of decisions with regard to municipal waste, we are going to make entirely different decisions with regard to industrial waste, hazardous waste, nuclear waste; that somehow this is so unique, municipal waste so unusual that we can put an entirely different set of policies in motion with regard to these other kinds of wastes. That is not going to happen.

I can almost guarantee the Members of this body that whatever it is we do here, you can pretty well count that we are going to be doing something very similar in the future in other forms of waste as well. So that gives us great pause. That causes us a lot of concern.

I can see it happening sometime in the very near future when we come to the floor again and say we have already set a precedent with regard to municipal waste. It is already a done deal, and as a done deal, all we can do now is to accept additional kinds and categories of waste as we have already begun to do with municipal waste in 1992.

Mr. President, that is just unacceptable. That is something we are going to have to address at some point in the future, and I want to have the confidence that we are doing it more effectively and with greater appreciation of the magnitude of the problems we are creating than we appear to be doing with this piece of legislation.

So I, again, reiterate to all of my colleagues to take care as we consider this bill, as we consider the ramifications for future generations, as we consider what it will mean for States such as ours. The stakes are just too high, and the problems too great, and the circumstances far too controversial for us simply to sit idly by and watch decisions like this made without full benefit of an understanding of those consequences prior to the time we make them.

I thank the Senator from North Dakota for yielding this time. I yield back the floor to him.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER (Mr. SIMON). The majority leader is recognized.

Mr. MITCHELL. Mr. President, will the Senator from North Dakota yield to me for the purpose of making an inquiry of the Chair without his losing the right to the floor?

Mr. CONRAD. I will be pleased to do so.

Mr. MITCHELL. Mr. President, a parliamentary inquiry. It is my understanding that notwithstanding the fact that the Senator from North Dakota has the floor, that I have an absolute right to file a cloture motion, and I inquire as to whether that understanding is correct?

The PRESIDING OFFICER. The majority leader is correct.

CLOTURE MOTION

Mr. MITCHELL. Accordingly, Mr. President, I send a cloture motion to the desk and ask that it be stated.

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 the debate on S. 2877, the Interstate Transportation of Municipal Waste Act of 1992:

George Mitchell, Max Baucus, Dan Coats, Harris Wofford, John H. Chafee, Conrad

Burns, Alan Cranston, Daniel J. Akaka, Frank R. Lautenberg, Paul Simon, Edward M. Kennedy, Christopher J. Dodd, Alan J. Dixon, Bob Dole, Al Simpson, Jake Garn.

Mr. MITCHELL. Mr. President, for the information of Senators, I would like now to describe where we are with respect to this bill and what course of action I believe will be necessary to deal further with it.

We began this bill on Monday with the hope and the expectation we could complete action on it by the close of business Wednesday. That has proved not possible, as is now obvious, and we are now completing the fourth day of debate on this bill. It is an important bill, but there is much other important business with which the Senate must deal. I believe it is imperative we bring debate on this bill to a close.

The Senator from North Dakota has indicated his opposition to the bill in its current form and his intention to use his rights under the rules to attempt to prevent the Senate from acting on the bill or, failing that, to delay action for as long as possible. Therefore, I have just filed a cloture motion which, if approved by 60 Senators, will enable us to bring debate on this bill to an end and complete action on it so we can deal with the other pressing matters which await our consideration.

Under the rules, that cloture vote will not occur until the second legislative day after the end of today. I do not know when that will be because I do not know what other action will occur between now and then.

It had been my intention to call for a procedural vote on a motion to instruct the Sergeant at Arms to request the presence of Senators, but that has proved not necessary as that was to be a step in the obtaining of the necessary signatures on the cloture motion and the filing of the motion. So that vote will not now be necessary.

Under a previous order, printed at page 2 of the Senate calendar, by unanimous consent the Senate vested in me the authority to set a time for a cloture vote on the motion to proceed to the energy bill. It is my intention to exercise that authority later today following consultation with the Republican leader, with the chairman and ranking members of the Energy Committee, and other interested Senators.

So it appears at this point debate will continue for a time at least on the interstate waste bill, and as soon as I am able to complete consultation with the Republican leader and the chairman and ranking members of the Energy Committee, I will make a decision on the time for the vote on cloture on the motion to proceed to the energy bill.

I will simply say in closing that it is very difficult to get anything done in the Senate under any circumstances, and we are now at the point where it

appears that cloture, that is, movement to terminate debate, is required on almost every step we take in the Senate. Senators, of course, have the absolute right to exercise their prerogatives under the rules, but the one thing Senators cannot have is sessions 3 days a week and have no votes after 7 p.m. and also require cloture on every bill and every motion to proceed that we have.

So I simply say we are going to proceed. We are going to finish this bill. It is possible that completion will be delayed. Senators have a right to delay, but by a 2-to-1 vote the Senate has already voted on the matter now being debated.

So it is not as though this is something the Senate has not considered. It has considered and voted on it in a decisive way.

I simply say to Senators we are going to stay and finish this bill, whenever that is, and we will proceed to other matters and complete action on them as necessary, however long it takes, however many days it takes, and however many hours of each day it takes.

I thank my colleagues for their courtesy, and I now yield the floor.

Mr. CONRAD. I thank the majority leader for his courtesy. I thank my other colleagues for their patience as well.

This is a matter of very serious concern to our States. The Senator from South Dakota outlined very eloquently the problem we face.

I say again to my colleagues, if you came to your Senate office and you learned that all of a sudden 100 plants of General Motors are sending all of their industrial waste your way, sending it to your State, because they had a company which had agreement with a small town and there was no way for the Governor to intercede, there was no way for the Governor to raise objection, there was no way for the Governor to stop that kind of arrangement, you would be mighty exercised as well. One hundred plants of General Motors Corp., the largest industrial corporation in the world, all of that waste is coming to a little town in North Dakota, and we cannot do anything about it. A little town has the ability to veto what is in the interest of the State's population. There is something wrong with that.

That is the principle entailed in the legislation before us. That is the principle many of us are fearful will be carried over into an agreement on industrial waste. That is the agreement that is in place with respect to municipal waste. It is really not acceptable. It is not acceptable to the Governor—not just the Governors of our States, the Governors of all the States.

The national Governors made a very clear stand on this question, and as I have said to my colleagues earlier and repeatedly, in a discussion with my

Governor this morning he felt very strongly that he is presented with a situation which is really intolerable and yet his hands are tied.

I have a State that is not unlike other rural States where there are many small towns. Many of them are very hard pressed economically. We have just been through a decade, the decade of the eighties, when we had the lowest farm income of any 10-year period since the Great Depression. We have been through a period in which we have faced 4 years of drought, a drought that is more intense than any drought since the 1930's.

Many of the small towns of my State are in very serious economic trouble. It is pretty appealing when a big company flies in in their corporate jet and comes around and tells that local community: We can take care of your problem. We can employ people. We can put people on our payroll. We can rebuild the city's streets. We can rebuild the water system, the sewer system. We can help refurbish the local school. We can help assure that your school is not consolidated with the neighboring town.

It is a pretty appealing set of inducements. The result, unfortunately, is that over and over communities hear that siren call, respond to it, react to it, and accept it.

Under the terms of this legislation, there is nothing a Governor can do if they decide to sign up to take the trash from the city of Chicago, take the trash from the city of New York, take the trash from the city of Minneapolis or, in the case of industrial waste, be faced with a situation in which a little State like mine, a small town in our State, is now lined up to take the industrial waste of the General Motors Corp.

Mr. CHAFEE. Will the Senator yield for a question without losing his right to the floor?

Mr. CONRAD. I am happy to yield.

Mr. CHAFEE. I have followed the discussion of the Senator from North Dakota most of the day, but not all of his presentation. He deplores the situation that industrial waste is going into the small town of Sawyer. So he is filibustering the bill. Could he tell me what will happen if he is successful and defeats the bill? Where is he then? Where is the town of Sawyer or the State of North Dakota in that situation?

Mr. CONRAD. Very good question. We are in a better position. Why are we in a better position? Because the pressure stays on to have a solution that deals with the problem that we have. Right now we have a situation where there is a lot of pressure from Ohio, and a lot of pressure from Indiana, a lot of pressure from Pennsylvania, a lot of pressure from these other States to get their problem taken care of. If their problem gets taken care of, they are out the door.

Let me just finish my answer, if I might.

So, as we see it, we would like the opportunity to get our problems addressed as well.

I understand this is a municipal waste bill. I would like to extend it. I would like to have industrial waste covered in this bill as well. But the one thing you know for sure around the United States Senate is a precedent that is set in this bill is going to have weight on what comes later.

One of the things we are concerned about is if we established the principle here that a local community can cut a deal with an out-of-State company, and the Governor cannot override that deal unless he is invited to by the community, we have a problem when it comes to industrial waste as well, understanding we have a problem with the principle that relates to municipal waste. But we also have a problem that the precedent is being set for the future on industrial waste.

Mr. CHAFEE. So if I could pursue that question, am I correct that the conclusion is that General Motors industrial waste—when the Senator has completed his successful maneuver here, if he is successful, nothing will change as far as Sawyer, ND, or North Dakota itself is concerned?

Mr. CONRAD. Not, not at all.

Mr. CHAFEE. General Motors industrial waste will still continue to pour in, through this legislation, and if the Senator should prevail, there will be no law whatsoever.

Mr. CONRAD. That is not the Senator's goal. The Senator's goal—perhaps the Senator from Rhode Island is not aware of the Senator's goal. The Senator's goal is I would like to amend this. I would like to see the legislation that is before us amended so it is not just up to one community, 10 people, to decide what happens to thousands. If I were successful in achieving that goal, we would improve this legislation that is before us, we would guard my State against trash merchants coming in and dumping their municipal waste in my State. In addition, we would set the precedent for the future handling of industrial waste.

So the question is, Would we be better off in my State if we are able to amend this bill? Absolutely. That is why we tried last night to amend it, amend it to allow the Governor to have a say.

When the Senator from Rhode Island was a Governor, I will bet he would have been signing on with the other Nation's Governors who said to us, amend this bill, and give the Governors a greater say.

The Senate turned down that position last night. So now I have gone to a fall-back position. I say instead of just letting one small community have a veto, on page 2, instead of an "and" put in an "or" and at least allow some broader district to be involved.

Mr. CHAFEE. Has the Senator presented an amendment to do that?

Mr. CONRAD. The Senator cannot under the terms of the unanimous-consent agreement that is in place. As the Senator well knows, the managers have two amendments reserved, and if there was a determination to solve the problem that way, we could all go home. We would have improved this bill. We would have set a precedent for the future in the handling of industrial waste. And I might say that it would probably get pretty good support.

Mr. CHAFEE. In conclusion, should the Senator prevail in killing off the bill before us, Sawyer, in North Dakota would still be in exactly the same position it is today; is that correct?

Mr. CONRAD. No. That is not correct. The Senator is not seeking to prevail in killing this bill. It has never been the Senator's goal. The Senator's goal has been I think abundantly clear; it has been to improve this bill. It has been to fashion legislation, to help fashion legislation that would prevent the absurd situation of what we face in North Dakota today. One small town enters into an agreement with a company, the town of several hundred makes a decision that affects tens of thousands, the several hundred make the decision, and the tens of thousands have no role. What kind of democracy is that? What kind of decisionmaking is that? What kind of legislation is that? What kind of precedent is that?

So it has never been my goal to kill this bill.

We have heard from the other side. We heard from the States that are exporting the garbage last night. Boy, if you do not take this deal, we will filibuster and we will kill this bill. And, boy, did everybody dance to that tune.

Remember last night here in this Chamber when the exporting States, the States that have the big trash that they want to dump someplace, they want to dump on the rest of us? Boy, they were tough. They were saying if you do not take this, you get nothing. Unfortunately, maybe that is what we will wind up with. Maybe we will wind up with it if there is not a way to accommodate the views of others.

My State is a recipient State. My State is a State that is on the receiving end. My State is a State that is vulnerable. My State is a State that now is faced with the prospect of taking all of General Motor Corp.'s sludge from 100 plants around this country. There is nothing anybody can do about it because the small town has made a decision, and under the terms of this legislation, under the precedent being established here, the small town cuts a deal, that is it. See you later, Charlie, you are out of luck.

Mr. CHAFEE. I wonder if the Senator would yield to another question without losing his right to the floor.

Mr. CONRAD. I am happy to.

Mr. CHAFEE. What does the Senator say about page 10 of the legislation, little (d)? And I will read it because the Senator has eloquently spoken here for the last 2 days on the situation in North Dakota where I think he said there are 4 towns where the total population is 10 people or less. He points out that these towns of 10 people or less would enter a contract with General Motors or some mammoth sludge processing company and open a great big dump there.

And, indeed, that is his point about Sawyer, which has something less than 400 people in it. Here, it seems to me, is an escape hatch for the State of North Dakota, where it says: "The term 'affected local government'"—that means the entity that can appeal to the Governor, saying: We do not want this—"The term 'affected local government' means the elected officials of each city, town, borough, county, parish, district, or other public body, created by and pursuant to State law, with primary jurisdiction over the use of the land on which the facility is located."

If North Dakota feels so strongly about this possibility, they could easily make the term "affected local government" be a county, for example. Why is that not a solution to the Senator's problem?

He has these very small towns. I suppose, once upon a time, they were sizable; and with the decline of the population in the rural districts, people moving to the cities, what was once a thriving town of a couple thousand people may well be a town now of 400 people, or maybe even 10 people.

So the State can say that the term "affected local government," as it applies to this legislation, passed by the Congress of the United States on such-and-such a date is the county?

Mr. CONRAD. Mr. President, it was a very good question. It was asked earlier by the Senator from Indiana. My response then and my response now will be simply this:

I was State tax commissioner in my State before I came to the Senate. I have dealt with a lot of very good lawyers. I can tell you precisely what would happen if the State of North Dakota moved in that way.

Unless the State of North Dakota did it with every jurisdiction—unless the State of North Dakota did it with every jurisdiction—a legal action would arise in which the lawyers for the company would go to court and say: The State of North Dakota is discriminating against taking our waste. Federal law prohibits that, and the State of North Dakota is violating our rights.

And in a Philadelphia minute, the court would rule that the State of North Dakota was discriminating. And do you know what? We would lose.

We have been down roads like that before, and unless you treat everybody

that is in a class in the same way, you are discriminating. And I think it would be highly impractical to treat every town similarly situated in the same way in the State of North Dakota, and all of a sudden have the counties make all of these decisions. They are not set up to do that. That is the problem with that particular solution.

I say to my friends, it is almost as though we talk past each other. If there are all these solutions, all these things that a State can do to protect itself, then why not accept the simple amendment to allow the Governor to be involved? If you do not like that one, why not accept a simple amendment to interpose a planning district or a county government? How about that for a solution? I ask that question of my friend, the Senator from Rhode Island.

If we have all these things that are available to the State of North Dakota to protect itself, then why not say to the people who are resisting our solution: Hey, why not allow the county government to go to the Governor and agree with him to stop a new contract? Why not?

If we have all these supposed tools that are available to us, why not do it in a more straightforward way?

Mr. CHAFEE. Well, Mr. President, I think we really better go back a little way here, and discuss what are the concerns of the Congress of the United States; and, indeed, going way back to the Framers of the Constitution, about States having the arbitrary right to cut off interstate commerce. That was decided when this country was founded.

When this country was founded, those who drew the Constitution very, very wisely said that one State does not have the ability to shut off commerce coming from another State. The Senator is a thoughtful individual and a student of history, and he well knows that the commerce clause is an integral part of our Constitution.

And, indeed, this Nation would just be a bunch of satraps if we did not have that, instead of being a massive unit, where we all grow. Because of the exchange of crops to one State, going across the borders and back, from its machinery and equipment, with no tariffs, no intercessions whatsoever, no nontariff trade barriers, this country is going to be the richest in the world.

Then we come to the very real problem of what about the power to intercept things that might be considered distasteful; namely, trash.

And so the Supreme Court has dealt with this in a very, very careful fashion. The Supreme Court has said that a State cannot arbitrarily just decide that they will refuse to accept imports from another State. They then said that if the Congress gives certain powers, then that is possible, and we, in this Congress, approach this very care-

fully. Because, as we have pointed out innumerable times in this discussion, 43 States of our States are exporting States of trash, and 42 are importing States.

And it is a matter that there cannot be each tub standing on its own bottom. We cannot have a situation where each State will say: Nothing doing; we are neither going to export nor import; we are going to keep it within our boundaries, because we believe that would create tremendous additional expenditures and not be a wise way to proceed.

So as the Senator well knows, the courts have decided that—indeed, in the Supreme Court case shown to the Senator earlier today, it is very clearly pointed out that a Governor, within his State, can say at a landfill: You are going to be reduced; it is going to be capped, how much can you take.

The only point is that that must apply equally to out-of-State trash, as it does to in-State trash.

Mr. CONRAD. If the Senator will yield on that point, is it not also true that in order to invoke that clause, the local community has to request the Governor to do so?

Mr. CHAFEE. No, no, no. That line that I quoted to you is what exists now in the law. That has nothing to do with the legislation we have before us.

Mr. CONRAD. I was referring to the ability of a Governor to freeze, based on the previous levels—

Mr. CHAFEE. The Senator is talking about our legislation. I was talking about existing law as quoted in the Supreme Court case that was shown him earlier today.

In that Supreme Court case, it points out that limitations can be made on an individual landfill, but they cannot be directed against out-of-State trash; in other words, if a landfill last year took 10,000 tons, and the Governor decreases it this year, and it will only take 5,000; he has that power, if the State law gives it to him. There is, and he can do that. But he cannot say it is restricted to 5,000 tons this year and only domestic, only State-created trash is possible. So we proceeded, in crafting this legislation, to try to direct ourselves to the problems that have arisen that the Senator is well familiar with.

What we recognized is—and the Senator mentioned that I had the privilege of serving as Governor, and many others in the Senate have likewise—any Governor is under tremendous pressure to restrict all incoming trash. We all know that. There is no group out there that is demanding that the State be a repository for garbage, and, indeed, have heard the Senator speak about the loveliness of his State and how some of its citizens deplore they are going to be a trash heap.

We voted on this last night 60 to 30. If we just give the Governor the unilateral authority to say no, we know what

will happen. That will end all interstate transfers of trash in this country very quickly, and we believe that will be detrimental to the Nation. Maybe someday we can work to that goal, but not straight out of the box. That is the first national legislation ever passed to deal with trash. That is what has been one of our guiding principles.

Mr. BAUCUS. I wonder if the Senator, without yielding the right to the floor, will answer a question?

Mr. CONRAD. If I might first respond to the Senator from Rhode Island.

The Senator from Rhode Island makes the point we are united States, we are a collection of States, and we have mutual obligations, and, without question, that is the case. That is the underlying rationale for the commerce clause. It seems to me a fundamental principle that a group, small group of people, citizens of a small town ought not to be able to veto something which is in the interest of the larger community, the people of the State. The legislation we have before us does just that.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. Let me finish the point, and I will be happy to yield.

The fact is we are faced now with a situation in my State that involves industrial waste, different than the municipal waste that is covered in this legislation. Nonetheless, we face a situation that is in many ways similar to what we might face with municipal waste. A small town makes a deal with a company; they are going to take all of GM's industrial waste. And the Governor has his hands tied. Unless that small town asks him—asks him—unless that small town agrees, his hands are tied.

There is something wrong with that. And those of us who live in States that are very vulnerable—we can read the tea leaves here. We know what is about to happen. Restriction is put on the States that are big importing States now—Pennsylvania, Virginia, Ohio, Indiana. Where is the trash going to go? I know where it is going to go. We have already seen where this industrial waste is going. It is coming to these sparsely populated States that are under economic pressure where the companies can go in and make an inducement to a small town, and the next thing you know here comes a tidal wave of garbage, tidal wave of industrial waste, tidal wave of municipal waste, and the Governor has his hands tied because the citizens of a small town can veto any intercession. It is just wrong. I do not know how else to say it.

I am certain that the Senator from Rhode Island, if he were still the Governor of Rhode Island and if he faced a situation in which he woke up and read in the paper all of GM's industrial waste is coming to Rhode Island and he was told, "There is nothing you can do

about it, Governor, unless that small town asks you or agrees with you," he would wonder what has happened in Washington that would lead to a result like that.

I am happy to yield.

Mr. BAUCUS. The question I really want to ask the Senator has to do with an earlier statement he made that suggested that perhaps the Congress could designate counties as the local authority to make these decisions.

As I understand the situation in North Dakota, that might help, frankly, because Sawyer, ND, is apparently in the same county as Minot, ND, and it is my understanding that the people of Minot are not very happy with the decision made by the folks in Sawyer.

If the Senator is serious about his proposal that the Congress designate counties as the appropriate, relevant local authority here and not have States do it, I am just surprised, frankly, because it seems to me that what he is asking us to do is asking Congress to make a decision that probably most people in most States think the States should be making. Is the only planning unit which will make this request a county, or is it a town, or is it something else?

I think most people in most States would want to reserve that decision for themselves. Most people in most States would like the States to decide, the legislatures, and through their legislative process make that decision as to what is the relevant local authority. I do not think most people would like the Congress to say, in all cases, for every State in the Union, it is a county, or for all cases in every State in the Union it is a municipality, for all cases for every State in the Union it is a solid waste planning district, or whatever.

In response to the Senator's point, if I understood it correctly, and I perhaps misunderstood it, if I understood it correctly, he suggested that we in the Congress designate counties as the local planning unit.

Mr. CONRAD. The Senator did perhaps misunderstand. Here is the thought that I had. If you look on page 2 of the bill, section 2 on page 2, interstate transportation of municipal wastes in (1)(A):

Except as provided for in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government and, and if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit, a Governor may—

And then there are a series of authorizations for a Governor's power.

Mr. BAUCUS. That is right.

Mr. CONRAD. The point I was making earlier, I had suggested that instead of "and" we put in "or." And then objection was raised by the Senator from Rhode Island saying those local planning districts are appointed;

we ought to have elected officials making these decisions. I simply offered the alternative, instead of having the local planning district be it or in juxtaposition to the local communities, have a county, so that, in the situation we face in Sawyer, ND, which is in Ward County, the county could make a request to the Governor and this would trigger his authority.

Mr. BAUCUS. I understand that. I appreciate the clarification. Obviously, the State of North Dakota can accomplish the same result by the State designating the county as the affected local government. And I heard the Senator's earlier response to that suggestion, that it might be interpreted by the courts as discriminatory. It would not be so long as the State of North Dakota said it is up to each county to decide whether to accept the sites or not and that would be a county decision.

It would not be discriminatory for the State of North Dakota to designate the local affected government as the county. I do not think any court would call that discriminatory so long as each county, when it made the decision, would decide—"No, we do not want this out-of-State municipal solid waste to come into our county." North Dakota, as I understand it, does not have—or maybe it does have—local solid waste planning units. I do not know if it does or not. If it does, they can abolish them so the counties can do it. All I am saying is there are ways that North Dakota can designate counties as the local affected unit in a non-discriminatory way to solve this problem.

Mr. CONRAD. Let me just say, I know the Senator is struggling to find a way here that works and is helpful, and I appreciate that.

In discussions earlier, we explored some of these alternatives with the State, and their reaction was twofold:

One, if you do not do it with everyone, as the Senator states, then you have the discrimination problem, and the earlier proposal that some had made would present that difficulty. The other problem from the States' perspective is if you start changing who has these authorities for everyone, now you have a whole other set of problems that arise.

Mr. DASCHLE. If the Senator will yield, there is another question. I would be interested if the distinguished Senator from Montana might address this.

If I recall, a couple weeks ago we passed legislation that said municipalities in a Superfund site would only be liable for 4 percent of the cost. That legislation as I understand it, limited municipalities to 4 percent of the overall liability. Were a municipal waste facility to become a Superfund site and this legislation is enacted into law—I do not know where it is in the legisla-

time process, but I know the Senate passed it—who, then, in the view of the distinguished Senator from Montana, would be responsible for the other 96 percent?

Mr. BAUCUS. Obviously, that is a whole different kettle of fish, because we are dealing there with the Superfund liability. It is extremely complicated and extremely onerous on a large number of parties, not only the responsible parties but potentially the lenders and municipalities. It really got to the question, I think, of bond ratings and financial viability of the communities. That is why we enacted that provision.

As I recall, the Superfund liability, I think, is joint and several. I am not sure. There are a lot of parties involved, so it is very difficult to know who is responsible for the other 96 percent. If I am right that it is joint and several liability, then it is who never is jointly and severally liable.

Mr. DASCHLE. Will the Senator agree, just based on past experience, and his understanding is far beyond that of this Senator, that States oftentimes have been held liable for some of the responsibility. They are not precluded from being liable for issues of this magnitude. And so it is likely that, were that limitation to be in effect, other parties, including the State, would be brought in as participants in determining the ultimate liability of that Superfund site. Would that not be the case?

Mr. BAUCUS. It may or may not be. But I do not see the relevance to this issue.

Mr. DASCHLE. The relevance is very simple. If a municipal waste facility becomes a Superfund site, and that Superfund site then develops serious legal ramifications, the municipality could, according to this legislation, be limited to 4 percent, and a State ultimately then may be liable for additional responsibility beyond that 4 percent.

So you have a fairly plausible scenario. A municipal site is developed. A municipal site 20 years hence becomes a Superfund site. A municipality is limited to 4 percent liability. Among other parties, the State is brought in as one of those responsible for the liability beyond that 4 percent. It just goes again to the point that I think the Senator from North Dakota and I have made on many occasions, that beyond infrastructure and beyond property values and beyond all the other issues, you have a legal question having directly to do with the site that is not addressed adequately in this legislation.

Mr. BAUCUS. Well, the answer to that question is very clear. This is not an energy bill. This is not a defense authorization bill. This is not an agriculture bill. This is not a Superfund liability bill. This is a municipal solid

waste interstate transport bill. That is all this is.

Next year, the Environment and Public Works Committee, under the leadership of the chairman of the Appropriations Subcommittee on Transportation, Senator LAUTENBERG, is going to be addressing Superfund liability. That is the time to address Superfund liability questions. That may or may not apply because of industrial waste disposal. That is not in this bill.

I can tell the Senator that it is a valid concern, it is a concern that many people around this country have. But there is no way in the world on this bill we are going to deal with that. That is the first time this issue has ever been raised. No one else has ever raised Superfund liability questions on the interstate bill.

Superfund liability is a separate issue which we will take up next year if we take up Superfund authorization. If the question is infrastructure, there are ways for dealing today with infrastructure problems.

What are they? Well, No. 1, that State could do all kinds of things.

But I have heard this concern that this site in Sawyer, ND, is on an aquifer. There is nothing in the world that precludes the State of North Dakota from passing legislation stating that sites will not be located on aquifers or near aquifers. That is certainly within the power of the State. There is no problem there whatsoever.

A State could also impose fees, if it wants to, on industrial waste sites. Now maybe it can even do so on offsites. And in North Dakota there are 4 offsites and I think there are 16 or something onsites. It could impose the fees on the offsites, which will have no effect on the onsites, if North Dakota would so desire.

Or, North Dakota, if it wanted to, could raise the standards of offsites for industrial waste to such a high level that it would preclude out-of-State and in-State waste.

If North Dakota wanted to—South Dakota may not like this—it could ship industrial waste to other States which may not want it. Who knows? Sawyer, ND, did want it. Some do not.

Mr. CONRAD. We just came up with a solution. I just realized it. We are going to take all that sludge, those 400 tons a day that is coming our way, and we are just going to load it up into trucks and bring it over to Montana. We will find a nice small town over there that is hard pressed economically that wants this stuff, and we will dump it all over there. And your poor Governor will be in the position of our poor Governor, wondering what happened to him.

Mr. BAUCUS. If I might, you know, for this site, really there are a couple of questions. What is the opposition? Is the opposition because of a health or safety hazard? That is one question. Is

the opposition because of infrastructure? That is the second question. And is the opposition because we just do not like somebody else's garbage? That is another question.

But to the degree that the problem is the first one, it presents some kind of health or safety hazard with aquifers or whatever it might be, the Governor has it within his police power to stop it.

There is nothing in the Constitution today that prevents the State from exercising its police power to protect the health and safety of its citizens and stop a site. It is true that it could not discriminate against out-of-State. But in this case, the Sawyer site, for example, if it truly is a health and safety hazard, it can just close down the site. Period.

It would not discriminate because neither in-State nor out-of-State waste could go to that site. That is not discriminatory.

But then those folks in Sawyer or other parts of the State would have to go to some other sites. That might be the answer here if, in fact, the Sawyer site does present a health and safety hazard.

Mr. CONRAD. I am happy to yield to the Senator from South Dakota without losing my rights to the floor.

Mr. DASCHLE. I thank the Senator from North Dakota.

First of all, I think it is important we not become too site specific. This is not a referendum on Sawyer, ND.

I do not know all of the specifics with regard to Sawyer. South Dakota has had some experiences over the last several years that relate very directly to this debate that have nothing to do with Sawyer.

The issue is not exclusively to what extent is the problem an environmental one; to what extent is the problem a legal one; to what extent is the problem a property value one, an economic one—all of those questions are very real, as we consider this. And it is the process, not the specific environmental problem, or economic problem, or legal problem that is the question here. It is the process.

Because, as one analyzes a specific problem relating directly to that locality, you could easily come up with a different solution, or different answer than you would get with the analysis of a problem that is far more regional in its nature.

The economic consequences for the State would be different, perhaps, than the economic consequences for that particular locality. That is the experience of South Dakota.

I know the Senator from Montana said earlier that this is not a Superfund issue today. But it has very specific relationships to Superfund.

Let us assume that the company responsible for that particular waste facility went bankrupt. Let us assume,

going back to the earlier question about the 4-percent liability, that a community is held to 4 percent. Who, then, takes responsibility for the balance? You have a bankrupt company, a community limited to 4 percent. Ultimately it is going to be the State. I do not think there is any way around that. We have to address the consequences economically, and legally, of a site such as this. And certainly that would have to be addressed at the State level.

So I think it is really important that all people—as understandably concerned as the Senator from North Dakota is—look beyond one industrial site in the State of North Dakota.

That is not the entire reason why those of us who are arguing this issue are standing here this afternoon talking about it. We are talking about it because it goes way beyond a Sawyer, ND, or a Rosebud, SD. It goes to the process. And it really goes to setting in motion a precedent that will likely be referred to again and again as we address this issue in the future.

If, indeed, this becomes the understanding, that local communities will have the opportunity to decide for themselves with an out-of-State company what future there will be for that particular venture, without including other communities and the State as a whole, then I think we are setting a very dangerous precedent that very likely is not going to be adequately addressed in the future either.

Mr. BAUCUS. Will the Senator yield? Perhaps I can help the Senator on that point?

Mr. DASCHLE. I yield the floor on that point—assuming the Senator from North Dakota yields the floor.

Mr. REID. Will the Senator from North Dakota yield?

Mr. CONRAD. I will be happy to.

Mr. DASCHLE. The Senator from Montana wanted to respond to a point I made.

Mr. CONRAD. I will be happy to yield to the Senator from Montana for the purpose of responding to the Senator from South Dakota if I do not lose my rights to the floor.

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

Mr. BAUCUS. It is a point, frankly, I know the Senator from North Dakota is interested in as well, and that is the precedent here. As manager of this bill and as chairman of the relevant subcommittee, I can say I in no way treat this as precedent with respect to hazardous waste. That is, the structure that is set forth in this bill with respect to the transport of municipal solid waste in my personal view is not in any way precedent for what we may or may not do in the future with respect to industrial hazardous waste.

Having said that—

Mr. CONRAD. How about nonhazardous industrial waste?

Mr. BAUCUS. Including nonhazardous industrial waste.

Having said that, I must say this is an area which is very complicated. It is very important. And an area where the EPA, the States, the Congress, have not addressed the situation as well as we should. About 7 billion tons of this stuff is generated every year. A lot more industrial waste generated each year than municipal waste, a lot more.

Frankly, there is so much industrial waste generated, and because it is so difficult to deal with industrial waste as well as municipal waste, we in the reauthorization of RCRA this year only began to touch the tip of the iceberg with respect to industrial waste.

Most industrial waste generated by companies is disposed of on-site, settling ponds or what not. A lot of industrial waste, however, is transported to some other site, and much industrial waste is transported intracompany. That is, a company that generates industrial waste will often transport it to some other site owned by the company within the State or another State and dispose of it there. It is very complicated. It is a very large issue because of the large tonnage involved, 7 billion tons a year.

And, I must say to the Senators, there are many Senators even on the committee who want to very tightly restrict industrial waste, including oil and gas waste—whether it is drilling muds, or tank bottom sludge, or associated wastes. Associated wastes are the parts of oil and gas wastes which are potentially the most carcinogenic, or the most dangerous. Refineries today must treat tank bottom associated waste as hazardous waste, but associated waste out in the field—tank bottom waste out in the field—is not treated as hazardous waste today. It is just treated as industrial waste.

There are many groups that say it has to be regulated very, very tightly. Then there is mining tailings; there is mining waste. The question is: What should be done about mining waste?

All I am saying to the Senator is that it is a very big area. He has raised some very good questions. But as far as this Senator is concerned, in no way do I intend that the structure we have set forth in this bill governing the interstate transport of municipal waste be precedential with respect to what conditions or limitations we may enact in the future with respect to interstate transport of industrial waste. I do not know what we are going to do with it, frankly. It is a whole different ball of wax, a whole different area.

A very specialized area, obviously, is hazardous waste; and hazardous waste as the Senators know, under subtitle (c), is very, very tightly regulated because it is hazardous. And there are not very many hazardous waste disposal sites in this country. There are very few. And the reason there are very few

is because it is such wicked stuff, and the standards and requirements are so stringent. As Senators know we do not allow States to ban the importation of hazardous waste. Again, we do not in our Federal legislation, because there are so few sites.

But I am just trying to help the Senator's concern about this being precedential. I do not mean this to be precedential, but I must say, it is a difficult problem because it is so complicated and next year I hope we can deal with it very responsibly.

Mr. REID. Will the Senator from North Dakota yield to the Senator without losing his right to the floor?

Mr. CONRAD. I will be pleased to yield to the Senator from Nevada.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Nevada.

Mr. REID. Mr. President, through you, to the Senators of North Dakota and South Dakota, I want them to know, especially my friend from North Dakota who spent so much time today, that the absence from the floor of the Senator from Nevada in no way is any indication of my nonsupport of what is being accomplished here today. The Senator from North Dakota should know the Appropriations Committee is marking up four bills today. They are being marked up right now, and I have to go down there and participate on the Commerce, State, Justice; Agriculture—which is important to his State—DC, and Energy and Water.

I think this matter should be resolved. I know how hard the chairman of the subcommittee has worked. But that in my opinion does not allow this Congress to pass a bill that is not good for the country as a whole. I think it is fortuitous that my friend from North Dakota learned today of what is happening in a town called—Sawyer, I believe is the name of the city, in North Dakota. Because there will be places like Sawyer called by many different names as we proceed through the years. It will be places in the State of Nevada, trying to stop the flow of waste coming over the borders from the massive State of California. And I would think those trying to work this matter out should take into consideration maybe we should have a different standard in the Western part of the United States. Maybe in fact the Governors of those States west of the Mississippi should have the authority that was sought in the amendment that was defeated here last night on the Senate floor.

I do not know what consideration has been given to that. It would seem to me that would be constitutionally allowed.

But unless we get something like that where the Governors of the States, the Western States, have the power to stop the flow of garbage coming into their State, I am afraid we are going to wind up with no bill. I think that really would be too bad.

I would be interested in hearing from—I see on the floor the Senator from Indiana who has worked on this. I would refer a question to him as long as the Senator from North Dakota would not lose his right to the floor. That question would be, would the Senator have a problem with those States west of the Mississippi having the Governor have the authority, as sought in the amendment, that was defeated on the Senate floor last night?

The PRESIDING OFFICER. The Senator from North Dakota has the floor and would be required to yield.

Mr. COATS. If the Senator from North Dakota will yield for purposes of answering the question.

Mr. CONRAD. I am pleased to yield to the Senator from Indiana without losing my right to the floor.

Mr. COATS. Mr. President, in response to the Senator from Nevada, we have been attempting now for the past several hours to find a solution to the particular situation of the Senator from North Dakota. We have suggested a number of alternatives. As I speak, we are seeking to resolve an additional solution and proposal.

As I have said many, many times and will say again, the intent of the Senator's effort is one that I am very sympathetic to and one that I offer, and the Senator was a great ally when I offered that, and I appreciated that support and assistance.

So it is not something that I am not sympathetic with. However, while it made great rhetoric, the reality was that we could not enact it into law.

Mr. REID. If I could interrupt my friend and ask if he would direct his attention to the question, and that is, what would be wrong with giving the States west of the Mississippi the authority sought in the amendment that was placed on the floor last night rather than the whole country?

Mr. COATS. We would entertain any serious effort—and I believe this is a serious proposal—at attempting to resolve this impasse. However, as we have discovered here, as I have discovered, frankly, over the last 3 years, but particularly as we have discovered in the last 4 days on this floor, any time we attempt to fashion a solution in one direction, it creates a problem in the other. When we try to address a particular State's problem unique to that State or a particular problem of a group of States unique to that group of States, then it creates another problem in some other State or some other groups of States.

And so while we might come forward and address the problem the Senator has raised in a manner satisfactory to the Senator from Nevada or the Western States, all of a sudden, we now have problems with Senators from the Eastern States. Reconciling the needs and interests of all 50 States has been an extraordinarily difficult problem,

and we have climbed a number of mountains in this effort. I thought we were there.

I appreciated the debate that was made yesterday. It was some good debate. We went to a vote. None of the arguments we are making today are really substantively any different than what were made yesterday. The State had an opportunity to work its will on the proposal of the Senator from North Dakota and it voted by a more than 2-to-1 margin to defeat that effort because it believed the point that this Senator has been making, not that the substance of the Senator's argument was flawed, but they believed that the only hope of producing any relief to any communities or any States lie with the extraordinarily complex and difficult agreement hammered out over a period of days and that was the only way we were going to move the bill.

So if we went back in the direction the Senator wants us to go, having lost that battle last night, 61 to 30, if we went back the other way, then we would just find ourselves dealing with a problem on the other side.

Mr. CONRAD. I say to my friend from Indiana, I want to acknowledge we have had a good going back and forth today, and I have taken some shots at my friend from Indiana, he having been in the position I am in now and was an early leader on this subject and I do it in good humor and I do it with respect to the strong position he had taken. He reached a conclusion that he could not accomplish more than what is in the current bill.

The bill is this, I say to my friend from Indiana: Last night, I saw many votes influenced in the well by the exporting States threatening that if anybody went further, if the amendment that the Senator from Nevada offered last night were to be adopted, that the Senators from the exporting States, the big trash producers, would then filibuster the bill and kill it and there would be no protection for any of the States. The large importing States that did get some protection last night were other States that had some additional benefit perhaps of what is in this bill.

Unfortunately, it still leaves us with a very, very serious problem. Those of us who represent rural States, those of us who represent States with small towns that are hard pressed economically, who are vulnerable to inducements offered by large corporations to come in and tell them, boy, do we have a deal for you. Here you are struggling, your school is failing, your streets need repair, there are not many jobs around, we can solve all those problems for you right there in this little town, we can take care of these problems for you. You know what we will do? We will have a big waste dump and we will employ some of your folks around town, some of the young people who are leav-

ing town because there is no place to get a job, we will fix up those streets and we will take care of the infrastructure and all you have to do is sign on the dotted line. And you know what, you know what? You can enter into this agreement with us and nobody can stop it.

It does not matter if by doing this you burden the roads in the surrounding communities and the surrounding counties and burden the State transportation plan. It does not matter if you have upset the State's solid waste management plan. It does not matter if you are creating air and water problems in the area because all that matters is that a local community signs on with a company. From that point, we go forward and have a deal.

Last night, we were arguing theoretically. About halfway through the debate last night, somebody came up to me and said they had seen a press report in Ohio that General Motors is going to send all their industrial waste to, guess where? My State. They are going to send it to a little town of Sawyer, ND. The industrial waste from 100 General Motors plants is all coming to my State.

I dismissed it. I thought that cannot be, that cannot be. I talked to the senior Senator from Montana. He said, oh, no, that cannot be happening. It seemed too far-fetched. It seemed far-fetched to me. But you know, lo and behold, it is true. It is all coming to North Dakota.

I talked to my Governor this morning, Gov. George Sinner, an excellent Governor, very serious minded. And I asked him, what posture are you in with respect to General Motors' industrial waste that is coming to North Dakota?

He said, well, it is just unacceptable. A little town can make an agreement and the Governor cannot intercede. The Governor cannot have an effect on the decision.

He said, you know, we had a letter to the editor from a woman who said we are the breadbasket, not the trash basket. He said, you know, the thing I resent the most is that I am told as Governor I have a responsibility to manage the solid waste of this State and to have a plan. We have a plan, and yet a community can come in, make a deal, and totally disrupt the State plan, and there is nothing I can do about it.

There is something wrong with that. And so that is the reason some of us have talked at some length today, in the hope we would be able to reach an accommodation, reach an understanding, find a way to compromise this issue, so that with respect to solid waste there would be some additional statement in this particular legislation, but beyond that we would not set a precedent which would allow perhaps a community of only 10 people to veto a plan that was in the larger interests

of the State and the surrounding communities. That is really what this discussion is all about.

Now, I am told there is language that is now being discussed on two amendments that perhaps could resolve this issue if we could reach a meeting of the minds on them.

One of those amendments would say, on page 8, that "except as provided in paragraph (1)(C), at any landfill that receives more than 100,000 tons of out-of-State municipal waste in any calendar year, the Governor can limit the disposal of out-of-State municipal waste at that landfill during that year to 30 percent of all municipal waste received."

The Governors support this amendment. They think it would be useful to them if this amendment were included in the legislation before us today.

In addition, we are working on a study amendment that would allow us to better understand, when we turn our attention to the question of industrial waste, what we are really dealing with. Because when you turn your attention to the larger issue, one finds there is very little known about industrial waste in this country: What are the volumes of industrial waste being produced in the various regions in the country; what are the sources of that industrial waste; where is it going; how is it being treated; what are the risks of that industrial waste? Those are questions to which we ought to have answers.

So we have language that calls for a proposed study on industrial waste that says the following:

The administrator shall conduct a comprehensive study of the transportation and disposal of nonhazardous industrial wastes, including the transportation of such wastes across State lines for the purpose of disposal. The study shall include consideration of the hazards posed by the transportation of such waste, the sources, the volume and location and production of this waste, the current pattern of movement of this waste, the location of the disposal of the waste by volume, the type of facility where the waste is disposed, proposals to reduce the interstate flow of this waste, and the overall capacity available for the disposal of this waste in the country.

Further, that the report shall be submitted to the Congress no later than January 1, 1993.

Now, these are two amendments which we think are important. The Governors would like to see these amendments adopted. We would like to see these amendments adopted.

I am hopeful that, as we proceed, those who want to see some sort of rational outcome will be supportive because it has never been the desire of this Senator—I am certain not the desire of other Senators who have participated in this extended discussion—to kill this bill. We do not want to do that. But if we are going to be left with nothing, then it is better to have no bill. It is better to keep those who are

energized on this issue as part of the team to do something about it for the future, because this is an enormous problem in this country. It is growing. And every other State is going to face what my State is facing today.

It is kind of your worst nightmare coming true. You wake up and you find out that some company, in this case General Motors Corp., the largest industrial corporation in the world, is sending your State all of its industrial waste. Where is it going? A small town that is not really able to defend itself, maybe even a small town that wants that waste to come there, even though it may not be in the larger interests of the community. Maybe it is not in the larger interests of the surrounding communities. Maybe it is not in the larger interests of the State.

The State cannot stop it. The county government cannot stop it because a deal is a deal. And in this legislation we have been working on today we are establishing the principle whereby a community can enter into an agreement with a company and achieve a result that will mean the importation of hundreds and thousands of tons of waste, impacting the road systems, impacting the infrastructure, impacting surrounding communities, threatening air and water quality, and the Governor cannot act. The legislature cannot act.

So I would ask my colleague from Montana if the amendments that have been provided have been reacted to by others and what their reaction is.

Mr. BAUCUS. Mr. President, if I may respond to the Senator from North Dakota, without the Senator from North Dakota losing his right to the floor, I asked relevant staff to contact their Senators to see what reactions they would have with respect to the 30-percent amendment in particular. I have not heard back on that amendment. As I understand it, there is also an effort to contact Senators with respect to deleting the word "and" and inserting "or" on line 12, page 2 of the bill. I do not think there has been a response to that yet, either.

I must say to the Senator, one slight problem we are having is that one of the key Senators involved is in appropriations markup, particularly the transportation bill, and it is difficult to get the Senator's attention to this proposed amendment. But we are working on it and trying to get some reaction to it.

If the Senator will also yield again, the Senator not losing his right—

Mr. CONRAD. I will be happy to yield without losing my right to the floor.

Mr. BAUCUS. Mr. President, earlier the Senator from Nevada suggested there be a separate regime or constructure, scheme, for Western States and Western Senators. I guess the implication was that perhaps this bill was not adequately reflecting

Western, more sparsely populated States' interests.

I must say, Mr. President, that the Environment and Public Works Committee, has five very able Senators from the West: The chairman of the committee, the senior Senator from North Dakota, steering this makes sure it has a very adequate Western point of view; myself, from a Western State, Senator SYMMS from a Western State, Senator REID from a Western State, and Senator SIMPSON from a Western State. There are very adequate Western State interests represented on this committee.

When Senator REID in committee offered essentially the proposal we are now in some sense discussing, it was defeated by all Senators but for one. Senator REID was the only one who was in favor of his amendment. Other Western Senators felt it was not necessary.

The main point is this committee has very adequately gone the extra mile to help the West.

I am thinking particularly of two major bills which were very helpful to the West as well as to other parts of the country. One is the Clean Air Act and the other is the Highway Act. In the Clean Air Act, for example, we in the Environment and Public Works Committee included what is called the clean States exemption. That provision exempted States which emitted fewer than 50,000 tons of sulfur dioxide per year in their utilities from phase 1 and phase 2 of the act which would require those States to ratchet down the amount of SO₂ they were otherwise emitting into the air.

That is a very progressive bill. It is probably one of the most significant bills this Congress has passed and will pass in, say, 10 or 25 years. It will have the effect of reducing overall sulfur dioxide emissions from 20 million tons, as was the case 1 or 2 years ago, down to 10 million tons by the year—past the year 2000.

The point is the clean States exemption was specifically put in that amendment because Western States had done a very good job in limiting their SO₂ emissions, and the beneficiary was also North Dakota.

There are many other provisions in that bill which very dramatically helped Western States, again which came out of the Environment and Public Works Committee.

Second, the highway bill. Eastern States did fine by that, but Western States also did well under the highway bill, with considerable Federal highway dollars going to Western States. I am sure the same is true for other States as well. But Western States, I know, received more dollars per capita than they did in the past. It came out very, very well.

The fundamental point is that at some point the Senate must decide. The basic principle, articulated by the

Senator, was already decided in committee, and lost unanimously but for one vote. The same basic principle was before this Senate last night.

Senator REID spoke earlier in support of the Senator from North Dakota. It is basically the same point, the same amendment. We voted on it, and the vote on that amendment was 60 to 31. By a 2-to-1 margin, the Senate decided. So here we are, in essence asking for the third bite of the apple. I guess we can keep on going for the fourth bite of the apple and the fifth bite of the apple.

But, essentially, No. 1, Western interests in all areas are very well accommodated. No. 2, we have already decided this issue.

I do not want to get into a fight here with the Senator from North Dakota. But just so the RECORD is accurate, the Senator keeps mentioning over and over, about the 400 tons a day that go into this facility.

It is my information that it could be wrong; I will check again with the State of North Dakota. I found out that that is not what the figures are. According to the State official that my staff consulted with in North Dakota—I brought it all; I do not know what all these newspaper articles are all about—but the newspaper articles are wrong. He just volunteered this to my staff.

My staff said: What is right, what is the information? Again, the information is there are 60 mil double liners, and a composite liner, going in. Fifteen to thirty loads per week, an average of 18 yards a load, which comes out not to all of General Motors' industrial waste, but 2 percent of the industrial waste produced by the company.

I think the RECORD should state what the officials of North Dakota stated, what the facts are, at least given to my staff and to me, and who volunteered on his own, without being prompted, that the newspaper articles are just wrong; they just do not have the right information.

So I think it is important that the RECORD show that at least the North Dakota officials that we have consulted with—and maybe they are the wrong officials; I do not know—have a different point of view as to the magnitude of the situation in Sawyer, ND.

Mr. CONRAD. Mr. President, let me just say that frankly my position would be the same whatever the specific numbers are. The press accounts say that 20 million tons have already been delivered—20 million tons. They say that the capacity of the plant is 400 million tons a day.

Then they say that all of the industrial waste from 100 GM plants is coming to this site. I do not know if those specific numbers are accurate or not. But they are not just in one press account, but in press account, after press account, after press account. Press ac-

counts are sometimes wrong. Goodness knows, any of us in public life knows that. I have had many situations in which I was involved in a story, and I read the press account and it bore almost no relationship to what was happening.

But aside from the specifics of what might be going to this plant, it highlights the problem. And the problem, as the Senator from South Dakota said, is a process problem. Who decides what is going to happen within a State's boundaries? Can it be that a small town makes a decision, and nobody else can have an impact on it, even though it impacts other people's lives? That is the principle that is at stake here. I hope we are able to resolve this in some way that is acceptable.

I suggest to my colleague that we put in a quorum call and await the working out of this language, if it can be worked out.

If it cannot be worked out, we will cross that bridge when we come to it.

But I suggest, if there is not an objection, that I put in a quorum call and see if we can get reactions to this language.

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

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

UNANIMOUS-CONSENT AGREEMENT—DEBATE ON THE MOTION TO INVOKE CLOTURE ON THE MOTION TO PROCEED TO H.R. 776

Mr. MITCHELL. Mr. President, pursuant to a previous order, approved unanimously by the Senate and printed at page 2 of today's calendar of business, I have the authority to set the time for a vote on the motion to invoke cloture on the motion to proceed to H.R. 776, the energy bill, following consultation with the Republican leader.

Mr. President, I have consulted with the Republican leader, as well as with the chairman of the Energy Committee and the manager of the pending bill, and I now announce that the vote on the motion to invoke cloture on the motion to proceed to Calendar No. 493, H.R. 776, the energy bill, will occur at 7:30 p.m. this evening.

Mr. President, I now ask unanimous consent that the 40 minutes prior to that time be for debate on the motion to invoke cloture on the motion to proceed to the energy bill with the time controlled as follows: 10 minutes each for Senators BENTSEN, PACKWOOD, JOHNSTON, and WALLOP.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised by the Senators involved in discussion of the pending matter that negotiations are underway, indeed have been ongoing for some time in an effort to resolve the matter the way a majority of Senators would find acceptable. Under this procedure, that can continue until 6:50 p.m., approximately another 1½ hours, at which time we will turn to the energy bill. I hope and I encourage my colleagues to try to reach agreement in a way that will permit us to finish the pending interstate waste bill. If agreement cannot be reached, either between now and 6:50 or thereafter, then the cloture motion on the pending bill, which I earlier filed, will ripen under the rules on the second legislative day following today, unless there is agreement otherwise.

I wish merely to restate my intention that we will at some point, sooner or later, I hope sooner, but in any event sooner or later complete action on the interstate waste bill. I encourage my colleagues to try to do that in a way that we can complete action on it this evening.

Again, so that Senators can adjust their schedules accordingly, between 6:50 p.m. and 7:30 p.m. there will be 40 minutes of debate on the energy bill, with 10 minutes each under the control of Senators BENTSEN, PACKWOOD, JOHNSTON, and WALLOP and the vote on the motion to invoke cloture on the motion to proceed to the energy bill will occur at 7:30 p.m.

Mr. President, I thank my colleagues. I yield the floor.

Mr. CONRAD addressed the Chair. The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I just reported to the majority leader, we are making progress on the pending matter and hopefully we can complete that before the end of the day. We have made substantial progress in the last hour or so and hopefully it can be resolved in a way that is acceptable to all parties.

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

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that the previous order relative to debate on the cloture vote on the motion to proceed to H.R. 776 be modified to delete the 10 minutes for debate under Senator PACKWOOD's control, and that the cloture vote occur at 7:20 p.m. this evening.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for 10 minutes as in morning business.

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

HIGH VALUE ECONOMIC GROWTH PACKAGE

Mr. DOMENICI. Mr. President, yesterday, I came to the floor and spoke for a few moments about a measure that Senator SPECTER and I introduced which is styled S. 2612. We introduced that bill on April 9, 1992.

Since then, as I indicated last night, we picked up six additional cosponsors, and I included those six cosponsors in the RECORD last night. But let me repeat them tonight: Senator RUDMAN, Senator SIMPSON, Senator SMITH, Senator BURNS, Senator MURKOWSKI, and Senator WARNER.

Mr. President, it is obvious to this Senator that while the economy of the United States is growing, the unemployment in the country is not diminishing as it should commensurate with that growth. So this measure is more important today than it was when we introduced it. This bill, when we introduced it last April, contained five provisions. Each of those provisions meets a very high test. They create jobs, reduce the cost of capital, reduce the cost of labor, and act as an investment incentive for the here and now to keep us on the track of economic recovery.

So this is Senator SPECTER'S and my definition of a high-value economic growth package and what it should look like. Let me indicate that there are other tax measures either working their way through the House, or through the appropriate committees of the Senate, and I submit that many of the measures which we introduced in April will be similar in these measures. So it will not be hard to modify our high value economic growth package to include these other changes, which are also vital to our Nation's economy: The enterprise zone provisions of H.R. 11, the repeal of the luxury tax, the extension of most of the expiring provisions. And then we would like to submit to the Senate for its consideration the way these would be paid for, consistent with the pay-as-you-go provisions of the current budget arrangement.

Mr. President, a lot of days have passed. I have been to the floor a couple of times urging that we pass something like this. The controversial issue, when we failed to pass this—for the Democrats the issue was capital gains; for the Republicans, it was how we paid for the capital gains and the other provisions.

What we had decided to do in this bill days and days ago was to take the capital gains out and take the tax increase out and bring to the floor the remaining measures. If they were all good, they certainly ought to be still very good, without the capital gains provision. I have spoken to a number of Senators who feel that capital gains is absolutely imperative.

This Senator believes capital gains should be added to any litany or inventory of tax changes which are apt to cause the American economy to grow and prosper and produce jobs. But I believe most of those who think we ought to have capital gains would also think that rather than do nothing, we ought to take the capital gains out, the controversial democratic tax increase out, and pass the rest of it and add the provisions I alluded to, such as the enterprise zones, the extenders for research and development tax credits, and the like.

So, Mr. President, we are prepared, and we urge the Senate, we urge the President, we urge the Democratic leadership here, to put this measure before the Senate at the earliest possible time. I bring this up because we cannot—the Senator from Pennsylvania and the Senator from New Mexico—originate a tax bill here on the floor. But we do want to call to the Senate's attention that when a tax bill appears—and there happens to be one almost with us in the body of the energy bill—the Senator from Pennsylvania and the Senator from New Mexico truly believe we ought to affix this package, which will cause growth in the American economy and produce jobs.

Having said that, I want to just, one more time, tick off the proposals that we were for, that we voted for, and that died because of the controversy over the two items I have alluded to:

A 15-percent investment tax allowance. Everyone has on their shopping list of what this country should do to stimulate prosperity and growth some significant investment tax credit or allowance. This was a temporary one, 15 percent, spreading over this year and next year. We ought to pass it.

Second, simplify and change the alternative minimum depreciation. Everyone now knows that is causing punitive, punitive taxes on those who would invest and grow in many American industries, and as a result they do nothing. Passive loss relief, we are all aware of that, \$5,000 first-time home

buyer credit, facilitate real estate investment by pension funds, and penalty-free IRA's for the two purposes that we had in mind: One of which was home buyers and the other that was for automobiles, and we can adjust that to what the majority feels is most appropriate. Add to that the enterprise zone. Add to that the extension of expiring tax credits, and you have a package that reduces revenues or cuts taxes by \$20.3 billion in a very targeted manner, high valued in terms of jobs, lowering the cost of capital, and the other matters that I mentioned.

We will now again ask that the RECORD include at the end of my remarks the offset provisions for that \$20.3 billion. I do not believe any of those are so controversial that they would cause the bill to die, as happened before.

So I send those to the desk again for the inclusion in this RECORD so that we put the package together so everyone understands this is a "can do" if we only want to create jobs in this country and to do it quickly.

I ask unanimous consent that the material be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. Mr. President, I urge the leadership to give serious thought to this. I urge the President to support this kind of measure. I believe we were right on April 9, and I believe we are more right tonight. The only thing is we already have lost some serious, serious gains that could have been there for working men and women in the country and for those who are in need of jobs.

EXHIBIT 1

REVISED HIGH VALUE ECONOMIC GROWTH ACT

(In billions of dollars, fiscal year 1992-97)

	1992	1992-97
Short-term growth proposals:		
15 percent investment tax allowance		-2.3
Simplify and enhance AMT depreciation	(1)	-1.4
Passive loss relief		-2.5
\$5,000 first time homebuyers credit		-6.1
Penalty-free IRA w/d for 1st time homebuyers		-6.6
Facilitate real estate investment by pension funds	(1)	-3
Enterprise zone/urban-rural distressed areas (H.R. 11):		
Create 50 enterprise zones		-2.5
Additional assistance for tax enterprise zones		-5
Extension of expiring provisions for 18 months:		
Research and experimentation tax credit	-2	-1.7
Health insurance for self-employed	-1	-6
Targeted jobs tax credit	(1)	-6
Mortgage revenue bonds and credit certificates	(1)	-4
Qualified small-issue bonds	(1)	-2
Repeal luxury excise tax on airplanes, jewelry, furs, and boats, index automobile luxury excise tax	(1)	-5
Subtotal, revenue losers	-4	-20.3
Offset options:		
IRS 45-day processing rule		.3
Eliminate CSRS lump sum		5.0
Patent and trademark surcharges		.2
Customs user fees		1.5
VA housing reforms		.8
FEHB reforms		.4
Extend depreciation period for certain real estate	(1)	3.1
Mark-to-market for securities dealers	.1	2.7
Taxable years of partnerships		.2
Tax treatment of certain FSUIC financial assistance	2	.4

REVISED HIGH VALUE ECONOMIC GROWTH ACT—

Continued

(In billions of dollars, fiscal year 1992-97)

	1992	1992-97
Corp est tax, modify and extend permanently		3.2
Tax precondition gain on partnership redemptions	(1)	.2
Extend 53 percent and 55 percent estate tax rate on large estates thru 97		1.4
Reporting for seller-financed mortgages	(1)	.6
Increase excise tax on certain ozone-depleting chemicals (on top of increase in energy bill)		.3
Repeal diesel fuel tax exemption for motorboats		.1
Subtotal, possible offsets	.4	20.3
Deficit impact	0	0

¹ Gain or loss of less than \$50,000,000.

Mr. DOMENICI. Mr. President, whatever time I have remaining I will yield to Senator SPECTER, and I assume he might ask for a few minutes on his own.

The PRESIDING OFFICER. The Senator from Pennsylvania has a minute and 30 seconds.

Mr. SPECTER. Mr. President, we had been in a quorum call. I ask unanimous consent that I might proceed as if in morning business for up to 10 minutes.

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

ECONOMIC RECOVERY PROGRAM

Mr. SPECTER. Mr. President, I am delighted to join my distinguished colleague from New Mexico, Senator DOMENICI, in urging the adoption of an economic recovery program which has essentially been agreed upon by both the Congress and the President.

We are regrettably in a state of gridlock in the Government today. The political air in Washington is so thick you can cut it with a knife. It is high time that the Congress and the executive join together to break that gridlock.

When the President submitted an economic recovery program to the Congress there were 7 points, and the program was summarily rejected by the Congress, I will submit, on political grounds. The Congress then crafted its own economic recovery program, sent it to the White House. Candidly it got equally short shift.

Senator DOMENICI and I conferred, examined both of the legislative proposals, and found that there were core provisions which were the same in both of the plans. That led us to introduce legislation which really had been agreed upon. As already outlined by my distinguished colleague from New Mexico, the legislation involves provisions which really have been as solid as apple pie and milk.

The issue on an investment tax allowance would stimulate the purchase of hard goods, stimulate job opportunities. The provision for a \$5,000 tax credit for first-time home buyers would allow young Americans to buy houses to stimulate the real estate industry.

The provisions on passive losses on real estate would be geared to allow a reinvigoration of the real estate industry. And the provision to change the investment opportunities for pension trusts on real estate matters would again stimulate the economy.

Mr. President, there is widespread disenchantment in America today with politics as usual. We have seen the emergence of a potential third-party candidate in Ross Perot, who essentially was a question mark, but a question mark that millions of Americans thought preferable to either of the major parties.

We have the situation in this country where millions of Americans are hurting and are out of jobs. I see that as I travel the 67 counties of Pennsylvania. Pennsylvanians are looking for a stimulus to the economy.

These four basic points, which have already been subject to agreement, ought to be enacted promptly. The result would be a very substantial stimulus to the economy.

My colleague, Senator DOMENICI, and I had previously introduced legislation which would utilize the existing funds in IRA's for stimulating the economy. We abandoned the IRA's pretty much in 1986 but in the last couple of years there has been a proposal for a Super IRA which would be a new form of IRA. This proposal, sponsored by more than 70 United States Senators would allow IRA funds to be used to purchase major items such as new homes, medical expenses, and tuition.

When we took a look last fall at the economic straitjacket that this country was in where we had a budget agreement that provided a "priming of the pump," Senator DOMENICI and I noted that there were \$800 billion in IRA's and 401(k)'s in addition to approximately \$3 trillion in other retirement funds. We then introduced legislation which would allow middle-income Americans, those earning individually \$75,000, or married up to \$100,000, to be able to withdraw from the IRA's \$10,000, without tax and without penalty in 1992. The \$10,000 would be repaid to the IRA's, \$2,500 a year over 4 years, 1993, 1994, 1995, and 1996. Or, in the default on replenishing the IRA, an individual would pay a tax on \$2,500 in each year of 4 successive years.

An independent analysis showed that our plan would yield up to \$120 billion in immediate investment if that \$10,000 would be used for big ticket items such as homes, tuition, medical expenses, and new cars.

That is a proposal which is certainly worth considering. It passed as an amendment to the Senate version of the tax bill but was stripped in conference. That proposal is separate and distinct from the four points which Senator DOMENICI and I have outlined today. That is a proposal for another day.

There may be some disagreement as to that proposal but, on the four items already enumerated, I join my colleague, Senator DOMENICI, in calling for prompt action by the Congress for legislation to go to the desk of the President. We have every reason to believe it would be signed, because those are the President's proposals as well.

I thank the Chair and yield the floor, and note my colleague Senator DOMENICI has moved to the podium again.

Mr. DOMENICI. Mr. President, will the Senator yield me the 2 minutes remaining of the Senator's time?

Mr. SPECTER. I will.

Mr. DOMENICI. Mr. President, let me put this another way. I say to my fellow Senators had we done this, it is our estimation that 1.2 million families could be moving into new homes today. Instead houses that should have been sold are still on the market, many of them with for sale signs on them, many of them are empty. They have signs on them instead of children playing in the yards. It is not too late. We ought to do it now.

Second, the 15-percent investment allowance for American business large and small would clearly have boxes of equipment to make workers more productive, arriving right now in response to that investment tax allowance. Instead of doing something we keep talking, and we keep talking about competitiveness. That poor word is going to probably ask that it be changed to something else. It is used so much.

But had we done something instead of the word "competitiveness," new equipment would have been flowing, the people who would have been making it would have been employing people, the people who would have bought it would have been getting the equipment and improving themselves so that the American marketplace would be creating better jobs. Instead, we are talking again.

I just note for the record, one of the committees that I serve on, the Banking Committee, held 23 hearings on how to make America competitive since that bill was introduced. It seems to me, the time is right to do something about it.

I yield the floor and yield back whatever time remains with Senator SPECTER.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The Senate continued with the consideration of the bill.

Mr. BAUCUS. Mr. President, I ask unanimous consent that notwithstanding the consent agreement with respect to limited amendments on this bill, that the Senator from North Dakota, [Mr. CONRAD] be allowed to offer an amendment to the bill.

The PRESIDING OFFICER. If there is no objection—without objection, it is so ordered. The Senator from North Dakota is recognized.

AMENDMENT NO. 2742

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 2742.

On page 10, delete line 18-23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the use of the land on which the facility is located."

Mr. CONRAD. Mr. President, I ask unanimous consent to amend—or modify the amendment, in the second to the last line, by saying "primary jurisdiction over the land or the use of the land on which the facility is located." That is the actual language that has been agreed to.

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection? The Senator from Montana.

Mr. BAUCUS. Reserving the right to object—the Senator is correct. Those are two words that were suggested some time ago and unfortunately were not included in the last draft. Those two words should be included and I do not object.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, No. 2742, as modified, is as follows:

On page 10, delete lines 18-23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city,

town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located."

Mr. CONRAD. Mr. President, let me just indicate very briefly that what this does is allow the Governor to designate a unit of government, other than just the town, to make the decision on whether or not we should go forward with a particular project or not. This would allow the Governor to designate an entity of government that could interact with the Governor to then make the final decision.

Mr. President, we think this is a dramatic improvement over what was in front of us before. Basically, what it would allow is that we are not in a situation in which a very small town can enter into an agreement and not have the ability of the Governor to intervene. Instead, the Governor, if he acts within 90 days, could designate the county to be the affected entity of government. We think that makes great sense.

I would like to thank the chairman of the subcommittee and his staff for their patience. I would like to thank the ranking member and his staff for their assistance. And I would like to very much thank my colleague from South Dakota, Senator DASCHLE, who has been very active in this effort to improve the legislation.

I ask unanimous consent that Senator DASCHLE and Senator REID appear as original cosponsors of this amendment.

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

Mr. CONRAD. Mr. President, I want to indicate that we not only feel this makes a significant improvement to the legislation before us, but also sets a precedent for legislation that may come later; not a legal precedent, but it serves as an outline of what can be done to assure that we do not find ourselves in a situation in which a small town can be unduly influenced, and nobody else would be in a position to review the decision.

So, Mr. President, I will conclude my remarks by saying this has been a long day. It has been a difficult day in many ways. But there was certainly good-faith effort by all those concerned to work something out, and I think we have achieved that.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I heartily commend the Senator from North Dakota. He has stood here on the floor diligently, in the last couple of days, protecting the interests of North Dakota.

He had a very legitimate concern. It is a concern that we all appreciated; a concern we have all been working with. Frankly, it is largely—in fact, almost

primarily—because of his diligence and, I must say, the diligence of other Senators, as well, that we have been able to find this agreement, this accommodation.

The Senator from North Dakota will be the first to admit it is not a perfect solution for North Dakota, but it is a significant contribution compared with the pending legislation. I heartily commend him, and the Senator from South Dakota, who has worked as diligently in representing South Dakota, and helped us find a solution.

I urge its adoption.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, one of the joys in the Senate, particularly in serving on committees, is that you get to know the Senators quite well, and you get to know their speeches quite well. In fact, there is a capacity to deliver their speeches for them, in case they flag or flail.

I do not serve on any committees with the distinguished Senator from North Dakota, but through the course of these 3 days, particularly the last day, I have memorized his speeches. In fact, he has given the same speech several times, and it is a good speech: "I have, in North Dakota, some four towns with a population less than 10." And on from there.

He is a tenacious advocate, and I think deserves a lot of credit for pursuing this so diligently, and his associate from South Dakota, likewise. I have not mastered the speeches of the Senator from South Dakota, but I will, because he serves on the Finance Committee, likewise, and there we will have an opportunity in future days.

But the Senator from North Dakota will be leaving us, and I am glad to have had a chance to work with him in connection with this matter.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I also want to commend those who have been involved so diligently over the last couple of days. I do not know what else can be said for the distinguished Senator from North Dakota. He has done a very effective job in providing important leadership and giving us an opportunity to at least partially resolve this very difficult problem. The amendment does not go all the way, but it makes a real improvement in the bill.

Obviously, there are ways, as the Senator from Montana has alluded, that we could address this more effectively, but this amendment does give us some hope that someone other than the proverbial town with four people will have some say with regard to an issue of this magnitude and consequence.

So I think it is a very significant improvement. It allows me the confidence

that we are going to be making some decisions that reflect, in part, the beliefs, the attitudes, and the concerns of people beyond those who may be directly the ones to benefit from any facility, or any contract relating to a facility.

So I commend the Senator from North Dakota. I thank the managers of the bill for their cooperation, their efforts, and their willingness to work with us. I urge the adoption of this amendment, as well.

I yield the floor.

Mr. CONRAD. Mr. President, if I might, before we conclude this, I just want to again thank the chairman of the subcommittee, who has shown remarkable patience today. This has certainly tried his patience. I do appreciate very much his willingness to work with us to try to get a resolution.

This was not easy. We understand the forces on the other side that did not want something like this. He has really gone the extra mile, and it is appreciated.

I also want to say to the ranking member, who has also shown great patience, I think I only gave that speech maybe six or seven times—it may have seemed like several dozen—but I was prepared to give it some more. So I appreciate his patience and generosity, as well.

I want to conclude by saying, again, a special thanks to my very dear friend and colleague from South Dakota, who stood with me during these long hours in trying to achieve a result. It really made a difference. I just want to say to my friend from South Dakota, I deeply appreciate his assistance on this.

I ask unanimous consent that Senator RIEGLE be shown as an original cosponsor of the amendment.

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

Mr. BAUCUS. Mr. President, I would like to say to the Senator from North Dakota, it is always a pleasure to work with my neighbor to the east. North Dakota and Montana share a border, with many things in common.

One is, I find whenever I want to get something on the news in Montana, very often I have to go to Williston, ND; go to the TV stations and newspapers in the western part of North Dakota, to reach eastern Montana.

I appreciate working with him.

Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2742), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I think there is one other matter we have to deal with. That is another amendment.

I ask unanimous consent, notwithstanding the consent agreement with respect to this amendment and this bill, that the Senator from North Dakota be allowed to be recognized for the purpose of offering an amendment to the bill.

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

AMENDMENT NO. 2743

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

Mr. President, I first ask unanimous consent that Senator DASCHLE and Senator METZENBAUM be shown as original cosponsors of this amendment.

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

The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mr. DASCHLE and Mr. METZENBAUM, proposes an amendment numbered 2743.

Mr. CONRAD. 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 in the bill, insert the following:

SEC. . (a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of nonhazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of nonhazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial nonhazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial nonhazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and

(5) solid waste regulated under subtitle C of the Resource Conservation and Recovery Act.

Mr. CONRAD. Mr. President, this is a simple study amendment, but we believe it is an important one.

One of the things we have learned as we have gone through this long day is that there is not much very good infor-

mation on the question of industrial waste: What are the sources of it? What are the movements of industrial waste? What are the volumes? A whole series of other questions that are addressed in this amendment. Suffice it to say, we think the Senate, if it is to deliberate on these matters in the future, could use some basic information. We, hopefully, have outlined the information needed in this amendment. I urge my colleagues to support it.

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

Mr. BAUCUS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2743) was agreed to.

Mr. BAUCUS. Mr. President, I think there is no more business. I ask for the regular order.

Mr. CHAFEE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I am pleased we are finally able to deal with the issue of interstate trash. It is an issue that I know has taken a lot of thought and negotiation. However, I believe we have achieved a good result and a workable compromise that provides protection for States like Kansas that are threatened with long haul imports from the east coast.

Frankly, the timing of this legislation couldn't be more appropriate.

In a June 1, 1992, opinion, the U.S. Supreme Court struck down a Michigan statute that allowed the State's counties to regulate out-of-State solid waste disposal differently from solid waste generated within the county for no other reason other than place of origin. The Court highlighted the point that the interstate movement of wastes is protected by the commerce clause of the U.S. Constitution unless Congress says so otherwise.

Also, after nearly a month, and 3,000 miles later, a 2,200-ton trash train that originated in the South Bronx, NY, and at one point found its way into Kansas City KS, finally has been off-loaded at a landfill on Staten Island. It only serves to underscore the point that something needs to be done about the interstate transportation of trash and the responsibility individual communities need to take toward this issue.

I am also pleased the legislation allows for flexibility for our own border areas, such as the Kansas City area and the southeast Kansas area, to continue to provide sanitary landfill services for the region as has been the practice and desire over the years.

Mr. President, I applaud the level of cooperation that resulted in this agreement. Senators COATS, SPECTER, WAR-

NER, and CHAFFEE have worked overtime to find ways to accommodate States that have an interest in this issue. Also, the solid waste and railroad industries who have to live with these requirements and are working to provide these services under strict environmental controls have been cooperative as well.

The concept of allowing communities the right to choose whether they will accept interstate garbage is fundamentally sound. In the absence of this legislation, the commerce clause of the Constitution controlled the flow of interstate trash. Now, communities can say no to out-of-State trash if they want to. Likewise, they can negotiate directly with trash companies if they choose to.

This legislation is also important for what it doesn't do: disrupt contiguous State flows in Kansas and other States where arrangements already exist. Six landfills in Kansas accept out-of-State trash in a mutually acceptable arrangement. This legislation will allow those landfills to continue this practice. The Kansas City area is largest, and has the greatest potential for unnecessary disruption. However, the legislation has a specific provision to allow the Governor the authority to freeze out-of-State trash coming into these landfills at 1991 or 1992 levels. This protection was built into the legislation to protect States like Kansas from becoming the dumping ground for long-haul trash from big east coast States.

Mr. President, this is a workable compromise and provides adequate protection for small States that fear they are targets for east coast garbage. I believe we have substantially eliminated the threat that was highlighted in McPherson last summer and provided important new protection for communities who want to say no to out-of-State trash.

Mr. DODD. Mr. President, I rise to express my strong support for S. 2877, the Interstate Transport of Municipal Solid Waste Act of 1992. My compliments to the managers of this measure and Senator COATS in working to develop a balanced approach to address this difficult problem.

Garbage, while not anyone's favorite subject, is however one of the most prevalent realities of our everyday life. Our Nation generates over 180 million tons of waste each year—over half a ton for every man, woman, and child in the United States.

The issue here today is what we should do about all this garbage. In the past, the answer has been relatively simple—dump it. But the dumps are filling up; some are worse than full—they are dangerous; and, as we all know from experience in our own States, there are few communities volunteering to host new dump sites.

The reality of this crisis was brought home to many in the saga of the trash

train which traveled across the Nation for 26 days in search of a place to dispose of its cargo. The train began its long journey in New York City with 2,200 tons of municipal waste from the Bronx and traveled through the Midwest looking for a dump site. The train was ordered out of at least three States and was forced to return to New York State, monitored by local sheriffs, planes, and helicopters ensuring it departed each State without pause. Mr. President, this is no way to manage our Nation's solid waste.

S. 2877 is an important step in the right direction. However, today's debate is about moving garbage, not about how to reduce it, and I believe that reduction of our waste stream is truly the best way to alleviate our Nation's garbage crisis.

I recognize that the managers of this measure have chosen a strategy, which they believe is necessary, to move this important bill forward—a strategy defining a very narrow scope for this measure and limiting other amendments. I understand this effort, but think it is most important and appropriate that we take a little time to discuss some of the other steps which should and must be taken to reduce our waste stream.

Reduce, reuse, and recycle—are the buzz words of a new environmental movement. Children, families, neighborhoods, and communities have been inspired by the difference they, as individuals, can make by adopting this simple ethic. Their interests are reflected in new corporate policies on products, advertising and packaging to respond to the public commitment to reduce, reuse, and recycle.

In many communities, the effort has moved beyond sorting trash at the curb. In Greenwich, CT, the National Audubon Society, Procter & Gamble, and the Greenwich Audubon Society earlier this year sponsored a month long experiment in wet bag composting; 700 households in Greenwich participated in the experiment. They collected food waste, yard waste, wet and soiled paper, cereal boxes and other items normally considered non-recyclable. These compostables were collected at curbside and transferred to the Fairfield compost facility, a state-of-the-art composting facility constructed in 1989, where the waste is being processed for use as compost. While the final results are not yet out, I understand that the program reduced the overall volume of household waste significantly, produced usable compost and was popular among the participants.

While communities across the Nation work to address the issues confronting their neighborhoods, we in Washington must move ahead to address the national issue of municipal solid waste. Most importantly, it is my hope that we will see action on the Comprehen-

sive Resource Recovery and Conservation Act this year. While this issue is complex and mired in some controversy, we cannot delay reauthorizing this important measure.

There are other steps which I believe would move us forward. I am an original cosponsor of the national bottle bill. Connecticut has had a very successful bottle bill since 1980. We have achieved a recycling rate of nearly 85 percent for beverage containers. And the bottle bill has not impacted curbside recycling programs which now serve many communities in my State. Connecticut's experience with the bottle bill is not unique, other States have enjoyed similar results. It is time we move ahead to adopt this important legislation.

On another front, we should also continue our efforts to expand the marketplace for recyclables. Today, all Government documents are printed on recycled paper. We must look at other ways the Federal Government can assist this emerging market.

Mr. President, S. 2877, the bill before us, is also an important step in this comprehensive effort to address the issue of municipal solid waste. It provides States and local governments with additional control over garbage entering their States. This legislation gives the Governor of any State, on the request of local officials, the authority to ban municipal solid waste imports or cap imports at the 1991 or 1992 level—which ever is less—provided that present contracts are not abrogated.

This is a carefully balanced approach to a difficult problem. Forty-three States in our Nation export waste and 42 States import waste. Legislation impacting the movement of waste will obviously affect nearly every State. We have been fortunate in my State of Connecticut—to a great extent, our State government's waste management efforts have been successful. Unfortunately, other States have not had the same experience. Many local communities across the Nation feel that they do not have the tools necessary to address the disposal of out of State waste in their communities. This bill gives Governors and local officials these tools. No State should be a dumping ground for another's garbage and this measure will prevent that. It will reduce exports, and provide significant local control over waste imports into their communities.

I know some would be reluctant to look at this balanced piece of legislation before us, which deals only with municipal solid waste, as a precedent for future waste legislation. However, we cannot ignore that, as a Nation, we have yet to resolve the issue of high level nuclear waste and, to some extent, the issue of low level waste has been thrown into question by the recent Supreme Court decision. There are recognized efficiencies in limiting the

number of these facilities in our Nation and it behooves us little to set policies today which hamper the resolution of these problems tomorrow.

Mr. President, it is clear this legislation is only a first step in confronting our Nation's municipal waste crisis and that we must rededicate ourselves to moving forward on the other critical pieces of legislation in this area that await our action. However, as I think of the 26-day journey of that train, it is also clear how critical this step is to communities and States across this Nation and I would urge my colleagues to join me in supporting this measure.

Mr. McCONNELL. I would like to expand and clarify with my friend from Indiana a point he made in a colloquy with the senior Senator from Idaho on Tuesday. In that colloquy, the Senator from Idaho was concerned that the legislation before us might expand States' authority to impose restrictions on materials other than municipal waste. In response to that concern, the Senator from Indiana indicated that he did not believe that this legislation would corrupt the requirements of narrow tailoring and compelling State interest that have been developed by the Supreme Court over the years.

My concern is with the corollary of the proposition offered by the Senator from Idaho. Is it the intent of this measure to prevent States and localities from using their authority under other Federal, State, or local laws, to curb the importation of other wastes that are not included in this bill, provided such laws are found to be consistent with the commerce clause and Supreme Court precedent?

Mr. COATS. No, it is certainly not the intent of this bill to limit State and local governments from controlling other problem solid and hazardous wastes. The definition of municipal solid waste in this bill is not all-encompassing, and there are certain types of wastes that are not included here, that are of significant public concern because of their potential toxicity. These include combustion ash from incinerators, sludges from waste water plants and industries, medical wastes, and other commercial, industrial and institutional wastes. This bill supplements whatever authority State and local governments have to regulate the transportation and disposal of those wastes.

Mr. McCONNELL. Is it fair to say then that this bill does not intend to preclude such State and local measures that are found to be constitutional.

Mr. COATS. That is correct. There is no attempt to preclude State and local initiatives, provided such initiatives are otherwise lawful and would not be considered by a court to be unjustifiably discriminatory under the so-called dormant commerce clause. The purpose of this legislation is to explicitly delegate Congress' authority to

regulate municipal solid waste. It is not intended as a limitation on the authority of States to regulate any other type of waste if it is found constitutional by the Supreme Court.

Mr. McCONNELL. Then, the legislation before us is intended neither as an expansion nor a limitation on the authority of local governments to regulate wastes that are not municipal waste.

Mr. COATS. The Senator from Kentucky is correct.

Mr. McCONNELL. Would the Senator from Indiana be willing to include language to this effect in the conference report to clarify the purpose of this legislation.

Mr. COATS. Yes.

Mr. McCONNELL. I thank the Senator.

INTENT OF S. 2877 TOWARD THE RETREADING INDUSTRY

Mr. BUMPERS. Is it the Senator's intent to restrict retreading in any way?

Mr. COATS. No. The list of specific materials that are exempt under item 4(c) is essentially a laundry list of the most commonly recycled materials in municipal waste. The intent of this section is not to have a conclusive list of such materials. The example that Senator BUMPERS raises is an excellent one. I certainly recognize that recyclable tire casings intended for retreading must move across State lines, and nothing in this bill is intended to interfere with retreaders obtaining their necessary raw materials.

Mr. HEFLIN. Mr. President, I am pleased to come to the floor today in support of legislation granting States the power to restrict importation of municipal solid waste generated in other States.

Our country stands in the midst of a solid waste disposal crisis as the number of landfills has dropped dramatically, the siting of new landfills has become extremely difficult and the volume of interstate waste has exploded. Understandably, States currently receiving large amounts of out-of-State waste do not want their waste disposal capacity to be used up by garbage generated outside their borders. These States do not want other States to evade their responsibility to manage trash responsibly. Most of all, these States do not want their own communities to become dumping grounds for the rest of the country.

In States like Alabama which imports only one-fifth of the waste it exports, legislators have desperately enacted a variety of bans and restrictions on waste imports in an effort to protect the health, environment and future of their communities. However, courts are consistently striking down these statutes on the grounds that they violate the commerce clause of the Constitution which forbids States to interfere with interstate commerce without congressional authorization.

Just 6 weeks ago, in fact, the Supreme Court struck down related laws enacted by Michigan and Alabama.

Fortunately, the bill before the Senate today responsibly addresses the concerns of States like Alabama which are net importers of waste. At the same time, the bill seeks to address the concerns of States like New Jersey and New York which are net exporters of waste. Those States argue that they are trying to become self-sufficient in waste disposal but that they need more time to avoid economic disruption and environmental damage from improper disposal.

The Coats-Baucus bill would address these concerns by enabling Governors to immediately ban disposal of out-of-State garbage in any landfill or incinerator which did not receive such waste in 1991. For those facilities which did receive out-of-State waste in 1991, the Governor would be permitted to freeze the volume of waste at the 1991 level. The bill would also deprive a Governor of this right to restrict or ban out-of-State waste if all of the municipal waste landfills operating in the State are not in compliance with all design, location and schedules by 1997.

This bill represents a real departure from current law by removing the commerce clause as a barrier to a State's assertion of control over solid waste coming into its borders. It may also prove to be a forerunner of efforts to restrict the interstate transportation of other types of waste. I urge my colleagues to join me in supporting these changes in the law by voting for this legislation.

Mr. LIEBERMAN. Mr. President, on Monday, July 20, 1992, Senator COATS suggested that many states, including Connecticut, could not take actions to deal with their solid waste because they are being "inundated in the flowing of trash from other States that overwhelms our ability to take reasonable steps to decide our own environmental future."

For the purpose of clarifying the record on this point, I want to note that Mr. Richard Barlow, the chief of the bureau of waste management of the Connecticut Department of Environmental Protection spoke to my office, indicating that with respect to the State of Connecticut, this statement is not correct. According to Mr. Barlow, the State is implementing a solid waste management plan based on and addressing the needs of the State of Connecticut; the State's ability to take action to deal with its own solid waste is in no way being hampered by trash from other States, according to Mr. Barlow.

My staff has reviewed the interstate issue dealt with in this bill extensively with the Connecticut DEP during the course of the last 3 years. The Connecticut DEP has indicated that it would like the authority to ensure that

additional waste disposal facilities built in Connecticut, if any, be sized to meet the needs of the citizens of the State. Some local officials also have expressed similar interests, as well as a desire to vest the decisionmaking authority in local governments. This legislation provides Governors, in conjunction with the local governments, such authority, in addition to other authority to restrict the flow of waste.

Finally, Mr. President, I want to note the Connecticut DEP shares my frustration that the Senate's consideration of solid waste issues is focusing only on this interstate transport issue, rather than including critical issues such as recycling and pollution prevention. I hope we can come back to these issues later in the year.

Mr. PRESSLER. I supported the Reid amendment last night because of exactly the reasons you have been hearing today. Governors should have the right to a say in the location of the landfills within their borders. The infrastructure of the State is always affected—roads and bridges, and so forth. Once garbage is moved in, it is there to stay. The potential for pollution always exists.

An out-of-State company, RSW from Colorado, has been trying to bring out-of-State waste into South Dakota. They have not succeeded as yet, but that is only because of eight lawsuits that have been filed against their plans.

Now, the same company is willing to sell a huge landfill site to any Indian tribe that will take jurisdiction of the landfill site for the sum of only \$1. That tells me that trash is a big business. I strongly opposed this action. I met with Secretary Lujan regarding the tribal land issue. I talked about this on the floor of the Senate on May 19, 1992.

Two years ago, the Rosebud Sioux tribal officials signed an agreement with a Connecticut company to accept out-of-State trash. I worked hard to help the local people defeat this measure.

There are trash brokers out looking for small, rural communities to take trash. One of my constituents brought a Reader's Digest article to my attention. It is entitled "Will this Man Trash Your Town?" It tells the story of a trash broker that is looking for communities like those that can be found in South Dakota or North Dakota or other States that are perceived to have the land space for the huge amount of garbage generated each day.

There is also the loss of agriculture lands due to siting of large landfills.

Mr. President, I ask unanimous consent that the article to which I previously referred be printed in the RECORD.

[From the Reader's Digest, July 1992]

WILL THIS MAN TRASH YOUR TOWN?

(By Trevor Armbrister)

In Vincentown, N.J., new owners take control of the Big Hill landfill. Throughout its 12-year history, the dump has accepted only ten truckloads of garbage per day. Much more, engineers warn, could worsen the pollution already appearing in the area's ground water.

Ignoring this advice, the new owners dramatically increase the volume of trash over the next five years. Nearby residents complain of litter, noise and a growing stench. Then one side of the landfill collapses, and a river of mud and garbage pours into the kitchens and living rooms of neighborhood homes. Authorities order the dump closed.

Near Ravenna, Ohio, the 127-acre Portage landfill is cited for violating the law. State officials threaten to close it down. Then an East Coast businessman appears with a plan to solve the problems.

The landfill begins accepting trash from out of state. Soon it's collecting nine times the amount the law allows; it's also receiving vast quantities of industrial waste. Hazardous juices called leachate flow into nearby Breakneck Creek at the rate of 42,000 gallons per day. "I used to fish in this creek, even swim in it," says resident Tom Hooks. "Now it's not fit to fall in." After 14 months, the state closes the dump; the man with the plan walks away.

In tiny (pop. 250) Center Point, Ind., a limited partnership buys the town dump. Soon the facility is taking tractor-trailer loads of asbestos, more than all other landfills in Indiana combined.

Then truckloads of garbage pull in from Brooklyn and Queens, N.Y., and elsewhere. Poking through the bales, inspectors find hypodermic needles, blood bags and I.V. tubes—medical waste meant for special disposal at other sites.

These nightmares, and others like them, have a common denominator—an elusive 47-year-old former schoolteacher named David Ehrlich. For nearly two decades, Ehrlich has been involved in almost every phase of the garbage trade. He has been an officer in companies that owned or operated landfills, as he was in New Jersey, and a broker of landfill sales, as he was in Indiana. In recent years, he has been orchestrating the dumping of thousands of tons of urban trash in rural communities in several Midwestern states.

Trash and Run: Operating from different positions in various corporations and partnerships, Ehrlich has found a treasure in trash. But in his wake lies controversy, litigation and environmental anxiety. Three of the dumps to which he has been connected have been designated as federal "Superfund" sites and will cost the taxpayers at least \$80 million to clean up.

"Ehrlich is a Pied Piper of polluters," says Maurice Hinchey, chairman of the New York State Assembly's Environmental Conservation Committee. "The garbage haulers he services have wreaked havoc." Adds Alan A. Block, a professor at Pennsylvania State University and co-author of "Poisoning for Profit," a book on the scandal of toxic-waste disposal in America: "Ehrlich is a callous profiteer, adept at moving from state to state with virtually no opposition from law-enforcement and environmental regulators."

Born in Merion, PA., in 1945, the only child of a shirt salesman and a mother who died when he was young, Ehrlich attended local schools, graduated from the Philadelphia College of Textiles and Science, then earned a master's degree from Johns Hopkins Uni-

versity in Baltimore. After two years as a substitute teacher in Philadelphia, he teamed up with Richard Winn, a real-estate developer from Pottstown, Pa. Ehrlich would seek out and recommend undervalued properties. If Winn bought them, he'd give Ehrlich a finder's fee.

In 1976, Ehrlich met a sand and gravel contractor named Anthony Amadei, who needed financing to expand his landfill activities. Winn put up some money, and Ehrlich got a piece of the deal.

Playing the Game: Anyone could see that East Coast landfills were rapidly running out of space, and tighter government regulations would force "Mom and Pop" landfill owners to make costly improvements, sell out or shut down. Enormous profits could be made in collecting urban trash and hauling it to faraway disposal sites.

Ehrlich, Winn and Amadei acquired the rights to operate three landfills in southern New Jersey. When Winn and Amadei dropped out, Ehrlich found new partners and pushed west to Ohio, Indiana and Kentucky.

One common thread in these activities is a greatly increased volume of trash delivered to landfills in rural, sparsely populated communities. Then there are the families whose lives have been disrupted by the dumps:

In 1973, after Bill and Sharon Worrell started building a home in Florence Township, N.J., officials approved the siting of a small landfill across the street. No more than 15 trucks would be going to the dump weekly, the Worells were told.

Soon that number shot up to between 60 and 75 a day. Then in 1976, a firm called Jersey Environmental Management Services (JEMS) began operating the landfill. Ehrlich was an officer and part-owner of JEMS. One day, Sharon counted 225 trucks. By law, landfill employees were supposed to cover the trash every day, but for weeks they applied no cover. The stench was putrid, the noise unending; at night the Worells could see rodents scampering across the road.

Aware of mounting complaints, Ehrlich met with township residents, "He told us he was doing nothing to damage the environment," Sharon says. "He said he was doing what he came here to do, and there was nothing we could do about it."

Then a fierce fire broke out at the dump, terrifying the neighbors. Shortly after, state officials rejected JEMS's application to expand and cited it for repeated violations. Ehrlich and his partners left town, and eventually the landfill was closed.

"To think this could go on year after year across the country," Sharon Worrell says. "Who can stop this man?"

Early in 1983, Diane and Walter Zarzycki of Chester County, Pennsylvania, purchased a home atop a steep hill in rural Newlin Township. Soon after moving in, the Zarzyckis discovered that the 22-acre Strasburg landfill was just over the hill behind their property. Through a limited partnership, Ehrlich was part-owner of the land that was leased to the landfill operator. The dump had already been cited for violations, and Ehrlich and his associates were trying to expand it to four times its original size.

In April 1983, after discovering significant levels of toxic chemicals at the site, the Pennsylvania Department of Environmental Resources (DER) fined its operator \$53,025 and directed it to make the necessary repairs. When the operator failed to act, the agency ordered the dump closed.

For their household needs, the Zarzyckis used a deep well. When DER hydrogeologists tested the water, they found 20-odd hazard-

ous chemicals. The Zarzyckis shelled out almost \$6000 to drill a second well, but its water was contaminated too. Today, both wells contain high levels of benzene.

Last December, the Environmental Protection Agency warned the Zarzyckis and 200 other families living in the area about hazardous-waste contamination from the landfill: "Residents could potentially experience increased risks of cancer."

One evening in September 1988, businessman John Moore of Center Point, Ind., said to his wife, "Terri, I have really bad news." They had known their lakefront home lay just a third of a mile from the local dump, but they had been assured it would never expand. Now, John had spotted drilling pipes on the property across the street from the dump—a clear sign that change was imminent.

The invasion of out-of-state refuse began in July 1989. Prairie Resources, a company listing Ehrlich as an officer, arranged for the dumping of millions of pounds of trash at the site. Terri researched Indiana's environmental laws and convinced her neighbors they could fight back. She and her Dump Patrol then launched their counterattack.

Six mornings a week, they documented with copious notes and photographs every truck entering the dump. Some were far heavier than the 80,000 pounds allowed by law. Terri gave her reports to the Indiana Department of Environmental Management and the media. Pressure to stop the trash invasion intensified. In July 1990, with just three weeks remaining on its permit, the limited partnership—which included Brazil Holdings, Inc. (president: David Ehrlich)—sold the landfill.

In one year at Center Point, more than 100,000 tons of trash had been dumped. But the operator had never installed a leachate collection system, and Terri Moore is convinced it's only a matter of time before contaminants enter the water supply. "They used us as a garbage can," she says. "I want to find a way to hold Ehrlich and the others responsible for what they've done."

Vanishing Act: Ehrlich, however, is hard to track down. John A. MacDonald, a former deputy attorney general of New Jersey, conceded, "I have never laid eyes on him. It is very hard to find people who have." In Indiana, the senior environmental investigator said, "He's like a piece of smoke."

After months of trying to locate him, I got a tip to check out a New York City address. Another source gave me the unlisted phone number. For days I called and left messages. Finally, my phone rang.

"I'm not trying to be mysterious," Ehrlich said, "but there are public-relations problems being David Ehrlich. My hands are clean, but I don't want the aggravation. These stories of loot and scoot are just not true."

Did he feel sorry that tens of millions of dollars would be needed to clean up the dumps? Absolutely not, he said, adding that he and partner Winn had spent \$1.7 million implementing a court order to remove leachate from the Strasburg site. That order had been unjust, he continued, because "we never ran the landfill. We were officers of a company that owned an interest in the land." Pennsylvania's Environmental Hearing Board agreed, ruling in 1989 that although the company was liable for cleanup costs, Ehrlich and Winn were not. Concluded Ehrlich: "I think taxpayers owe us money."

Taxpayers Billed: Cleaning up the Strasburg facility, a SuperFund site, will cost at least \$10 million. The other SuperFund sites

in New Jersey will require a total of at least \$70 million. Big Hill is not on the SuperFund list, so the state's taxpayers are shouldering some \$20 million there. "We're going to have to pay out tens of millions and then sue to get it back," says John MacDonald.

Ehrlich may be spending a lot of time in court. New Jersey's Department of Environmental Protection has filed an action against hundreds, including Ehrlich. The firm that insured one of the three landfills in that state has sued him—as well as former partners Amadei and Winn—in U.S. District Court. The defendants have denied any wrongdoing. For what happened at Ohio's Portage landfill, Ehrlich and others are being sued by the state.

Despite these troubles, Ehrlich is hardly destitute. By his own admission, he receives salaries from four different corporations—two of which broker trash. Those brokers earn a commission of about \$2.50 for every ton of garbage they move. The dollars add up. In 1991, for example, the Ehrlich-brokered Spring Valley landfill in Wabash, Ind., agreed to accept some 1000 tons of trash every day. The broker's cut of that: \$2500 per day—from a single dump.

Ehrlich spends most of his time today in Florida seeking ways to expand to other states. "I would head anywhere to make a living," he said.

That may be difficult for him now. In 1978 the U.S. Supreme Court ruled that the commerce clause of the Constitution precluded states from barring garbage from other states. But the Court has recently heard two new cases that could overturn that finding. A decision is expected soon.

Ehrlich is watching the Supreme Court carefully. "A negative decision would mean I would not be able to broker interstate shipments of waste," he told me.

In a weed-strewn lot in Chester County, Pennsylvania, stands a gleaming white sign: "Strasburg Landfill. U.S. EPA SuperFund site. Danger, Hazardous Materials. No Trespassing."

Jack Hines, West Bradford, Pa., town manager, points to the marker and offers advice to people who might be tempted by the Pied Piper's promises: "Stop the trash trucks before they start. If you don't, they're going to ruin your community."

MODIFICATION TO THE BINGAMAN AMENDMENT

Mr. LEVIN. Mr. President, I am pleased that the managers of the bill and Senator BINGAMAN, the author of the amendment, are willing to accept the modification I have proposed. It will add the United States-Canada border region to the area in which the EPA must perform a study of numerous important solid waste management issues. Additionally, the modification requires the EPA to propose a method by which border traffic in solid waste between the United States and Canada, and the United States and Mexico, can be tracked by source and destination.

The State of Michigan, and I am sure many other States along the United States-Canadian border, have experienced a great back and forth flow of garbage which no one is tracking. For long-term planning and safety and environmental reasons, Michigan requires the data that will be produced by this amendment.

Mr. President, the bill that we are discussing is very important to the

State of Michigan's efforts to protect its natural resources and environment. This bill will provide the States with the authority to ban or restrict the importation of solid waste under certain circumstances.

Right now, in large part due to the Supreme Court's recent decision in the Fort Gratiot Landfill versus Michigan Department of Natural Resources case, States, counties and local governments are at the mercy of landfill operators who may choose to contract for the importation of large quantities of out-of-State municipal wastes. This bill allows the local people responsible for long-term management of local resources to take some measure of control over the solid waste coming into their area. In Michigan's case, they are required by State law to work together at all levels of government to manage their waste responsibly so that there will be sufficient capacity for locally generated waste.

Mr. President, S. 2877 is a step in the right direction of self-sufficiency, pushing States that have been slow to manage waste generated within their boundaries to enact more responsible laws and programs in those States. S. 2877 is necessary, given the Supreme Court's decision, to allow States to continue to operate with some ability to prevent out-of-State waste from displacing locally generated waste and prematurely filling sited landfills or forcing the siting of new landfills. S. 2877 is a good basis from which I urge the conferees to develop a better bill, one that would encourage States to adopt model solid waste management programs like Michigan's.

As the National Governors Association, the National Association of Counties, and the National Association of Towns and Townships have indicated to me, a better bill can be obtained. I ask unanimous consent that those organizations' letters to me be printed in the RECORD following my remarks.

As S. 2877 is presently written, prohibition of waste imports may only occur when several levels of government are in complete agreement—the local government, the solid waste planning unit, and the Governor. Achieving agreement to obtain this prohibition should not be a serious problem in Michigan, since State law already requires the development of management plans requiring cooperation by the local government, the local planning unit—the county in Michigan's case—and the Governor.

Mr. President, this bill is not perfect. The parliamentary situation is such that amendments to substantially improve the bill cannot be passed. But this bill is better than no bill for Michigan. My preferred option would have been to simply authorize Michigan's program in this bill, thereby providing explicit congressional approval of that program, which the Supreme

Court found to be partially unconstitutional. I cosponsored an amendment that would have had the effect of authorizing Michigan's program. However, as the vote in the Senate last night on that amendment shows, the majority of Senators felt that the amendment did not help their States enough.

I encourage my colleagues to consider making changes to this bill in conference that will incorporate the need for long-term capacity planning, increase the options for States to prevent the importation of out-of-State waste, and provide greater flexibility and authority to States and local governments to adopt management schemes that best suit their circumstances. This bill can be improved in these areas and I will be working with the conferees to do that.

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

NATIONAL ASSOCIATION OF
TOWNS AND TOWNSHIPS,
Washington, DC, July 21, 1992.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: On behalf of the 13,000 local governments represented by the National Association of Towns and Townships (NATaT), I am writing to express concern over a provision in S. 2877, the Interstate Transportation of Municipal Waste Act.

NATaT and its members have a concern about the provision in Section 4011 that requires the written request of both an affected local government and an affected local solid waste planning unit in order for the Governor to prohibit the disposal of out-of-state municipal waste. NATaT strongly believes that this language should be changed to read that a request by the "affected local government or, if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit" can be made to the Governor.

Local governments are solely responsible for the disposal and management of solid waste. If a local government does not want to accept out-of-state waste and the planning unit does want to accept it, the local government should be able to request the Governor to halt the import of the waste. The local government is responsible for the roads that surround the landfill, the safety of the water near the landfill, and other responsibilities that the solid waste planning unit does not have. Thus, the local government should not have its hands tied by the wishes of the planning unit.

On behalf of NATaT's members, I urge you to support language that requires only the request of either the affected local government or the solid waste planning unit to allow the Governor to prohibit the disposal of out-of-state municipal waste.

Thank you for your attention to this important matter.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

Washington, DC, July 17, 1992.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN: We are writing to you about S. 2877, the interstate waste bill

introduced by Senators Max Baucus and Dan Coats. This bill addresses interstate transportation of municipal solid waste and its disposal in unwilling states and communities, one of the most pressing problems facing state environmental managers.

The nation's Governors have agreed that state self-sufficiency in the management of municipal solid waste is the best long-term solution to this problem. We also agree that differential fees and limited bans to protect and ensure optimal use of state capacity offer the best way to encourage states to take responsibility for their own waste, while avoiding short-term disruption of interstate waste markets. In our view, S. 2877 is an important step forward in empowering states and communities to deal with interstate waste, but stops short of giving states the tools needed to respond adequately to this problem.

We suggest the following improvements: Provide Governors Direct Authority to Protect Wider State Interests. We recognize the important and legitimate interests of local governments in the issue of waste importation. This bill, however, must also give Governors direct authority to represent the numerous state interests and responsibilities that lie beyond those of a single local government.

States are responsible for coordinating state-wide solid waste management plans including long-range disposal capacity planning and source reduction and recycling efforts. We also have a stake in the effect on transportation patterns, the concerns of neighboring communities, the total "loading" of disposal facilities on the state's economic, political, and ecological environment, potential near and long-term environmental liabilities of a facility, and the state's overall economic development philosophy and image.

The bill, as written, provides no direct authority, even to the four largest importing states, to protect state interests at facilities that did not receive waste in 1991 and at future facilities. States would not be able to protect in-state capacity needs or limit the development of capacity that far extends states needs and is used primarily for waste imports.

Because there may be an economic incentive for a community to accept waste from outside the state rather than waste from a neighboring community, more communities may be hurt than helped by a system that does not encourage the coordination of capacity needs. These conflicts can be averted by allowing states to ban waste imports that would conflict with in-state capacity needs. In addition, states should be permitted to set limits on waste imports so that facilities handle primarily in-state waste. These limits could be expressed as a ratio of in-state to out-of-state waste handled at each facility, unless a waiver is granted.

Authorize states to impose a fee on waste imports that will compensate the importing state for the costs of state oversight of facilities as well as for long term liability costs. Unfairly, citizens of importing states end up subsidizing the costs of state programs to carry out these responsibilities for waste generated outside the state.

Authorize all states to freeze waste imports at 1991 or 1992 levels at facilities that received waste in 1991, upon the Governor's initiative. As written, the bill allows only four states currently importing more than one million tons per year of out-of-state waste to exercise such authority.

Delete the loss of authority section. This provision requires that all operating landfill

cells in the state meet the 1993 federal design and location standards by 1997 or be on a closure schedule for the year 2000. If a facility fails to meet this test, the Governor of the state in which the facility is located loses all interstate waste authorities. This provision is illogical from an environmental standpoint because it requires that if one landfill cell in the state is not meeting design and location standards then the floodgates must open to out-of-state waste. This inappropriately places the burden on the importing rather than exporting states.

Unlike the bill, the federal landfill rule makes no reference to operating landfill cells. It sets standards for the landfill as a whole based on whether it is an existing or new facility. If the effect of this ambiguity is that the more stringent standards for new facilities will be applied to all operating landfill cells, even if they are part of an existing facility (one that was receiving waste in 1993), a Governor would be forced to decide between shutting down an environmentally-sound facility that a community may depend upon or losing all interstate waste authority. The bill also does not recognize that states will be permitted flexibility under the rule for design standards if the state has an approved permit program.

Allow either the affected local government or the local waste management planning unit, if one exists, to request a freeze or ban. The bill requires that both entities initiate the request.

State governments are implementing a wide variety of progressive solid waste programs. Interstate waste transport, along with market development for recycled materials, are areas where we need assistance from Congress. While we have raised serious reservations about this bill, S. 2877, with the above changes, would provide a predictable means of reducing waste flows, encourage waste reduction and recycling efforts in both importing and exporting states, and contribute to better capacity planning efforts.

Sincerely,

Gov. GEORGE A. SINNER,
Chairman,
Gov. NORMAN H.
BANGERTER,
Vice Chairman, Com-
mittee on Energy
and Environment.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, July 20, 1992.

DEAR SENATOR: As the Senate begins debate on interstate transport of solid waste, I am writing to reiterate the position of the National Association of Counties (NACo) that local governments or solid waste planning units, in those states where they exist, should have authority to decide whether a landfill or incinerator can accept solid waste from another state. NACo is pleased that this principle is recognized in S. 2877.

Counties and solid waste planning units are best positioned to assess the health, social, economic and physical impact of waste disposal facilities on the immediate community. In incorporating these facilities into economic development strategies, some communities have successfully negotiated terms, conditions and fees under which they are operated to provide environmental safeguards. NACo recognizes a state role to ensure that facilities meet applicable state and federal environmental laws.

A closely related problem that NACo hopes the Senate will consider during its deliberation on S. 2877 is the ability of state and local governments to designate waste to par-

ticular facilities and limit the export of locally generated municipal waste to another site. Counties currently face problems in financing state of the art landfill, recycling and waste-to-energy projects unless they can assure lenders that sufficient waste will be available to allow a facility to function efficiently and meet its financing costs. Control over the disposition of locally generated waste is important to the success of municipal waste management.

NACo urges you to consider both aspects of the import/export equation so that counties can undertake effective planning and implement comprehensive municipal solid waste plans. Attached are NACo resolutions on these critical issues. I thank you for your attention.

Sincerely,

LARRY E. NAAKE,
Executive Director.

Mr. GLENN. Mr. President, I rise today in strong support of passage of S. 2877, the Interstate Transportation of Municipal Waste Act of 1992. While this bill does not provide everything I would like, it is a major step in the right direction and a substantial improvement in the current situation.

The accumulation of solid waste in municipal landfills is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials today. According to the Ohio Environmental Protection Agency [OEPA], all the landfills in Ohio could be full by the year 2000.

The legislation before us gives States the authority to prohibit and limit out-of-State waste at landfills and incinerators. Under an amendment which I cosponsored, the bill also gives additional powers to large importing States. It permits Governors to freeze imported municipal waste imports and to decrease levels of waste accepted in the future if requested by the local government. This authority is particularly important to large importing States like Ohio whose volume of imported waste declined from a peak of 3.7 million tons in 1989 to 1.7 million tons in 1991. This decline in imports is in all likelihood a temporary aberration as new Federal RCRA subtitle D regulations on landfills take effect in all States, more waste may move toward Ohio's already existing new best available technology [BAT] facilities.

Mr. President, it is important to note that the authority to reject out-of-State waste is linked to a State's demonstration of planning and siting of environmentally sound capacity within its own borders. Banning imported waste is not a substitute for long term and comprehensive solid waste management. That's why we need an overall evaluation of where we and our environment stand now and where we're headed on this issue. For this reason, the General Accounting Office [GAO] at my request, is researching questions that need to be answered in order to create long-term solutions to the increasing waste problem. I have asked GAO to focus on several critical issues

including: options for dealing with waste disposal, management and transportation, the role of the U.S. Environmental Protection Agency, and ways to coordinate States' efforts to dispose of solid waste.

As old landfills are closed or filled up, Ohio has reached the point where of 88 counties, 28 have no landfills and 35 have 5 years or less capacity. We cannot implement our environmental objectives and handle thousands of tons of imported trash at the same time. Requiring my State and others to manage both their own solid waste problems as well as other States' problems is neither fair nor possible.

We owe it to future generations not to simply act in the short term, or to just sweep all this garbage under the rug. Our environment is too fragile and the impact on our citizens is too severe for us to ignore this problem any longer.

Mr. President, we must act decisively and we must act now to avert a national crisis in solid waste disposal. I urge my colleagues to join me in supporting S. 2788.

Mr. BRADLEY. Mr. President, it has been a long 4 days. We have spent a lot of time on the Senate floor and a lot of time in intense negotiations.

Mr. President, I am informed that the bill before us, as amended, is acceptable to my State of New Jersey. This bill will not be punitive. Garbage trucks will not be backed up on the interstates. Trash will not fill up in our streets while we wait for new facilities to be built. There will be no sticker shock. My constituents won't be forced to pay untold millions in garbage ransom to politicians in a hostile State. New Jersey has asked for time to provide for a transition and this bill will give us the time we need.

Having said that, however, I must return to the central focus and purpose of this bill. This legislation is not intended to improve the environment. It's not likely to create jobs. It is now and has always been driven by local politics and not public policy. As public policy, this legislation is sadly misguided. It pits State against State, Governor against Governor. It makes many decisions increasingly political that should be based on environmental and economic criteria. This bill makes it likely that we'll soon be facing other attempts to manipulate crassly and politically issues that are best considered in light of their national implications.

Today, we start with a focus on municipal waste—household garbage—a less than pernicious commodity. What is the rationale for stopping with garbage? Why not include sewage sludge or hazardous waste, as some would demand? Why not address nuclear waste, as the Senators from Nevada would surely prefer? The problem with this bill is that there is no good response to these questions. Now, we deal piece-

meal with an issue that must be considered comprehensively. If any such interstate waste restrictions ever make sense—and I am skeptical that such a case can be made—it has to be as one element of a national solid waste policy. In isolation, this legislation represents little more than a political assault on our federation of States, dividing and diminishing our collective strength.

Mr. COATS. Mr. President, I wonder if I could just take one moment to acknowledge the very real help of the chairman and ranking members of the committee, the floor managers of this bill. Senator BAUCUS and I have been working on this matter for a long time, and it has been a long, tough, hard road. He has been someone who has kept his word and negotiated in good faith. I appreciate his patience and his persistence.

I also want to thank my friends from North and South Dakota for their willingness to work out an admittedly serious and difficult problem, and, once again, reiterate my sincere sympathy with their concerns and trust that this will go a long way to resolving them.

I also thank our staffs, particularly Sharon Soderstrom and Ziad Ojakli, on my staff, and others who have worked so extraordinarily hard and for so long on this.

Senator BOREN and Senator McCONNELL have asked to be original cosponsors, and I ask unanimous consent to do that.

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

Mr. COATS. Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, first, I would like to thank the manager of this bill for all he has done in connection with it. I know he made a commitment to Senator COATS the end of last year, and he followed through on that commitment and has driven our actions in the Environment Committee in trying to report something out because the distinguished Senator from Montana felt he made this commitment and was going to pursue it and fulfill that commitment. I think that is very honorable, and I know he has given a lot of time and careful thought and patience to this legislation.

I also would like to thank the majority leader, who has permitted us to work on this for 3½ days now, which is a long time for a very small piece of legislation.

Next, I would like to commend the staff. Senator COATS had already mentioned Sharon Soderstrom and Ziad Ojakli, on his staff, and I know that Senator BAUCUS will mention those on his staff. I would like to join in tribute to Cliff Rothenstein and Tom Sliter and Mike Shields; on our staff, of course, Steve Shimberg and Claudia McMurray, Rich Innes, Cheryl DeSiena; and with Senator METZEN-

BAUM, Ellen Bloom; Morrie Ruffin with Senator SPECTER; Ann Loomis with Senator WARNER; and Greg Schnacke with Senator DOLE. All of these folks have made a tremendous contribution.

I must say we soon learn that the staff knows the details and knows how to reach accommodation. Thank goodness they were all here, and it is because of their work these various accommodations were made possible.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I heartily join the Senator from Rhode Island in his thanks to the staff. We all know that, as often said—it is essentially true—the Senate sometimes is run by staff; maybe not all the time but certainly many times they are the people who enable us to do what we do.

In addition to the minority staff, on our side, Cliff Rothenstein and Tom Sliter, Jim McCarthy, and those who are staff members of the principal Senators involved in this issue, namely, Rick Erdheim with Senator LAUTENBERG and Roy Kienetz with Senator MOYNIHAN on the majority side, in addition to Senator CONRAD and Senator DASCHLE with respect to this amendment. I would also like to thank Kate Kimball, Rich Innes, Steve Shimberg of the Environment and Public Works Committee.

I would like to also pay particular attention to and thank Mr. Jim McCarthy. Jim McCarthy, on the floor seated second to my left, is delegated to our staff from the CRS. Jim McCarthy is the one who thought up the solution to this amendment. I must say Jim McCarthy is not a lawyer. He sat back and watched all this, working diligently, and it was he who came up with this suggested solution. It is he who found a way to solve this puzzle and to untie the Gordian knot. Cliff Rothenstein, Tom Sliter, and Jim McCarthy have been a super team on our side, and I particularly thank them.

Mr. CONRAD. Mr. President, might I add my own words of commendation to Mr. McCarthy because he came up with a very creative solution to a difficult problem. It has divided us for many hours, and he really does deserve all of our commendation and thanks. I want to add my voice to that as well and thank my own staff person, Liz Magill, who was here late last night and all day today, and I very much appreciate the efforts of all staff who contributed, as well as the staff of Senator CHAFEE, who also pitched in creative suggestions.

Mr. COATS. Mr. President, I wonder if the Senator will yield for 30 seconds. I do not want to turn this into an Academy Awards effort here this evening.

Mr. BAUCUS. Why not. Why not.

Mr. COATS. I was remiss in not mentioning the extraordinary patience of

Senator MITCHELL, who was reluctant to even schedule this legislation in the first place, given the busy Senate Calendar, with few remaining legislative days in this session. Senator MITCHELL not only scheduled the legislation but extended it on two occasions—extraordinarily helpful to this Senator and to others.

I would just relate the very brief story relative to this final solution being devised by someone who is not an attorney. When I first left law school and went to work for a business that employed attorneys, on hiring me, the president of the company called me in and said, "You know, we operated this business for 35 years without an attorney. You are the second one hired and they tell us we need a third. We never knew we had a problem until we hired an attorney."

I do not know what relevance that might have for the future of this body, but it may be we need more Jim McCarthy's around to help solve our problems.

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. Is there further debate?

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the vote on final passage of S. 2877 occur immediately following the cloture vote scheduled to occur at 7:20 p.m., notwithstanding the outcome of that cloture vote, provided that if the cloture vote is vitiated, then the vote on final passage of S. 2877 occur at 7:20.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAUCUS. 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. BOND. 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. BOND. Mr. President, I rise this evening to congratulate the managers of S. 2877, Senator BAUCUS and Senator CHAFEE, and all those who worked so hard on this legislation.

I especially commend and congratulate my colleague from Indiana, Senator COATS, who has worked tirelessly to see that States are given the necessary tools to deal with the problem of out-of-State waste.

The "Trash Train Terror" or the "P.U. Choo Choo" could be the title of a grade B movie or a horror novel. Unfortunately, Mr. President, it was a horror for my State of Missouri. I talked to the people. I talked to the folks who picketed the landfills to stop the trash from coming in. I talked to the local officials who were terrified that their landfills would be overwhelmed by trash that had not been planned for that community.

It happened once, it could happen again. I am certain if we do not do something it will happen again, and I think that is why we need this bill and need it so urgently.

The bill managers, joined by Senator COATS, Senator SPECTER, and others, yesterday agreed on the compromise. Many provisions in this bill were compromised. I think it is reasonable and balanced. Clearly it is not everything that any of us really wanted, but that, as they say, is a sign of good compromise. The key point is that we do have a compromise, one which everybody can live with. They can be sullen but not rebellious, and I hope we can see this legislation passed by both Houses and signed into law.

This action tonight moves us one step closer to giving States the authority that they so badly need to control their trash destiny.

Mr. President, this is a bill that we need very badly. It is not the most pleasant subject we have ever dealt with on the floor of the Senate, but at least we have been able to deal with it at a distance. Those people in the communities threatened by the invasion of unwanted garbage will now have some means of protecting their future and planning for their communities.

I thank the Chair.

I yield the floor.

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

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

IMPROVED ENERGY EFFICIENCY

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to the previous order there will now be 30 minutes of debate relative to the motion to invoke cloture on the motion to proceed to H.R. 776.

The Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Wyoming [Mr. WALLOP] each control 10 minutes of the debate time.

Mr. BENTSEN. Mr. President, tonight we can pave the way for the passage of a very comprehensive energy

bill to help production, to help conservation, and to curtail dependence on foreign oil.

In accordance with the unanimous-consent agreement reached prior to the Fourth of July recess, we are scheduled to vote on cloture today on the motion to proceed to H.R. 776, the House-passed energy bill.

As my colleagues are well aware, the Senate has already considered and passed energy legislation once this year. In February, the Senate, after debating at length, passed by an overwhelming 94 to 4 vote S. 2166, the National Energy Strategy Act of 1992. The House, however, did not act on that particular bill. Instead, the House acted on a new bill—H.R. 776. And they included in it an energy tax title, in addition to the nontax titles.

Of course, since the Senate had already acted once on energy legislation, it would have been easier to have gone straight to the conference on the House bill by unanimous consent. That would have been the most direct approach. However, some Senators raised objections to that approach, as was their right. Thus, H.R. 776 was referred to the Finance Committee for review of its tax provisions, and the Finance Committee promptly reported out a substitute for the tax title. When the Senate turns to H.R. 776, the energy legislation we will consider will combine this new tax title with the nontax provisions from S. 2166 passed by the Senate in February.

I urge my colleagues to vote for cloture so that we can move expeditiously to consider this bill—to debate and vote on the merits of the legislation. It is a major energy conservation measure. It is important to the future well-being of our country. We have a lot of work to be done in conference to iron out the differences between the House and Senate bills, and we have a short time to get it done.

Undue delay in the Senate—of a bill that has, in large part, already been passed by the Senate—could well be fatal to passage of energy legislation in this Congress. But this energy bill is simply too important to delay indefinitely on procedural grounds. Most of us know that. Ninety-four of us have already voted for S. 2166. And the Finance Committee has approved the new tax title.

These are important provisions that are critical to the development of a meaningful national energy policy—something I think this entire country has been without for far too long. For many, it took a war in the Persian Gulf to drive that point home. In fact, the U.S. energy policy as it exists today is best described by just two words: Desert Storm.

We simply cannot continue to go down the road of an increasing—and I believe a very dangerous—dependence on foreign oil. We now import almost

half of the oil we consume—some 46 percent on a gross basis. That represents an increase by almost one-half over our import dependence in 1985.

This trend of increasing imports is expected to continue. I do not see it turning around, even under the most optimistic production estimates, assuming we can maintain current production levels, estimates place U.S. oil dependence in excess of 50 percent by the middle of this decade. But it is far from clear that domestic production is going to hold. For example, in the last 6 years, domestic oil production has plunged nearly 15 percent, resulting in production that is at its lowest level in over 30 years. A quick look at the active drilling rig count—which recently dropped to the lowest level since World War II—does not bode well for future domestic production either.

We talk about the loss of jobs in the automobile industry. Perhaps we have had far more loss of jobs in the oil industry. People do not seem to share the concern on that. Yet, if you look at the deficit in trade and merchandise trade, almost 75 percent of that comes from oil.

If you look beyond the current decade, the Congressional Office of Technology Assessment suggests that oil imports could reach almost 70 percent by the year 2010. Let me give you an example of what that means. That means 36 supertankers every day. Thirty-six supertankers every day to meet that kind of a need. That is what they will have to deliver.

That kind of dependence has obvious energy and national security consequences, and so far this is just a sampling of the possible consequences. By our dependence on foreign oil, we have had a very adverse effect on our economy every year. Look at our balance of payments deficit. In 1991, oil imports accounted for about \$50 billion, or as I stated earlier, some 75 percent of our \$66 billion merchandise trade deficit. As import levels increase, we can expect our oil import trade deficit to also mount.

We must act this year to address this kind of a situation, and we should not imperil energy legislation by further procedural delay.

All of you are familiar with the nontax provisions that the Senate passed in February, and I will leave it to the distinguished chairman of the Energy Committee to get into that detail and make those very valid points. Let me speak to how the Finance Committee's tax provisions address the growing dependence on foreign oil, and also at the same time doing things to benefit our environment. I think fending off 36 supertankers filled with oil every day is one of those things that reflect concern for the environment.

These provisions follow, to a significant extent, the so-called green tax package that was adopted by the

House. There are three main components to the Finance Committee package.

First, the Finance Committee amendment encourages energy conservation to reduce our Nation's energy consumption. For example, it encourages conservation in the transportation sector—which accounts for almost two-thirds of our oil consumption in this country. It does it by tilting the tax treatment of employer-provided transportation benefits more toward mass transit and less toward parking provided by employers for their employees. It also promotes conservation in the residential, commercial, and industrial sectors by excluding utility rebates, and they do that to encourage the use of conservation machinery and equipment. It excludes those measures from the taxpayer's income. So he has a major bonus if he utilizes it.

Second, the Finance Committee amendment stimulates the development of alternative and renewable energy sources that will lessen our reliance on foreign oil and also provide significant environmental benefits. For example, it provides tax credits for solar, geothermal, ocean thermal, wind, and renewable biomass energy sources. It also provides tax incentives to further the use of domestically produced, clean-burning fuels in both cars and trucks used on our Nation's highways—clean-burning fuels, such as natural gas, electricity and, as the Presiding Officer is well concerned and interested in—methanol and ethanol.

Third, the Finance Committee amendment provides incentives for the domestic production of oil and gas by providing limited relief from the minimum tax, to reduce our reliance on foreign oil.

Thus, the Finance Committee amendment offers a balanced approach. Its tax components complement the energy bill that the Senate has passed. And it has the backing of major environmental groups, who recognize the importance that energy conservation and alternative energy sources, in particular, will have on our energy future. These groups, incidentally, also back the excise tax increases on ozone-depleting chemicals that are used to pay the energy tax provisions in the committee amendment.

I urge my colleagues to vote to invoke cloture on the motion to proceed so we can ensure that these provisions are enacted this year.

We should at least have the opportunity to debate the substance of the provisions, and we should do nothing that jeopardizes the enactment of this very important energy policy legislation. The Senate has spoken very strongly on the nontax provisions, and the Finance Committee strongly supports the provisions it reported out.

I urge my colleagues to support this piece of legislation and proceed on it.

The PRESIDING OFFICER. The time has expired.

Mr. BENTSEN. I yield to my distinguished friend, the chairman of the Energy Committee, who has done a massive, excellent effort in putting this legislation together.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank my colleague from Texas.

I yield myself 5 minutes.

Mr. President, when we set out to craft an energy bill some time ago, we did it in the afterglow of Desert Storm when we had sent 500,000 American troops on account of energy to the Middle East. We did it at a time when energy production was going down fast, when energy consumption was going up fast, when the country was taking no steps, no steps to reverse that trend.

So we set about to put together a comprehensive, balanced, effective energy bill that would reverse the trend. And some thousand pages and over a year later, we have it, and it has passed this Senate by 94 to 4. A similar bill, not exactly the same, has passed the House by almost a 10 to 1 margin, and the question tonight is whether the Senate is going to allow us to consider that bill.

Mr. President, we are being held hostage to those who want to pass other legislation or who oppose other legislation and will not let us get to the bill.

This is a highly controversial bill that has many sections that are going to take a long time to work out. We have transmission access which is part of the Public Utility Holding Company Act reform, is one of the most far-reaching, one of the most controversial, one of the most difficult areas of the law that anybody ever considers. I think we can work that section out, but it is going to take a lot of time.

We cannot do it overnight. We have got everything in this bill—from alternative fuels that mandates 4 million vehicles by the year 2000, to use alternative fuels. That is in the Senate bill. The House has no such mandate. That is a central question that is going to take a lot of time to work out.

Mr. President, if we do not get to this energy bill tonight, if we do not invoke cloture, I fear for the future of this bill. I do not think we are going to have time. I mean you just cannot get over there and work it out in a few hours. This is over 1,000 pages long.

There are a lot of people who would like to see this bill defeated—big oil does not much like this bill; some of the bigger utilities do not particularly like this bill. They like the natural monopoly they have but across the broad range of American energy users and consumers, and environmentalists and most producers like this bill very, very much. And to use the words of a letter just received today, "it would be tragic if this well-crafted legislation,

representing strong bipartisan and multi-interest efforts, were allowed to flounder after having passed both Houses with an overwhelming majority of votes."

Mr. President, this letter, by the way, urges prompt Senate action on this Comprehensive Natural Energy Policy Act, and points out that "The result, if enacted, will be vigorous competition in wholesale power generation and more efficient use of wholesale electricity transmission grids, benefiting electricity consumers, the environment, and America's international competitiveness."

That letter is signed by the Sierra Club, the American Wind Energy Association, Citizen Action, Electricity Consumers Resource Council, Friends of the Earth, Integrated Waste Services Association, National Wildlife Federation, American Public Power Association, Consumer Federation of America, Environmental Action, Independent Energy Producers, National Rural Electric Cooperatives Association, Texas Industrial Energy Consumers, and the Union of Concerned Scientists.

Mr. President, I ask unanimous consent that the letter referred to, signed by the environmental groups, be printed in the RECORD.

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

JULY 23, 1992.

Re Conference on S. 2166 and H.R. 776—National Energy Strategy.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: We, the undersigned, are a broad and diverse coalition representing industrial and residential electricity consumers, competitive power generators, electric utilities, and environmental advocates. We write to urge prompt Senate action on the Comprehensive Natural Energy Policy Act, recently sent to the Senate by the House and amended by the Senate Finance Committee.

Each signatory has worked closely with Members of the Senate and House to ensure that the electricity title—amending the Public Utility Holding Company Act of 1935 ("PUHCA") and expanding access to electricity transmission systems—contains strong incentives to bring competition and increased efficiency into the country's wholesale electric power markets. While the House and Senate bills differ in how they would achieve such a wholesale power market, we are confident that the Senate provisions can be reconciled with the greater competitive incentives and consumer protections contained in the House proposal.

As you know, Congress has been debating PUHCA reform for over ten years. In the past two years, our unique coalition has found common ground by integrating PUHCA reform with expanded access to electricity transmission systems. The result, if enacted, will be vigorous competition in wholesale power generation and more efficient use of wholesale electricity transmission grids, benefiting electricity consumers, the environment, and America's international competitiveness.

We understand that difficult issues have delayed Senate action. However, it would be

tragic if this well-crafted legislation, representing strong bipartisan and multi-interest efforts, were allowed to founder after having passed both Houses with an overwhelming majority of votes.

In closing, we thank you for your leadership and urge you to bring this important legislation to the Senate floor and to conference with the House as soon as possible.

American Wind Energy Association, Citizen Action, Electricity Consumers Resource Council, Friends of the Earth, Integrated Waste Services Association, National Wildlife Federation, Sierra Club, American Public Power Association, Consumer Federation of America, Environmental Action, Independent Energy Producers, National Rural Electric Cooperatives Association, Texas Industrial Energy Consumers, Union of Concerned Scientists.

Mr. JOHNSTON. Mr. President, I read this because this is sort of the environmental side of this equation. I could have an even longer list of those who consume, such as the National Association of Manufacturers, such as the Chamber of Commerce, those who produce, from big utilities to those who produce natural gas, down the line.

This is the most balanced bill we have ever had.

If we do not get cloture tonight, then just what do we do? We move on to other legislation. We have a bill in here that the majority leader has promised to consider on dealing with abortion. How long is that going to take? Before we know, we will be out for the August recess and we will not be coming back until September 7. And there is not going to be time.

This Senate has to make up its mind whether it is going to sacrifice this bill which is supported by the Democrats, supported by the Republicans, supported by the Senate, supported by the House, supported by the President, supported by the environmentalists, by the producers, by the consumers, by everybody, and yet the question is, are we going to tie ourselves in knots and not even consider the bill?

America is watching and America has been watching, Mr. President, as we have not acted on various pieces of legislation. They call it gridlock, and some people in Congress say, well, the American people just do not understand, they do not understand how difficult this legislation is.

Mr. President, the question is the very simple, straightforward: Are you going to consider this legislation or not? And if you vote not to consider it, then count yourself as a Member who stands for gridlock. And if this bill goes down because we do not have time to work it out, then point the finger at yourself if you vote no on cloture.

We need to get to cloture. We need to do it tonight because we have a lot of work to do, and I hope the Senate will invoke cloture.

I reserve the remainder of my time.
The PRESIDING OFFICER (Mr. BREAU). The Senator has 3 minutes remaining.

Who yields time?

The Chair will advise that the time will be deducted equally between the Senator from Louisiana and the Senator from Wyoming if no one yields time.

Mr. JOHNSTON. Mr. President, who has time remaining?

The PRESIDING OFFICER. The Senator from Wyoming controls 10 minutes, and the Senator from Louisiana has approximately 3 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent, since I do not have but 3 minutes, that the time be deducted from those who are not here, since they are not here to defend themselves, and I do not think they are coming.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Hearing none, it is so ordered. The time will be deducted.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time charged as previously stated.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. 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. WIRTH. Mr. President, I realize that time is controlled by Senator JOHNSTON. I ask unanimous consent that the remaining minute be yielded to me.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes remaining.

Mr. JOHNSTON. Mr. President, I yield 1 remaining minute to the Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator for yielding. I wish to commend him, Senator WALLOP and others on this legislation. It is absolutely imperative that we vote for cloture. This is one of the single most important pieces of legislation that we are going to face this year.

We have an opportunity now, for the first time in well over a decade, to do something about energy. The situation that we face was clearly illustrated over and over and over again. We are seeing ramifications of that now with all the potential reaction from the Persian Gulf war, plus the enormous hemorrhaging of our scarce national treasury that is going out for energy.

I just wanted to come over and put in a word or two in support of the chairman in proceeding to H.R. 776, which we have to do as rapidly as possible.

I hope my colleagues all vote for cloture, and let us get on with this very, very important piece of national legislation.

Let us get to the point. This bill is our one and only chance to enact an

energy policy this year. If we stop here, we are not going to get another chance. If we want an energy bill, now is the time.

The chairman of the Energy Committee and the chairman of the Finance Committee have made clear their intention to substitute the text of the energy bill the Senate passed last February for the nontax provisions of the House bill, and to resist all amendments to those provisions.

I am going to support that strategy, and support it strongly. I urge all my colleagues to do the same.

The Senate-passed bill was thoroughly debated. Dozens of amendments were offered, debated, and decided. We went through every issue, and everyone had their fair shot. The chairman had to make major changes in the bill in order to get a consensus on moving it forward. To his credit, he made those changes, because he was committed to getting the best bill possible enacted into law. Not a perfect bill. Not everything I wanted. Not everything the chairman wanted. Not everything the administration or the ranking member of the committee wanted. But the best—the most—that could actually be successfully passed by this body.

The bill took the Energy Committee a year to put together. After it was reported, it took us months to get to the point where we could proceed. To the credit of all involved, we did find that point, and kept moving forward. Let us not stop now.

Was the result perfect? No. But it must have been pretty good, because we passed it 94-4.

That is the way the legislative process is supposed to work. It worked last February. Let us not forget that. We passed an enormously complicated, comprehensive, 400-page energy policy bill, by an overwhelming margin. Let us not lose sight of that for one minute.

Let us not lose that now in an effort to see who can use the threat of killing this bill to get more into it. We have already been through that. We had to set aside some very important issues in order to reach consensus. Let us not destroy that consensus, or kill its product. If we want the Senate to work, we should honor the work we have already done.

Mr. President, there is a very strong argument to be made that the single best thing we could do for this country's energy policy would be to require our automobiles to go further on less gasoline. This bill would not do that. But I also know that an amendment to raise the CAFE standards would cut the consensus behind this bill to shreds. So I strongly believe such an amendment should not be offered now.

Mr. President, there is strong disagreement on some of the tax items in this bill. But we will not get to vote on those issues and move forward if we do

not get cloture on the motion to proceed.

I want to remind people what is in this bill, and why we need to move forward on it. The Senate version of this bill includes conservation initiatives which will cut consumers' energy bills by more than \$30 billion over the next two decades. It creates a comprehensive energy planning process which, for the first time, will be aimed at meeting our energy needs at the least cost. It will change the way we regulate our utilities to enable far greater competition in the generation of electric power, and change utility regulation to encourage private investment in even more energy conservation.

It provides a breakthrough in requiring us to develop real, workable alternatives to gasoline as a fuel for our cars and trucks. Without those alternatives, we are doomed to increasing dependence on imported oil.

It takes giant steps in streamlining the approval of new natural gas pipelines, and in promoting the use of natural gas as an efficient, cleanburning, and domestically produced fuel for our future.

And the tax provisions of this bill not only help promote the development of solar, wind power, and other renewable energy resources, but also provide significant aid to independent oil and gas producers, enabling them to continue to explore to replace the fuel reserves we are using up today.

Can we turn our backs on that? I hope not. If you are interested in achieving some real, on-the-ground progress on energy policy in this country, please vote for cloture on this bill. Without that vote, all our work, and all the on-the-ground results I spoke of before, will die.

I urge all my colleagues to join in keeping this energy bill alive.

Mr. President, I think that uses up my time. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will now state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to

proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency:

J. Bennett Johnston, David L. Boren, Alan Cranston, Fritz Hollings, Bob Kerrey, Robert Byrd, Howell Heflin, John Breaux, George Mitchell, Howard M. Metzenbaum, J. Lieberman, J.R. Biden, Jr., F.R. Lautenberg, Jim Sasser, Slade Gorton, Warren B. Rudman, Phil Gramm, Connie Mack, Jake Garn, Frank H. Murkowski.

Danforth
Dole
Domenici
Durenberger
Gorton
Gramm
Hatfield
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Pressler
Rudman
Seymour
Simpson
Smith
Thurmond
Wallop
Warner

NOT VOTING—9

Burdick
Garn
Gore
Hatch
Helms
Packwood
Roth
Stevens
Symms

CALL OF THE ROLL

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

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 776, an act to provide for improved energy efficiency, shall be brought to a close? The yeas and nays are required. The clerk will now call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 58, nays 33, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—58

Adams	Fowler	Moynihan
Akaka	Glenn	Nickles
Baucus	Graham	Nunn
Bentsen	Grassley	Pell
Biden	Harkin	Pryor
Bingaman	Heflin	Reid
Boren	Hollings	Riegle
Bradley	Inouye	Robb
Breaux	Johnston	Rockefeller
Bryan	Kennedy	Sanford
Bumpers	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Conrad	Kohl	Shelby
Cranston	Lautenberg	Simon
Daschle	Leahy	Specter
DeConcini	Levin	Wellstone
Dixon	Lieberman	Wirth
Dodd	Metzenbaum	Wofford
Exon	Mikulski	
Ford	Mitchell	

NAYS—33

Bond	Chafee	Cohen
Brown	Coats	Craig
Burns	Cochran	D'Amato

The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 33. Three-fifths of the Senators duly chosen not having voted in the affirmative, the motion is not agreed to.

Under the previous order, the next order of business is the vote on final passage of S. 2877, as amended. The yeas and nays have been ordered. The clerk will call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to ask the majority leader a question before we have the vote.

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

Mr. JOHNSTON. Mr. President, despite the best efforts of the majority leader and those of us who are trying to pass this bill seems to be the victim of what is being called gridlock across America. I wonder if the majority leader has any idea about where we might go from here. Do we reconsider this at some time or do we abandon the energy bill? I am wondering if the majority leader has some advice for us.

Mr. MITCHELL. Mr. President, I am disappointed that we were not able to obtain cloture on the motion to proceed to this bill. I think it is a very important measure. It contains a large number of provisions that are desirable and in the national interest.

To answer the specific question raised, it is not my intention to abandon the bill, but, rather I think it now best if the distinguished chairman of the committee, myself and other interested Senators meet to consult and attempt to determine the best course of action with respect to the bill.

Mr. JOHNSTON. I wonder, Mr. President, if I may ask whether there is any hope that those who are working on the so-called Rockefeller amendment might be able to resolve that tonight and we might bring the bill back tomorrow and perhaps finish it up at that time.

Mr. WALLOP. Mr. President, will the majority leader yield?

Let me just say that we worked in Senator BYRD's office. We were not able to get to that conference until 5:30. We worked right up until the moment that the vote was called. And in that process we were very close.

There are not many things that need to be resolved. There is a scoring problem on one of the resolutions that we thought we had. It seems to me that with a good-faith effort we can get finished so we can proceed to the bill.

I regret, more than the majority leader because I think there is more in this bill that I like than he likes, that we were unable to do that. But I think it is important that we resolve this tax issue, that is, tax applied to people to satisfy an obligation which was incurred by people other than themselves. We are trying to solve the problem in a way that is equitable.

The problem is rather simple. There are some families and miners in this country who were, or thought they were beneficiaries of contracts. Their companies now no longer exist or their companies have abandoned or pulled out of union contracts, one thing and another, and those are people whose concern is shared by Senator ROCKEFELLER, Senator FORD, and myself. The other concern is whose obligation it is to satisfy it.

We think we are very close, we are trying hard, and I believe we will get it done.

Mr. JOHNSTON. I know the Senators are working hard, as this has been pending for 4 or 5 weeks, if I recall. I just wonder if they are going to meet again tonight and whether we might expect to be able to move tomorrow or is it some undetermined time next week when the next meeting is?

In other words, a lot of Senators are going to be heading out tomorrow unless we are going to be considering this bill, I guess.

Mr. DOLE. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Certainly.

Mr. DOLE. I want to underscore what the Senator from Wyoming has said. I was sort of an observer in the meeting in Senator BYRD's office. There was a lot of progress made. If we resolve it, there need not be any motion to proceed; we could proceed to the bill. It should not take long to pass it. We passed it once in the Senate 94 to 4. It has already been through this body one time. Hopefully, there would not be any amendments.

So I think with a little more patience and the good faith negotiations they were having in Senator BYRD's office with Senator ROCKEFELLER, Senator FORD, Senator WALLOP, and Senator BYRD, this could maybe be resolved by Monday.

Mr. JOHNSTON. I thank the Senators.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The Senate continued consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the yeas and nays have been ordered on final passage of the bill S. 2877, as amended. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK]

and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

On this vote, the Senator from Utah [Mr. HATCH] is paired with the Senator from Idaho [Mr. SYMMS]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Idaho would vote "nay."

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 2, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—89

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

NAYS—2

Mack Simon

NOT VOTING—9

Burdick	Hatch	Roth
Garn	Helms	Stevens
Gore	Packwood	Symms

So the bill (S. 2877), as amended, was passed, as follows:

S. 2877

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 "Interstate Transportation of Municipal Waste Act of 1992".

SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end thereof the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—

"(1)(A) Except as provided in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government, and an affected local solid waste planning unit, if such local solid waste planning unit exists under State law, a Governor may—

"(i) prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government; or

"(ii) with respect to landfills covered by the exception provided in subsection (b)(1), limit the amount of out-of-State municipal waste received for disposal at each such landfill in the State to an amount equal to the amount of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or twice the volume of the first six months of 1992, whichever is less, as determined by the Administrator in accordance with paragraph (4) of this subsection.

"(B) Prior to submitting a request under this section to prohibit or limit the disposal of out-of-State municipal waste, the affected local government and the affected local solid waste planning unit, if any, shall—

"(i) provide notice and opportunity for public comment concerning any such proposed request; and

"(ii) following notice and comment, take formal action upon any such proposed request at a public meeting.

"(C) A Governor may not exercise the authority granted under this section if such action would result in the violation of or failure to perform any provision of—

"(i) a written, legally binding contract that was lawfully entered into by the affected local government and which authorizes a landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government;

"(ii) a written, legally binding contract for disposal of municipal waste generated outside the jurisdiction of the affected local government that was in effect on (date of introduction) except to the extent that the actual amounts of municipal waste generated outside the jurisdiction of the affected local government received for disposal at the landfill or incinerator under such contracts exceed the amount imported under such contracts in 1991 or twice the volume of the first six months of 1992, whichever is less (this clause shall not apply after June 18, 1999, to the extent that such contract prevents a Governor from exercising the authority granted by paragraphs (2)(A)(i) and (3)); or

"(iii) a written, legally binding contract for disposal of municipal waste generated outside the jurisdiction of the affected local government that is consistent with, and was lawfully entered into after June 18, 1992, as the result of—

"(I) a host agreement; or

"(II) a written, legally binding, contract that was lawfully entered into by the affected local government and authorizes a landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government.

"(D) A Governor may require that contracts covered by (i), (ii), or (iii) of subparagraph (C) of this paragraph be filed with the State.

"(2) Except as provided in paragraph (1)(C), a Governor, of a State identified by the Ad-

ministrator in accordance with paragraph (4) of this subsection, as having received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991 may, with respect to landfills covered by the exceptions provided in subsection (b), beginning with calendar year 1993—

"(A) notwithstanding the absence of a request in writing by the affected local government and the affected local solid waste planning unit, if any—

"(i) limit the amount of out-of-State municipal waste received for disposal at each such landfill in the State to an annual amount equal to the amount of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or twice the volume of the first six months of 1992, whichever is less; and

"(ii) limit the disposal of out-of-State municipal waste at landfills that received, during calendar year 1991, documented shipments of more than one hundred thousand tons of out-of-State municipal waste representing more than 30 per centum of all municipal waste received at the landfill during the calendar year, by prohibiting at each such landfill the disposal of out-of-State municipal waste in annual volumes greater than 30 per centum of all municipal waste received at the landfill during calendar year 1991, and

"(B) if requested in writing by the affected local government and the affected local solid waste planning unit, if any, prohibit the disposal of out-of-State municipal waste in landfill cells that do not meet the design and locational standards and leachate collection and ground water monitoring requirements of State law and regulations in effect on January 1, 1992, for new landfills.

"(3) Except as provided in paragraph (1)(C) and in addition to the authorities provided in paragraph (1)(A) beginning with calendar year 1999, a Governor of any State which receives more than 1 million tons of out-of-State municipal waste, if requested in writing by the affected local government and the affected local solid waste planning unit, if any, may further limit the disposal of out-of-State municipal waste as provided in paragraph (2)(A)(i) by reducing the 30 per centum annual volume limitation to 20 per centum in each of calendar years 1998 and 1999, and to 10 per centum in each succeeding calendar year.

"(4)(A) Any limitation imposed by the Governor under subparagraph (A), of paragraph (2), shall be applicable throughout the State, shall not discriminate against any particular landfill within such State, and shall not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(B) In responding to requests by affected local governments under subparagraph (1)(A) of this subsection, and subparagraph (B) of paragraph (2), the Governor shall respond in a consistent manner that does not discriminate against any particular landfill within the State and does not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(5)(A) Any Governor who intends to exercise the authority provided in this paragraph shall, within sixty days after the date of enactment of this section, submit to the Administrator information documenting the amount of out-of-State municipal waste received for disposal in the Governor's State during calendar year 1991, and the first six months of calendar year 1992.

"(B) Upon receipt of such information, the Administrator shall notify the Governor of

each State and the public and shall provide a comment period of not less than thirty days.

"(C) Not later than sixty days after receipt of information from a Governor who intends to exercise the authority provided in this paragraph, the Administrator shall determine—

"(i) the amount of out-of-State municipal waste that was received at each landfill covered by the exceptions provided in subsection (b) for disposal in the State during calendar year 1991 and the first six months of calendar year 1992, and

"(ii) whether the State received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991.

The Governor of each State and the public shall receive notice of the determinations of the Administrator.

"(D) Not later than one hundred and twenty days after the date of enactment of this section, the Administrator shall publish a list of—

"(i) the amount of out-of-State municipal waste that was received at each landfill covered by exceptions provided in subsection (b) for disposal in the State during calendar year 1991 and the first six months of calendar year 1992 as determined in accordance with subparagraph (C), and

"(ii) the States identified by the Administrator under subparagraph (C) as having received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL WASTE.—Except as provided in subsection (a)(2), the authority to prohibit the disposal of out-of-State municipal waste provided under subsection (a) shall not apply to—

"(1) landfills in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State municipal waste; and

"(B) on the date of enactment of this section, are in compliance with all applicable State laws (including any State rule or regulation) relating to design and locational standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action;

"(2) proposed landfills that, prior to April 29, 1992, received—

"(A) an approval from the affected local government to receive at such landfill municipal waste generated outside the county or the State in which the landfill is located; and

"(B) a notice of decision from the State to grant a construction permit; or

"(3) incinerators in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State municipal waste;

"(B) are in compliance with applicable performance standards under section 129(a) of the Clean Air Act (42 U.S.C. 7429(a)) and applicable monitoring requirements under such section, and otherwise meet applicable requirements of section 129 of such Act; and

"(C) are in compliance with all applicable State laws (including any State rule or regulation) relating to facility design and operations.

"(c) LOSS OF AUTHORITY.—Notwithstanding the authority provided in subsection (a), after January 1, 1997, a Governor may not prohibit or limit the disposal of out-of-State municipal waste unless all operating municipal waste landfill cells in the State—

"(1) meet the design and locational standards that are applicable to landfill cells constructed on and after October 1993; or

"(2) are on enforceable schedules—

"(A) to stop receiving waste by January 1, 2000; and

"(B) to implement a closure plan.

"(d) DEFINITIONS.—As used in this section:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with state law.

"(3) With respect to a State, the term 'out-of-State municipal waste' means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal waste generated outside of the United States.

"(4) The term 'municipal waste' means refuse (and refuse derived fuel) generated by the general public and from residential, commercial, institutional, and industrial sources, consisting of paper, wood, yard wastes, plastics, leather, rubber, and other combustible materials and noncombustible materials such as metal and glass. Such term does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001 of this Act;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under sections 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or otherwise diverted from municipal waste and has been transported into the State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the proviso of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste as to physical and chemical state, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste;

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'host agreement' means a written, legally binding agreement, lawfully entered into between an owner or operator of a landfill or incinerator and an affected local government that (A) authorizes the landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government and (B) if executed after June 18, 1992, was available for public review and comment prior to execution."

SEC. 3. BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in subsections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992-1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and
(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

SEC. 4. STUDY OF INTERSTATE TRANSPORTATION OF NON-HAZARDOUS INDUSTRIAL WASTES.

(a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of non-hazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of non-hazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial non-hazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial non-hazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining or uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and

(5) solid waste regulated under subtitle C of the Resource Conservation and Recovery Act.

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

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

CHANGING OUR WAYS

Mr. CRANSTON. Mr. President, the Carnegie Endowment National Commission on America and the New World—an outstanding panel of academics, former senior government officials, and heads of international organizations—has just issued a remarkable report called, "Changing Our Ways."

I urge my colleagues to obtain a copy of this report and study it. It's available at the Brookings Institution here in Washington. It is a challenging document for us all.

The 90-page report, the product of 6 months solid work, concludes that as currently constituted, we are not prepared for the future.

In grappling with issues foreign and domestic, with the uncertainties of the moment and the dilemmas of the future, this Commission has concluded that simply altering our policies will not suffice.

Citing Albert Einstein's trenchant observation that, "The release of atom power changed everything except our way of thinking", the Commission declared that, "what troubled Einstein troubles us."

We have to change our "way of thinking." About what is important. About making the most of our third chance. About our engagement abroad and renewal at home. About the promise for a richer, cleaner, safer, and freer planet. Changing our ways, America can lead such a world into the 21st century.

The Commission declared that three fundamental principles should guide America:

First, our foreign policy must be founded on a renewal of our domestic strength; rebuilding our economic base is now our highest priority.

Second, our national interests require continued American leadership in the world; we must not retreat into neo-isolationism or protectionism.

Third, our leadership must be of a new kind—one that mobilizes collective action; few great goals can be reached without America, but America can no longer reach many of them alone.

The Commission advocates four broad objectives for the United States.

For a more prosperous America and a more prosperous world we must:

Adopt an aggressive strategy for economic revival at home that favors investment in the future over consumption for the moment;

Overall the international system of trade and finance, moving toward effective collective leadership by the major industrialized countries;

Renew our commitment to help poor nations; and

Invest in the future of former Communist countries.

For a more livable planet we must:

Increase our energy efficiency by significantly raising energy prices, lifting our performance toward that of other industrialized countries;

Give high priority to improving the environment through sustainable economic growth and ecological agreements;

Resume decisive American leadership in world population policy;

Develop a stronger multilateral approach toward humanitarian crises and migration; and

Combat our drug problem where it counts—at home.

For a safer world we must:

Remain the leading military power even as we significantly reduce our defense spending and overseas deployments;

Realign NATO and CSCE to deal with the new security problems and overseas deployments;

Strengthen the peacekeeping capacities of the United Nations and regional organizations;

Promote collective leadership by adding Japan and Germany as permanent members of the U.N. Security Council; and

Strive for a less militarized world by cutting in this decade global defense expenditures to half of their 1988 peak, reducing weapons of mass destruction and halting their proliferation.

For a freer world we must:

Practice at home what we preach abroad about liberty and justice; and

Build democracies through multilateral pressures and incentives;

The commission notes that—

These goals frequently overlap and tend to reinforce one another. The advance of democracy enhances prospects for peace. The promotion of cost-effective energy efficiency helps national security, economic growth and the environment. But our goals can clash as well. Rapid democratization can produce instability. Rapid adjustment to "greener" policies can disrupt industries.

The goals we have proposed will not be easily achieved. They will require sustained, unified national effort. We will have to make hard choices. As we go forward, the United States must be unsentimental in separating the essential from the desirable.

What is required is a fusion of our values and our needs. Now that the Cold War is over, America must not revert to a cycle of expansive idealism alternating with narrow self-interest—both, at heart, forms of unilateralism. It is time to build a consensus on new priorities.

I wholeheartedly endorse that sentiment:

It is time to build a consensus on new priorities.

The members of the commission brought widely varied backgrounds and experiences to their task. Each of them are renowned and respected. I ask unanimous consent that a list of the individuals who participated in the commission's deliberations, together with brief biographical summaries, be printed in the RECORD after my remarks.

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

THE CARNEGIE ENDOWMENT NATIONAL COMMISSION ON AMERICA AND THE NEW WORLD

Winston Lord, Chairman, former U.S. Ambassador to the People's Republic of China; former President of the Council on Foreign Relations, Inc.; former Director of U.S. State Department Policy Planning Staff.

Morton I. Abramowitz, President, Carnegie Endowment for International Peace; former U.S. Ambassador to Turkey and Thailand; former Assistant Secretary of State for Intelligence and Research.

C. Fred Bergsten, Director of the Institute for International Economics, Chairman of the Competitiveness Policy Council; former Assistant Secretary of the Treasury for International Affairs.

Stephen W. Bosworth, President, U.S.-Japan Foundation; former U.S. Ambassador to the Philippines and Tunisia; former Director of U.S. State Department Policy Planning Staff.

John Brademas, former President of New York University; former U.S. Congressman (D-Indiana).

Frank C. Carlucci, Vice Chairman of the Carlyle Group; former U.S. Secretary of Defense; former Assistant to the President for National Security Affairs.

Henry G. Cisneros, Chairman, Cisneros Asset Management Company and Cisneros Benefit Group; Deputy Chairman of the Federal Reserve Bank of Dallas; former Mayor of San Antonio, Texas; former President of the National League of Cities.

Barber B. Conable, Jr., former President of the World Bank and Distinguished Professor, University of Rochester; former U.S. Congressman (R-New York).

Admiral William J. Crowe, Jr., former Chairman of the Joint Chiefs of Staff and former Commander-in-Chief, U.S. Pacific Command.

John Deutch, Institute Professor, Massachusetts Institute of Technology; former Provost, MIT; former Undersecretary of the U.S. Department of Energy.

Thomas R. Donahue, Secretary-Treasurer, AFL-CIO; former Assistant Secretary for Labor-Management Relations, U.S. Department of Labor.

Daniel J. Evans, Chairman, Daniel J. Evans Associates; former United States Senator; former Governor, state of Washington.

Craig J. Fields, President and CEO of the Microelectronics and Computer Technology Corporation; former Director of the Defense Advanced Research Projects Agency (DARPA).

Richard N. Gardner, Henry L. Moses Professor of Law and International Organization at Columbia University; of Counsel, Coudert Brothers; former United States Ambassador to Italy; former Deputy Assistant Secretary of State for International Organization Affairs.

David R. Gergen, Editor-at-Large for *U.S. News and World Report*; political commentator for "The MacNeil/Lehrer Newshour." former Communications Director in the White House.

William Gray, President, United Negro College Fund; former U.S. Congressman (D-Pennsylvania).

Richard Holbrooke, Managing Director, Lehman Brothers; former Assistant Secretary of State for East Asian and Pacific Affairs.

James T. Laney, President of Emory University; former Dean, Candler School of Theology, Emory University.

Jessica T. Mathews, Vice President of the World Resources Institute and columnist for *The Washington Post*; former Director of the Office of the Global Issues on the staff of the National Security Council.

Alice M. Rivlin, Senior Fellow of the Brookings Institution; former Director of the Congressional Budget Office (CBO) and Assistant Secretary for Planning and Evaluation in the U.S. Department of Health, Education, and Welfare.

Paula Stern, President of the Stern Group; former Chairwoman and Commissioner of the International Trade Commission (ITC); former Senior Associate, Carnegie Endowment for International Peace.

Richard N. Perle, Resident Scholar, the American Enterprise Institute for Public Policy Research; former Assistant Secretary of Defense for International Security Policy.

James R. Schlesinger, Counselor for the Center for Strategic and International Studies; Chairman of the Mitre Corporation and Senior Advisor, Lehman Brothers; former U.S. Secretary of Energy; former U.S. Secretary of Defense; former Director, Central Intelligence Agency.

Richard N. Perle and James R. Schlesinger participated in the deliberations of the Commission but chose not to associate themselves with the report.

Bill Moyers and Condoleezza Rice were original members of the Commission. Their schedules precluded their participation.

Mr. CRANSTON. I yield the floor.

SIGNING OF THE HIGHER EDUCATION ACT

Mr. BINGAMAN, Mr. President, I am very pleased that today the President signed into law the Higher Education Amendments of 1992. To reauthorize this bill took an enormous amount of work, and I wish to thank all those in both the House and the Senate who have made this signing possible today. I would especially like to thank Senators PELL, KENNEDY, KASSEBAUM, and HATCH for their leadership in guiding this process to its successful conclusion.

After more than a year and a half of gathering information and negotiating provisions, we have made a major statement with regard to our commitment to and investment in postsecondary education in this country. There are many aspects of this bill that are noteworthy, but I would like to highlight only a few.

Clearly, one of the most historic provisions of this bill is the Direct Student Loan Pilot Program with 35 per cent of the pilot institutions offering

an income contingent repayment option to their student borrower. This provision, more than any other aspect of the amendments, focuses on the growing needs of middle-income families to pay for the college education of their children. The students of the middle class and nontraditional students were the primary focus of Senator BRADLEY's proposed legislation, The Self-Reliance Loan Program. As an original cosponsor of that legislation I believe, as Senator BRADLEY did, that there had to be an alternative way for families from the middle class and families of nontraditional students to finance a college education. I commend Senators BRADLEY, SIMON, and DURENBERGER for their efforts to legislate an innovative alternative to financing postsecondary education. Access to a college education is vitally important to our country's future. This provision will allow hundreds of thousands of students who were ineligible for guaranteed student loans to obtain financing to pursue a college education or postsecondary training.

Other aspects of major importance are the simplification provisions for applying for student aid such as a single needs analysis for all Federal student aid programs, elimination of several elements from needs analysis, necessary notification to the student when his or her loan is sold, and a reduction in the number of loan deferment categories as well as a free Federal form. Having reviewed previous student aid forms, I can sympathize with any family that has had to go through this process, and I will be very thankful to the committee for these provisions when my own son applies to college in a few years.

An issue of serious concern was the fraud and abuse in the current student loan program. This year alone there will be \$3.2 billion in unpaid student loans. This act has many excellent provisions for increasing the availability and integrity of Federal student aid programs. However, the one area of the bill which I believe should be stronger is institutional integrity. While many strides were taken to ensure that only quality institutions participate in the Federal student aid programs, we did not go far enough to tighten State licensing standards.

Over the past several years, the Guaranteed Student Loan [GSL] Programs have been spotlighted in Federal and State investigations and reports, lawsuits, and newspaper and television exposés because of fraud and abuse. Most the horror stories have arisen from unscrupulous schools that exploit students to gain access to Federal student loan dollars. During the many hearings held over the past 4 years by Congressional Education and Investigative Committees and the Department of Education, witnesses came forth to ask for stringent guidelines for State

licensing. Even organizations representing State education officials asked for Federal government leadership in this area.

The Senate bill contained provisions requiring States to implement licensing standards and requirements which should be the first step in the process. They should ensure consumer protection. They should guarantee that the citizens of the State who become students of its institutions will not be exploited and that the institutions meet all State laws.

Unfortunately, the State licensing standards were not included in the final version of the bill. However, many of the sensible requirements for schools that were in the Senate provisions were included as requirements for schools to participate in Federal student aid programs. States must now create State boards to review institutions. The Secretary of Education has the right to direct these boards to review schools that appear to have problems or are failing to serve students appropriately.

I am concerned, however, that these boards do not have the authority to act on their own to initiate reviews. In the past the Department of Education has been the last to recognize problems with schools. State agencies and officials working on the front lines are the first to know when there are problems and they should be allowed to act whenever a school fails to meet minimum standards. They should not have to wait many weeks, months, or even longer until the Department of Education recognizes the problem before they can act. While the boards are waiting for information from Washington, students will be exploited and precious Federal student aid dollars will be squandered.

I was very pleased that in title V—educator recruitment, retention and development—of the act we were able to incorporate several new programs to encourage talented individuals to pursue teaching careers. I have been actively involved in legislation to recruit teachers, particularly minority and women teachers, in high needs areas as well as legislation with respect to education standards. The provisions in the act focus on improving the quality of the Nation's teachers by increasing the number of available fellowships for teachers, increasing the number of minorities and nontraditional students entering the teaching profession and improving teaching standards.

It is my belief that, in the future, we will need to work more closely with our Latin American neighbors in cooperative educational arrangements that benefit both us and our Latin American counterparts. I was pleased to see that another of my provisions was included allowing for Department of Education grants for the purpose of expanding cooperative education pro-

grams between State education agencies and offices, schools, and school systems, institutions of higher education, appropriate educational entities and private sector establishments involved in education between the United States and the Republic of Mexico.

I am especially pleased that an amendment I proposed to part (a) of title III of the act, creating a \$45 million grant program for Hispanic serving institutions was incorporated into the act. These institutions under this provision are high need colleges and universities enrolling significant numbers of low income Hispanic students. This provision provides funds to strengthen these institutions' capacities, facilities, faculty, and curriculum development, acquisition of scientific or laboratory equipment, purchase of library, periodical and other educational materials, academic tutoring, counseling programs, and student support services to better serve their students.

I firmly believe that education reform should be a major priority of everyone in this country. This act goes a long way to address some of the major issues confronting our educational system. This act expands access to education, creates new opportunities to finance a college education for many students, simplifies access to student aid, attempts to address the fraud and abuse in the current Student Loan Program, and enhances efforts to recruit teachers and to retain them. We will need to monitor what we have legislated and evaluate whether or not our legislation addresses the concerns they were meant to address adequately. As we monitor and evaluate the post-secondary Federal programs we will also have to address in pending legislation the many concerns in the elementary and secondary schools which educate and prepare the students for college and for work. This is only the very beginning of the overall systemic changes that will be needed to address the concerns of our education system and the impact that our education system has with respect to our overall competitiveness in the international arena.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER TO PROCEED TO CONSIDERATION OF S. 3026

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate begin consideration of S. 3026, the Commerce, State, Justice appropriations bill on Monday July 27, at 2 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 101-549, appoints Mr. John Doull, of Kansas, to the Risk Assessment and Management Commission.

THE PACIFIC YEW ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3836, the Pacific Yew Act, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; further that any statements relating to this measure be placed in the RECORD at an appropriate place; further, I ask unanimous consent that Calendar No. 528, S. 2851, the Senate companion measure, be indefinitely postponed.

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

So, the bill (H.R. 3836) was deemed read three times and passed.

PACIFIC YEW ACT

Mr. JOHNSTON. Mr. President, on July 1, the Committee on Energy and Natural Resources unanimously reported S. 2851, the Pacific Yew Act, as amended. The amended legislation incorporates a number of primarily minor and technical suggestions made by the administration during a hearing the committee held on June 24 as well as other suggestions the committee received. These changes include amendments the House incorporated in House companion legislation, H.R. 3836, which was approved by that body on July 7. The House-passed bill and the Committee-reported bill are essentially the same.

This important legislation will improve the management of the Pacific yew—*taxus brevifolia*—a bush-like tree which grows wild in some of the forests of the Western United States from central north California to the southeastern tip of Alaska. It is most abundant in the moist areas of Oregon, and has also been found in some areas of Idaho and Montana. The bark of this tree is the source of taxol, one of the most promising drugs used to treat ovarian cancer.

Ovarian cancer is the fourth most frequent cause of cancer mortality in women. About 1 in every 70 women will

develop cancer of the ovary and 1 in 100 will die from this disease. An estimated 20,700 cases of ovarian cancer were diagnosed in 1991, and approximately 12,500 deaths were attributed to it last year.

Right now, there is no diagnostic method accurate enough to be used for routine screening in women who experience no symptoms. Because most women have no symptoms in the early stages of this form of cancer, most women have widespread disease by the time it is diagnosed. Only 39 percent of women diagnosed with ovarian cancer survive 5 years.

Taxol was first subject to clinical trials in 1983, and the results are very encouraging. Previously treated ovarian cancer patients have experienced a remission rate of about 30 to 35 percent. Indeed, many believe taxol may be effective in treating a number of other cancers including breast, lung, and colon cancer as well as childhood leukemias. Initial studies in women with advanced breast cancer, for example, have shown a response rate of about 50 percent. No one has been cured, but it is fair to say that many experts believe taxol may be one of the most important anticancer agents discovered in the last decade.

One of the major problems in taxol development is the difficulty faced in obtaining sufficient quantities of the drug. The sole current source of taxol for human use is the bark of the Pacific yew. Collecting the bark is a labor-intensive, time-consuming process. The slow-growing yew reaches a height of about 30 feet and a diameter of 8 to 10 inches and most commonly is found in old growth forests, scattered among the Douglas fir and other giants, in shady moist areas. Although not considered rare, except in a few locations the yew is also not a dominant species and can be difficult to locate. It is believed that there are approximately 23 million yew dispersed across some 11.5 million acres of National Forest System lands and some 6.5 million yew scattered across 2.1 million acres of Bureau of Land Management lands. Once found, current harvesting technique requires that the tree be cut and the bark stripped from the tree. There is no clearcutting of the yew, given the scattered nature of its distribution, and the remaining stump often resprouts and produces another tree.

Progress is being made in increasing the number of yew available for use in the production and development of taxol. Significant efforts are now underway to propagate Pacific yew from branch-tip cuttings in nursery-like settings at the Coeur d'Alene, ID, Carson, WA, and Chico, CA Forest Service facilities as well as BLM's Horning Tree and Seed Orchard at Colton, OR. The long-term success of these efforts however has yet to be demonstrated. In ad-

dition, Bristol-Myers Squibb, under contract with Weyerhaeuser, has planted over 4 million yew trees with plans to plant an additional 10 million trees this year on various privately owned lands under nursery-like conditions. It is expected that these seedlings will grow into a 2 or 3 foot tree within 2 to 3 years, and will be available for processing into taxol at that time. Important research efforts are also being undertaken to try to extract taxol from other parts of the yew—such as yew needles and from other varieties of yew found outside the Pacific Northwest—and to produce taxol through cell cultures. I would also note that great strides have been made in trying to develop a synthetic version of taxol, a process which is very difficult because of the complexity of the molecule.

We all hope that the efforts underway to find alternate and renewable sources of taxol will have positive results very soon, but for the next 2 to 3 years, according to the National Cancer Institute, the only source we are likely to have is the bark of the Pacific yew. Moreover, because a product produced from needles or synthetically must meet good manufacturing practices to be approved for human use and an infrastructure for production and distribution put into place in the case of a synthetic, it is expected that we will continue to need bark from the Pacific yew for the next 4 or 5 years.

I would also point out that the demand for taxol is expected to increase significantly when the new drug application [NDA] is approved, perhaps as soon as early next year. Therefore it is necessary that we make every effort to improve forestry management and assure that we do not waste this lifesaving resource.

This legislation will make sure that Pacific yew trees are fully harvested before commercial loggers enter Federal lands. Steps have been taken administratively to improve harvesting practices but more remains to be done. Since about 50 percent of the bark used to extract taxol comes from trees on Federal lands, this legislation is particularly important.

In addition, once the NDA is approved and taxol becomes available commercially, the bark must be sold. Currently, the bark is provided to the manufacturer—which was selected by a competitive process—through a Cooperative Research and Development Agreement [CRADA] as authorized by the Federal Technology Transfer Act. This bill will allow it to be sold, consistent with current requirements for commercial applications.

This bill also contains important provisions to help conserve the yew. It takes the bark of approximately three mature trees to supply enough taxol for one patient for one year, and we must make sure that we conserve this resource for future patients until alter-

native sources are available. Therefore, section 4 requires an inventory of the Pacific yew on Federal lands, and section 5 requires research to be undertaken on the ecology of the yew, utilizing other parts of the tree to extract taxol, research on other yew species, and also provides for a propagation program in both agricultural and commercial settings.

I believe this bill will help us use this resource wisely by maximizing the availability of the yew bark while making sure that sufficient numbers of yew remain available for the future. It is critical that we do so if we are to meet the demands for taxol from many cancer patients who have no other hope right now.

I strongly support this legislation and believe it will ensure that yew bark is not wasted, and that the availability of taxol for cancer patients, whose very life may depend on access to this drug, is expedited.

I urge my colleagues to support this measure, and the Senate to adopt it.

RELIEF OF MARY P. CARLTON AND LEE ALAN TAN—S. 295

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 295.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 295) entitled "An Act for the relief of Mary P. Carlton and Lee Alan Tan", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. IMMEDIATE RELATIVE STATUS FOR MARY P. CARLTON AND LEE ALAN TAN.

(a) IN GENERAL.—Subject to subject (b), for the purposes of the Immigration and Nationality Act, Mary P. Carlton, the widow of a citizen of the United States, and Lee Alan Tan, the stepchild of a citizen of the United States, shall be considered to be immediate relatives within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in these cases.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if Mary P. Carlton applies to the Attorney General, on behalf of herself and Lee Alan Tan, for adjustment of status pursuant to such subsection within 2 years after the date of the enactment of this Act.

(c) ADJUSTMENT OF STATUS.—Mary P. Carlton and Lee Alan Tan shall be considered to have been lawfully admitted to the United States, and be eligible for processing, for purposes of adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(d) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Mary P. Carlton and Lee Alan Tan shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the Senate concurred in the amendment of the House. Mr. DOLE. I move to lay that on the table.

The motion to lay on the table was agreed to.

RELIEF OF THE PARINI FAMILY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3289, a bill for the relief of members of the Parini family, received earlier today from the House, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

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

So, the bill (H.R. 3289) was deemed read three times and passed.

ORDER FOR STAR PRINT—REPORT NO. 102-320, TO ACCOMPANY S. 2864

Mr. MITCHELL. Mr. President, I ask unanimous consent that Report No. 102-320 to accompany S. 2864, the Export Enhancement Act, be star printed to reflect the changes I now send to the desk.

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

MESSAGES FROM THE HOUSE

At 11:08 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.

At 5:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that it has passed the following bills and joint resolution:

H.R. 2735. An act to make miscellaneous changes in the tax laws;

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini;

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; and

H.J. Res. 502. An act disapproving the extension of non-discriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

The message also announced that the House has passed the following bill, with amendments; in which it requests the concurrence of the Senate:

H.R. 2607. An act to authorize the activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times, and referred as follows:

H.R. 2735. An act to make miscellaneous changes in the tax laws; to the Committee on Finance;

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Finance; and

H.J. Res. 502. An act disapproving the extension of non-discriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times, and placed on the Calendar:

H.R. 1435. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior; and

S. 3008. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3644. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1991; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3645. A communication from the Acting Comptroller of the Department of Defense, transmitting, pursuant to law, reports of violation of section 1517 of title 31, United States Code; to the Committee on Appropriations.

EC-3646. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 404 of title 37, United States Code, to make a technical correction to ensure the continued intent of travel and transportation allowance entitlements with the dissolution of the Military Airlift Command and inception of the Air Mobility Command; to the Committee on Armed Services.

EC-3647. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on United States costs in the Persian Gulf conflict and foreign contributions to offset such costs; to the Committee on Armed Services.

EC-3648. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on transportation security; to the Committee on Commerce, Science, and Transportation.

EC-3649. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3650. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the development of a uniform needs assessment instrument; to the Committee on Finance.

EC-3651. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the establishment of an International Criminal Court; to the Committee on Foreign Relations.

EC-3652. A communication from the Archivist of the United States, transmitting, pursuant to law, a report on the offer to buy original documents that may have once been in the congressional files; to the Committee on Governmental Affairs.

EC-3653. A communication from the Secretary of the United States Postal Rate Commission, transmitting, pursuant to law, a report on a petition to the United States Postal Rate Commission requesting the Commission to initiate a rulemaking proceeding; to the Committee on Governmental Affairs.

EC-3654. A communication from the Chairman of the United States Railroad Retirement Board, transmitting, pursuant to law, the annual report on the financial status of the railroad unemployment insurance system; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes (Rept. No. 102-329).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2896. A bill to authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes (Rept. No. 102-330).

By Mr. HOLLINGS, from the Committee on Appropriations, without amendment:

S. 3026. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-331).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 3031. An original bill to reauthorize housing and community development programs, and for other purposes (Rept. No. 102-332).

By Mr. ADAMS, from the Committee on Appropriations, with amendments:

H.R. 5517. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-333).

By Mr. BUMPERS (for Mr. BURDICK), from the Committee on Appropriations, with amendments:

H.R. 5487. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-334).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 225. A bill to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia (Rept. No. 102-335).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 684. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes (Rept. No. 102-336).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1704. A bill to improve the administration and management of public lands, National Forests, units of the national Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands (Rept. No. 102-337).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2563. A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes (Rept. No. 102-338).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 3051. An original bill to grant a right of use and occupancy of a certain tract of land in Glacier National Park to Gerald R. Robinson, and for other purposes (Rept. No. 102-339).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1216. A bill to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes (Rept. No. 102-340).

H.R. 2790. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes (Rept. No. 102-341).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. KASTEN, Mr. KOHL, Mr. WELLSTONE, Mr. BURDICK, and Mr. PRESSLER):

S. 3011. A bill to equalize the minimum adjustments to prices for fluid milk under milk

marketing orders, to require the Secretary of Agriculture to study the solids content of beverage milk, and to provide for a manufacturing allowance for milk under the milk price support program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR:

S. 3012. A bill to amend title 10, United States Code, to limit the amount expended by the Department of Defense for the recruitment of persons for accession into the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3013. A bill to suspend temporarily the duty on Pentostatin; to the Committee on Finance.

S. 3014. A bill to suspend until January 1, 1995, the duty on certain thermosetting polyimide resins; to the Committee on Finance.

S. 3015. A bill to suspend temporarily the duty on 5-(N,N-dibenzylglycyl)-salicylamide, 2-(N-benzyl-N-tert-butylamino)-4'-hydroxy-3'-hydromethylacetophenone hydrochloride, flutamide, and loratadine; to the Committee on Finance.

S. 3016. A bill to provide for additional extension periods, not exceeding 2 years in the aggregate, in the time allowed for reexportation of certain articles admitted temporarily free of duty under bond; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3017. A bill to extend the temporary reduction of duty on caffeine; to the Committee on Finance.

By Mr. DECONCINI:

S. 3018. A bill to extend the temporary suspension of import duties on cantalopes; to the Committee on Finance.

By Mr. SPECTER:

S. 3019. A bill to strengthen the international trade position of the United States; to the Committee on Finance.

By Mr. MCCONNELL:

S. 3020. A bill to repeal the prohibition in the District of Columbia on individuals carrying self defense items such as MACE; to the Committee on Governmental Affairs.

By Mr. SPECTER:

S. 3021. A bill to suspend until January 1, 1995, the duty on n-butylisocyanate; to the Committee on Finance.

S. 3022. A bill to suspend until January 1, 1995, the duty on 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide with application adjuncts; to the Committee on Finance.

S. 3023. A bill to suspend until January 1, 1995, the duty on p-nitrobenzyl alcohol; to the Committee on Finance.

S. 3024. A bill to suspend temporarily the duty on certain mounted television lenses; to the Committee on Finance.

By Mr. BROWN:

S. 3025. A bill to amend the Harmonized Schedule of the United States to extend the temporary suspension of the duties on certain infant nursery intercoms and monitors; to the Committee on Finance.

By Mr. HOLLINGS:

S. 3026. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. AKAKA (for himself and Mr. INOUE):

S. 3027. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the

dollar limitations on the dependent care credit; to the Committee on Finance.

By Mr. D'AMATO:

S. 3028. A bill to suspend until January 1, 1995, the duty on certain glass articles; to the Committee on Finance.

S. 3029. A bill to provide for a temporary suspension of duty for certain glass articles; to the Committee on Finance.

S. 3030. A bill to extend until January 1, 1997, the existing suspension of duty on certain infant nursery intercoms and monitors; to the Committee on Finance.

By Mr. RIEGLE:

S. 3031. An original bill to reauthorize housing and community development programs, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. BRYAN (for himself and Mr. REID):

S. 3032. A bill to extend the temporary suspension of duty on three-dimensional cameras; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 3033. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolex; to the Committee on Finance.

S. 3034. A bill to suspend temporarily the duty on Procaine Penicillin G (Sterile and Nonsterile); to the Committee on Finance.

S. 3035. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. KOHL):

S. 3036. A bill to extend until January 1, 1995, the existing suspension of duty on 6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. BREAU):

S. 3037. A bill to reliquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

By Mr. KOHL:

S. 3038. A bill to extend the temporary suspension of duty for certain timing apparatus; to the Committee on Finance.

By Mr. DANFORTH:

S. 3039. A bill to extend until January 1, 1996, the existing suspension of duty on triallate; to the Committee on Finance.

By Mr. SPECTER:

S. 3040. A bill to suspend until January 1, 1995, the duty on cyclohexylisocyanate; to the Committee on Finance.

By Mr. BENTSEN:

S. 3041. A bill to amend the Internal Revenue Code of 1986 to establish a national commission on private pension plans; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. DANFORTH):

S. 3042. A bill to suspend until January 1, 1995, the duty on DMAS; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, and Mr. LAUTENBERG):

S. 3043. A bill to extend the existing suspension of duty on corned beef in airtight containers; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3044. A bill to suspend until January 1, 1995, the duty on Pyrrolo (3,4-C) Pyrrole-1, 4-Dione, 2,5-Dihydro 3,6-Diphenyl; to the Committee on Finance.

S. 3045. A bill to extend until January 1, 1995, the existing suspensions of duty on tartaric acid, potassium antimony tartrate, and potassium sodium tartrate; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. DODD, Mr. SANFORD, and Mr. LEVIN):

S. 3046. A bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. LOTT) (by request):

S. 3047. A bill to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

By Mr. BOND:

S. 3048. A bill to suspend temporarily the duties on Pentotretotide; to the Committee on Finance.

By Mr. DURENBERGER:

S. 3049. A bill to suspend temporarily the duty on Bisphenol AF; to the Committee on Finance.

S. 3050. A bill to suspend temporarily the duty on capillary membrane material; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3051. An original bill to grant a right of use and occupancy of a certain tract of land in Glacier National Park to Gerald R. Robinson, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. BOREN:

S. 3052. A bill to extend for 3 years the existing suspension of duty on stuffed dolls and the skins thereof; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 3053. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Finance.

By Mr. BRYAN:

S.J. Res. 327. A joint resolution to designate October 8, 1992, as "National Firefighters Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SANFORD (for himself and Mr. SIMON):

S. Res. 326. A resolution to express the sense of the Senate that a National Institutes for the Environment should be established; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. KASTEN, Mr. KOHL, Mr. WELLSTONE, Mr. BURDICK, and Mr. PRESSLER):

S. 3011. A bill to equalize the minimum adjustments to prices for fluid milk under milk marketing orders, to require the Secretary of Agriculture to study the solids content of beverage milk, and to provide for a manufacturing allowance for milk under the milk price support program, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

MIDWEST DAIRY EQUITY ACT

Mr. DURENBERGER. Mr. President, I rise today to introduce a bill very im-

portant to the dairy farmers of the Upper Midwest and, as a matter of fact, I would not be doing this if I did not think it was also extremely important to dairy farmers and consumers of dairy products, particularly milk, throughout the United States of America. S. 3011, the Midwest Dairy Equity Act put forth what I believe is a fair deal for all dairy farmers in every area of the United States.

But, more importantly, this bill sends a signal to the Department of Agriculture that their time to act is up. The Congress gave the USDA until January 1, 1992, to make recommendations for milk marketing order reform. Despite thousands of pages of testimony from the dairy industry, at hearings around the Nation, USDA refused to offer any proposals for change. It is now time for Congress to bring fairness to our dairy farmers.

Federal milk marketing orders were authorized by Congress in the late 1930's as a way to establish pricing and other conditions to ensure that an adequate supply of fresh fluid milk was available in all parts of this country and to establish fair prices for producers. In the 1930's those were good objectives and the orders were good tools. However, 60 years of improvement in transportation, refrigeration and other things in this country has made the milk marketing orders of 1930's obsolete.

The General Accounting Office and the U.S. Department of Agriculture have also criticized the Federal milk marketing order as being outdated, yet no one has been able to act. The 1990 farm bill gave hope that the Midwest dairy producers would finally be able to compete with farmers in other areas of the country, the promise that the dysfunction in the Nation's milk market would be removed.

The Congress and the Department of Agriculture know what farmers need. They need fair milk prices, and so do the consumers of this Nation. This bill S. 3011 will accomplish that.

The Midwest Dairy Equity Act would level the playing field for all dairy producers and assure farmers a fair policy for milk that is sold for fluid beverage use.

What the bill does is first take the class I price differential paid to farmers for fluid milk and set it at a flat \$1.80 per hundredweight in all milk orders. This would eliminate the unfair advantage the farmers in Southern region have over Midwest producers. This is what makes the whole market dysfunction. Dairy farmers in southern Florida today receive \$4.18 per hundredweight differential to Minnesota's \$1.20 per hundredweight.

The second thing we do, a minimum price of \$13.20 per hundredweight is set for fluid beverage milk. The price difference between \$13.20 and the market price for milk used for manufacturing

would be deposited into a national pool. The national pool of funds would then be equally distributed to dairy farmers in all regions of the country. This would protect farmers from the huge swings in dairy prices that have forced so many farmers off the farm in the past 10 years.

Lastly, the Midwest Dairy Equity Act provides for a study of increasing the protein levels of milk through fortification with nonfat dry milk. There are many in the dairy industry who believe that fortified milk would be better tasting for consumers and more profitable for dairy producers.

The bill also increases the USDA manufacturing allowance for cheese to \$1.52 per hundredweight, and \$1.37 per hundredweight for nonfat dry milk. This provision will help put the midwest dairy processors on an equal ground with competitors in California and other areas of the country.

The Midwest Dairy Equity Act is supported by Land O'Lakes, Minnesota Milk Producers, Associated Milk Producers Incorporated-North Central Region, and the Farmers Union Milk Marketing Cooperative.

Mr. President, this bill sends a clear message to the USDA that they have failed to address the number one concern of dairy farmers—Federal milk marketing order reform. Just as important, the USDA has failed to carry out the direction Congress gave it in the 1990 farm bill.

This bill, the Midwest Dairy Equity Act, provides a fair price and a level playing field for farmers across the United States. I encourage my colleagues to join with me in support of this bill.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

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

S. 3011

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 shall be known as the "Midwest Dairy Equity Act".

SEC. 2. EQUALIZATION OF MINIMUM PRICE ADJUSTMENT FOR CLASS I MILK FOR ALL MARKETING AREAS.

(a) USE OF SAME PRICE.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—
(A) in the third sentence—
(i) by striking "Throughout" and all that follows through "order involved), the" and inserting "The"; and

(ii) by striking "on the date" and all that follows through the end of the table in that sentence and inserting "shall be the same for each marketing area subject to an order and shall be \$1.80 per hundredweight of milk having 3.5 percent milkfat, with a transportation surcharge determined by the Secretary to compensate handlers for the actual cost of moving milk within and between orders."; and

(B) by striking the fourth sentence; and
(2) by adding at the end the following new paragraph:

"(M)(i) Providing that the basic formula price used for the purpose of computing the price of Class I milk under milk marketing orders issued pursuant to this section may not be less than \$13.20 per hundredweight."

"(ii) Notwithstanding any other provision of law, the Secretary—

"(I) shall provide for the uniform national pooling among producers of milk in all milk marketing orders of all funds that represent the difference between the price of Class I milk as determined under this paragraph and the price of Class I milk as determined without regard to this paragraph;

"(II) shall distribute the funds to all persons who are producers under any milk marketing order at a uniform rate per hundredweight; and

"(III) is authorized to make such temporary modifications in the operation of milk marketing orders as are necessary to carry out this paragraph."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

SEC. 3. STUDY OF SOLIDS CONTENT OF BEVERAGE MILK.

(a) **FINDINGS.**—Congress finds that current standards for milk solids not fat contained in class I milk for fluid use produced in geographic areas covered by milk marketing orders issued pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, are below the average levels of milk solids not fat contained in unprocessed fluid milk that is produced on farms of producers.

(b) **STUDY.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall—

(1) study the desirability and effects of fortifying class I fluid milk described in subsection (a) with additional nonfat solids, including consumer acceptance of fortifying the milk; and

(2) report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 4. MANUFACTURING ALLOWANCE.

Section 204(c) of the Agricultural Act of 1949 (7 U.S.C. 1446e(c)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) **MANUFACTURING ALLOWANCE.**—

"(A) **MINIMUM ALLOWANCE ESTABLISHED.**—For purposes of supporting the price of milk through purchases of the products of milk under this section, the Secretary shall establish—

"(i) the manufacturing allowance for milk manufactured into butter and nonfat dry milk at not less than \$1.37 per hundredweight of milk; and

"(ii) the manufacturing allowance for milk manufactured into cheese at not less than \$1.52 per hundredweight of milk.

"(B) **MANUFACTURING ALLOWANCE DEFINED.**—For purposes of this paragraph, the term 'manufacturing allowance' means an amount (determined for purposes of the price support program for milk) applied separately to milk manufactured into butter and nonfat dry milk and to milk manufactured into cheese that, when added to the support price

for milk, will enable a manufacturing plant of average efficiency in manufacturing these products to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this section when selling these products to the Commodity Credit Corporation.

"(C) **COSTS AND RETURNS REFLECTED IN ALLOWANCE.**—A manufacturing allowance shall reflect both the costs of manufacturing and selling products to the Corporation and the returns the plant receives from byproducts (other than whey solids pursuant to section 106 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e note)) not purchased by the Corporation.

"(D) **FACTORS ESTABLISHING THE VALUE OF MILK PRODUCTS PER HUNDREDWEIGHT.**—For purposes of supporting the price of milk through purchases of the products of milk, the Secretary may not take into consideration any factors establishing the value per hundredweight of milk of—

"(i) butter in excess of 4.48 pounds;

"(ii) nonfat dry milk in excess of 8.13 pounds;

"(iii) cheese in excess of 10.1 pounds;

"(iv) whey fat in excess of .25 pound; and

"(v) buttermilk solids in any amount.

"(E) **BENEFIT OF INCREASE FOR PRODUCERS.**—To the extent practicable, additional receipts that a manufacturing plant receives as a result of an increase in the manufacturing allowance under subparagraph (A) shall be passed through to producers supplying milk to the plant."

Mr. KOHL. Mr. President, I am proud to join my colleagues today in introducing the Midwest Dairy Equity Act. This bill makes needed changes to the Federal milk marketing order system and other aspects of the Federal dairy program.

To many, these issues may seem obscure. But to the dairy farmers in the upper Midwest, the promise of the future is clouded by the unfairness of the current milk marketing order system. These marketing orders are built on the assumption that the upper Midwest is the Nation's only source of extra fluid milk on a year-round basis. At one time, that was true. At this time, it is not.

When the marketing orders were designed, we needed to encourage two things: The movement of fluid milk from the upper Midwest to areas that didn't have enough supply, and increased production in those other areas. Now we don't need to encourage either. New technology and increased production in all geographic areas has created a new reality. And in this new reality there is no justification for a system that continues to reward milk production in some areas of the country by punishing production in our area. There is no justification for a Federal policy that gives producers in areas outside the upper Midwest higher prices for fluid milk. There is no justification for our failure to make policy reflect reality.

This bill simply provides consistency that is lacking in Federal dairy policy. For dairy products purchased by the Government, there is one uniform support price. However, for fluid milk the

Federal Government establishes wide variations in price throughout the country. These regional variations are no longer justified. We are attempting to level the playing field on the fluid milk side just as we have had on the dairy product side for many years.

In 1988, the General Accounting Office and USDA's Economic Research Service released separate reports on Federal milk marketing orders. Both reports concluded that the original justification for distance differentials for fluid milk pricing is no longer warranted. The GAO concludes that "the premises for milk pricing under Federal orders are outdated. A need no longer exists to encourage and maintain a locally produced supply of milk."

A number of us urged the Secretary of Agriculture to hold nationwide hearings on this issue. And in the fall of 1990, he did hear about the need for changes in market orders—especially the need to reform the use of distance differentials to determine the price of fluid milk. He heard about it—but he didn't do anything about it.

Then, last month, the Secretary held another set of hearings, this time on alternatives to the current Minnesota-Wisconsin pricing system. And there are some indications that he might decide to tinker with the current pricing system—but, once again, without addressing the marketing order system. If that is what he does, it will be a mistake. It makes no sense to make changes in the Minnesota-Wisconsin price series without also modifying the class I distance differentials. The two are inextricably linked, and have to be addressed simultaneously. To act on one without the other makes no sense. It would be like rearranging the deck chairs on a sinking ship and then asking the passengers to stop and enjoy the aesthetic improvements instead of running for the lifeboats.

This bill addresses the flaws in the current system, and other issues related to dairy policy, as well. First and most fundamentally, the bill would level the playing field for fluid milk by establishing uniform differentials across the country. Second, it would prevent disastrous price fluctuations in the fluid milk market by setting a minimum formula price for fluid milk. Third, the bill would require USDA to study issues regarding fortification of fluid milk with additional nonfat solids. And finally, it would assure that "make allowances" adequately reflect the cost of manufacturing dairy products.

Mr. President, we all hope that this legislation will force policymakers to rethink the role of the Federal milk marketing order system. It is a system which is based on out of date assumptions and it is putting too many of our farmers out of work. The bill suggests some of the changes that need to be

made. We are willing to work with other people who have other ideas. But the central idea that we all ought to agree on is simply this: the current system does not work, will not work, cannot work and must be changed. We cannot afford continued inaction and we cannot afford to continue to pit region against region. It is time to make some changes. And this legislation identifies many of the changes that need to be made.

Mr. DASCHLE. Mr. President, regional inequities in the Federal milk marketing order system are a particularly frustrating phenomenon for producers in South Dakota and other States in the Midwest. Under the order system, dairy farmers in our region receive nearly \$3 per hundredweight less for milk used for fluid consumption than producers in some parts of the country. This price disparity has contributed to a steady decline in the dairy industry in an area that has traditionally led the country in dairy production.

The 1990 farm bill directed USDA to conduct a series of hearings to review the Federal milk marketing order system. After a lengthy process, USDA essentially decided to follow the status quo. This was not a welcome outcome for producers in the upper Midwest. When USDA announced its package of limited reforms, Secretary Madigan expressed a desire to explore the question of whether more fundamental reform of the orders was needed, but it does not seem likely that USDA will take significant action in the near future. That is why my colleagues from upper Midwest, Republican and Democrat, have joined to introduce legislation that would address the primary complaints of the dairy industry in our region of the country.

Marketing orders play an important role in providing a stable milk supply in the country; however, the proposed changes in the orders that were recently announced by the Department have not adequately addressed the regional biases that currently exist in the marketing orders. While the Department's proposed rule on marketing orders does address some of the regional concerns of the upper Midwest, it completely ignores the question of class I price differentials. Current differentials are the result of a legislative mandate in the 1985 farm bill, not economics. The Department failed to react to, or comment on, evidence submitted by dairy interests from the Midwest that substantiated the contention that current differentials are having an adverse impact on the dairy industry in that region.

Unresponsiveness to regional concerns is not the only argument for a legislative response to the Department's decision on milk marketing orders. A proposal submitted by a coalition of upper Midwest industry groups

would have lowered class I differentials nationwide, resulting in tens of millions of dollars in savings to consumers. Last year, the administration proclaimed itself the champion of consumers by opposing dairy price support reforms on the grounds that consumer costs would increase. Ironically, consumer costs seem to have had little bearing on the Department's deliberation on milk marketing order reform.

This legislation would address Midwestern concerns regarding marketing orders in several ways. First, the class I price differential that is paid to producers for fluid milk consumption would be established at a uniform, nationwide level of \$1.80/ctw. This provision would ensure equitable treatment for producers in all regions of the country. Second, a minimum price of \$13/ctw would be established for milk used for bottling purposes. When milk prices for nonbottled milk fall below \$13/ctw, the price for bottled milk would remain at \$13/ctw. The price difference between \$13 and the market price for other types of milk would be deposited in a national pool from which uniform payments would be distributed to milk producers in all regions of the country. This provision would benefit producers in every part of the country by providing protection against seasonal price declines. The bill would also increase the manufacturing allowance allowed by USDA to cover the cost of manufacturing cheese, butter, and nonfat dry milk and direct USDA to report to Congress on the feasibility of fortifying fluid milk with nonfat powder.

These reforms are needed to return equity to the Federal milk marketing order system. I encourage my colleagues, whether they are from the Midwest or other parts of the country, to recognize the disparities that exist in the current system and join us in the effort to rectify them.

By Mr. PRYOR:

S. 3012. A bill to amend title 10, United States Code, to limit the amount expended by the Department of Defense for the recruitment of persons for accession into the Armed Forces of the United States; to the Committee on Armed Services.

LIMITATION OF DEPARTMENT OF DEFENSE
RECRUITING EXPENDITURES

Mr. PRYOR. Mr. President, I am today introducing legislation which will attempt to correct a disturbing trend from within the Pentagon that simply does not make sense. The \$2 billion Military Recruitment Program is out of touch with the realities of today, the realities of Pentagon cutbacks, and our bill will try to restore budgetary order in this area of military spending with regard to recruitment.

The cold war is over and our military is getting smaller; it is decreasing before our very eyes. Our total defense

employment; military, civil service, and contractor jobs are vanishing by an estimated rate of 1,000 jobs every day between now and 1997. The military alone is reducing its manpower by 25 percent. Some 500,000 military positions will be eliminated. As a result, we are literally begging people to leave the armed services. In addition, over 30 bases will be closed nationwide by 1995 with more to come.

Mr. President, 5 months ago, just days after the President submitted his fiscal year 1993 budget request, I asked a very simple question here in this chamber: How can we justify increasing the Pentagon's \$2 billion budget for recruiting young men and women to join the Armed Forces when, at the same time, we are paying large sums to people who promise to quit the military? My question was soon answered by none other than the distinguished chairman of the Senate Appropriations Committee, Senator ROBERT C. BYRD, who said, "This is an anomaly. It is juxtaposition of incongruous concepts. It does not make sense." I heartily agree with the distinguished President pro tempore of the Senate.

Mr. President, since 1989 our military has cut back the number of recruits who can join the military by 34 percent. What is amazing, however, is that while the military continued to seek fewer and fewer good men and women over the past 3 years, the recruiting budget hovered around \$2 billion. In fiscal year 1993, to recruit a projected 370,000 inductees, the Pentagon wants to spend just over \$2 billion. By my calculations, that comes to about \$5,700 per recruit. This includes active duty, reserve, enlisted, officer, prior-service and non-prior-service recruits. In 1989, the services brought in over 550,000 new recruits for about the same price tag of \$2 billion, or \$3,900 per recruit.

What is going on here? In 1989, we spent \$3,900 per recruit, and in 1993 we want to spend \$5,700 per recruit. Certainly we can do better. We must do better. The legislation I am introducing today would attempt to do so by allowing DOD to spend a maximum of \$4,700 per recruit in fiscal year 1993, and would adjust this figure by the Consumer Price Index for each year thereafter. It is my belief that the Department of Defense can run a more efficient recruiting operation without jeopardizing the quality of recruits who will serve in our Armed Forces. These budgets can be reduced without reducing the effectiveness of our military or its capacity to provide for our national security.

Mr. President, efficiency is the key. It is the buzz-word of the 1990's. All too often, our Government compromises the taxpayer's trust by assuming that bigger is better. How can our military recruiting program become more efficient? Mr. President, the possibilities are endless.

To start with, the taxpayer's \$2 billion supports a massive fleet of 31,000 recruiters who are spread out over 6,000 recruiting offices. These offices are on street corners and in shopping malls all across America. If you walked through the streets of many towns across the country, you would see a Navy recruiting office on one side of the street and a Marine Corps office on the other. Why not simply combine these offices, share the office space and supplies, and reduce the number of recruiters who operate and support these recruiting offices?

In addition, a large number of these 6,000 offices are operated on a part-time basis. Many are open for only 1 or 2 days a week. However, we still pay full rent for these leases, we still pay incredible amounts for the support of these recruiting offices across our country. These are very wasteful practices.

Mr. President, perhaps the most well-known aspect of the \$2 billion recruiting program are those elaborate TV ads that usually end up in the NFL play-offs or on other expensive media slots. Whether you see knights on horseback or men jumping from airplanes, you can bet that these commercials are very expensive to produce and no less expensive to air.

Mr. President, earlier this month the House of Representatives passed their Department of Defense authorization bill which included a \$75 million cut in the President's total recruitment budget request for fiscal year 1993. The legislation I am introducing today would expand on this initiative. This bill would give the Department of Defense the flexibility in determining how to rightsize its recruiting. The services claim that their advertising campaigns provide vital support to their recruiting efforts. This bill would not prohibit advertising. However, if the services feel that it is crucial to spend millions of dollars on advertising each year, then they must find other areas to cut.

Again, let me stress that this bill will not keep the Pentagon from recruiting quality individuals. Just 3 years ago, in 1989, we attracted the best and brightest young men and women in America for less than \$4,000 per individual. These new recruits were brilliant in the Persian Gulf war with our cutting edge technology and military hardware. Mr. President, this legislation is about efficiency. The entire Pentagon is working I hope to give the taxpayer "more bang for the buck" and the Recruitment Program is no exception to that rule.

Mr. President, I now send the legislation that I am introducing to the desk and ask unanimous consent that it be printed in the RECORD.

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

S. 3012

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

SECTION 1. LIMITATION ON DEPARTMENT OF DEFENSE RECRUITING EXPENDITURES.

(a) IN GENERAL.—Chapter 134 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2246. Limitation on recruiting expenditures

"(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense for a fiscal year may not be expended for the recruitment of persons for accession into the armed forces in excess of the maximum amount determined under subsection (b).

"(b) MAXIMUM AMOUNT.—(1) The maximum amount which may be expended by the Department of Defense for any fiscal year for the recruitment of personnel for accession into the armed forces (other than as cadets or midshipmen referred to in subsection (d)) is the amount determined by multiplying the number of persons accessed into the armed forces in that fiscal year by the amount determined under paragraph (2).

"(2)(A) For fiscal year 1993 the amount of the multiplier under paragraph (1) shall be \$4,700.

"(B) The Secretary of Defense may adjust the amount of the multiplier annually for each fiscal year after fiscal year 1993 by the percentage by which the Consumer Price Index for June of the fiscal year preceding that fiscal year exceeds the Consumer Price Index for the preceding June. If the amount of a multiplier determined under the preceding sentence for any fiscal year is not a multiple of \$100, the amount shall be rounded to the next lower multiple of \$100.

"(C) In this paragraph, the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(3) Paragraph (1) may not be construed to limit the amount that may be expended for any fiscal year for the recruitment of personnel for accession into any one armed force or any component of an armed force to the amount determined by multiplying the number of persons accessed into that armed force or that component, as the case may be, in that fiscal year by the amount determined under paragraph (2).

"(c) COVERED RECRUITMENT EXPENSES.—This section applies to the following expenses for the recruitment of persons for accession into the armed forces:

"(1) Pay of Department of Defense personnel whose duties include—

"(A) recruitment;

"(B) the management of such Department of Defense personnel in the performance of the recruitment duty; or

"(C) supporting the personnel in the performance of duties referred to in subparagraph (A) or (B).

"(2) Allowances and expenses of such personnel in performing those duties.

"(3) The cost of providing support for such personnel for the performance of those duties.

"(4) The cost of providing facilities, utilities, services, and supplies for the use of such personnel in the performance of those duties.

"(5) Advertising expenses related to recruitment.

"(6) The costs carrying out and supporting military entrance processing.

"(7) Amounts paid under sections 302d, 308a, 308c, 308f, 308g, 308h (for a first enlist-

ment), and 308i of title 37, relating to bonuses and other incentives.

"(8) Amounts deposited in the Department of Defense Education Benefits Fund pursuant to section 2006(g) of this title.

"(9) Payments under the provisions of chapters 105, 107, and 109 of this title.

"(10) Any other expenses that the Secretary of Defense determines to be recruitment expenses.

"(d) EXPENSES NOT COVERED.—This section does not apply to the recruitment of persons for appointment as cadets at the United States Military Academy, as midshipmen at the United States Naval Academy, or as cadets at the United States Air Force Academy.

"(e) REQUIREMENT TO SPECIFY BUDGET REQUESTS FOR RECRUITING.—The documents submitted to the Congress by the Secretary of Defense in connection with the submission of the budget for each fiscal year pursuant to section 1105 of title 31 shall include the following:

"(1) An itemized list of the programs, projects, and activities provided for in the budget that are programs, projects, and activities conducted for the recruitment of persons for accession into the armed forces.

"(2) A specification of the amount provided in the budget for each such item.

"(3) The estimated cost of recruiting each person for accession into the armed forces.

"(f) APPLICABILITY.—This section applies with respect to recruiting activities for accessions of officer and enlisted personnel (including prior service personnel) into the regular components and the reserve components of the armed forces."

(b) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2246. Limitation on recruiting expenditures."

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3013. A bill to temporarily suspend the duty on pentostatin; to the Committee on Finance.

S. 3014. A bill to suspend until January 1, 1995, the duty on certain thermosetting polyimide resins; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

Mr. BRADLEY. Mr. President, I rise to introduce two bills on behalf of the New Jersey based Warner-Lambert and Rhone-Poulenc. Both pieces of legislation will temporarily suspend the duties on a compilation of imported chemicals. Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1964 and H.R. 3382 by Representatives ZIMMER and GUARINI.

"Nipent" or pentostatin, the orphan drug which Warner-Lambert imports, is used to treat hairy cell leukemia patients. Currently, hairy cell leukemia affects about 2,500 patients in the United States. According to Warner-Lambert, clinical tests indicate positive results from the drug's usage. Warner-Lambert also maintains that due to its small patient population, the tariff suspension would cause no appreciable revenue loss to the Treasury.

Rhone-Poulenc imports certain chemical compounds which are generically known as polyimide resins. Polyimide resins are incorporated in several strategic missile systems and are used for high-speed computing. Rhone-Poulenc claims they will use the savings of a duty suspension to fund additional research and development.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Warner-Lambert and Rhone-Poulenc to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately more affordable for consumers in the domestic market.

"9902.39.12 1H - Pyrrole-2,5-dione, 1,1-(methylenedi-4, 1-phenylene) bis-polymer with 4,4-methylenebis (benzenamine) (provided for in subheading 3911.90.30) Free No change No change On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3015. A bill to suspend temporarily the duty on 5-(N,N-dibenzylglycyl)-salicylamide, 2-[N-benzyl-N-tert-butylamino]-4'-hydroxy-3'-hydroxyacetophenone hydrochloride, flutamide, and loratadine; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. BRADLEY. Mr. President, I rise to introduce legislation that will temporarily suspend the duties on a compilation of imported chemicals on behalf of Schering Corp. of Madison, NJ.

"9902.31.12 5-(N,N - dibenzylglycyl)-salicylamide (LBH-B/C, CAS No. 30566-92-8) (provided for in subheading 2922.30.3000) Free No change No change On or before 12/31/94
 9902.31.13 2-(N - benzyl-N-tertbutylamino)-4'-hydroxy-3'-hydromethylaceto-phenone hydrochloride (Glycyl Hydrochloride, CAS No. 24085-08-3) (provided for in subheading 2922.30.3000) Free No change No change On or before 12/31/94
 9902.31.14 Flutamide (CAS No. 13311-84-7) (provided for in subheading 2924.29.3950) Free No change No change On or before 12/31/94
 9902.31.15 Loratadine (CAS No. 79794-75-5) (provided for in subheading 2933.90.2600) Free No change No change On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3016. A bill to provide for additional extension periods, not exceeding 2 years in the aggregate, in the time allowed for reexportation of certain articles admitted temporarily free of duty under bond; to the Committee on Finance.

EXTENSION OF TIME FOR REEXPORTATION OF CERTAIN ARTICLES

Mr. BRADLEY. Mr. President, I rise on behalf of General Electric Astro-Space Division to introduce legislation that would extend the duty suspension on communications satellite components entered under temporary importation under bond. Joining me is my

Mr. President, I ask unanimous consent that these bills be printed in the RECORD.

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

S. 3013

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

SECTION 1. PENTOSTATIN.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12 Pentostatin (provided for in subheading 2934.90.47) Free No change No change On or before 12/31/94".

Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 4879 by Representative ARCHER.

This legislation would suspend the import duties applicable to four chemicals. These chemicals are used in the production of finished pharmaceutical products. In turn, the pharmaceutical products have a wide range of usage; from serving as a relief for patients of bronchospasms and allergies to treating prostatic cancer.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Schering Corp. to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately

friend and colleague, Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1835 by Representative SMITH.

The components that GE Astro imports would remedy numerous problems engendered by the *Challenger* disaster and subsequent failures of launch vehicles for communications and other satellites. GE Astro claims that failures of unmanned launch vehicles, such as the *Challenger* disaster, have added a delay to the exportation of communications satellites. This delay can cause a failure to export an imported component within the maximum 3-year period. As a result of the time lag, GE Astro has not been able to benefit from the initial suspension and would like an extension.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. This legislation en-

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3014

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

SECTION 1. THERMOSETTING POLYIMIDE RESINS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 3015

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

SECTION 1. SUSPENSIONS OF DUTY ON 5-(N,N-DIBENZYLGLYCYL)-SALICYLAMIDE, 2-[N-BENZYL-N-TERT-BUTYLAMINO]-4'-HYDROXY-3'-HYDROMETHYLACETOPHENONE HYDROCHLORIDE, FLUTAMIDE, AND LORATADINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

ables GE Astro to import these components at reasonable prices making its products more competitive in the international market and more affordable for manufacturers in the domestic market.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 3016

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

SECTION 1. REEXPORTATIONS OF COMMUNICATIONS SATELLITE ARTICLES.

(a) IN GENERAL.—
 (1) EXTENSION.—The first sentence of U.S. Note 1(a) to subchapter XIII of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by striking the period at the end and inserting the following: ", and (3) for articles imported under heading 9813.00.05, the time for exportation may be extended for 1 or more further periods which, when added to the initial 1 year, shall not exceed a total of 5 years, but any application for an extension beyond the 3rd year must be accompanied by the importer's certification that the articles are dedicated for incorporation into a communications satellite."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply with respect to goods entered on or after the date that is 3 years before the date of the enactment of this Act.

(b) EXPEDITED MITIGATION OF PENALTY ASSESSMENTS ON REEXPORTATIONS DELAYED BY LAUNCH SYSTEM FAILURES.—Goods imported under heading 9813.00.05 of the Harmonized Tariff Schedule of the United States after January 1, 1983, and before the effective date established under subsection (a)(2) that are certified by the importer—

(1) as having been dedicated for incorporation into a communications satellite; and
(2) as not having been exported within the time required for exportation under the applicable bond directly or indirectly as a result of launch schedule delays resulting from any launch failure, launch system failure, or technical delay;

are subject to liquidated damages not exceeding 1 percent of the liquidated damages established in the applicable bond.

By Mr. DECONCINI:

S. 3018. A bill to extend the temporary suspension of import duties on cantaloupes; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DECONCINI. Mr. President, today I am introducing legislation to extend the temporary suspension of import duties on cantaloupes during the winter months when they are available only from non-domestic sources. My bill is identical to H.R. 4814, introduced earlier this year in the House of Representatives by the chairman of the Committee on Agriculture, Mr. DE LA GARZA. That language has been incorporated in H.R. 4318, the miscellaneous tariff and duty suspension bill which has been reported favorably by the House Ways and Means Committee.

Cantaloupes are grown widely in the United States but only during the warmer months. In May, commercial production of cantaloupes starts in Texas and, to a limited extent in California, Florida, and Georgia. By June cantaloupes are available from Arizona, California, Florida, Georgia, South Carolina, and Texas. In July, August and September, many States including Colorado, Illinois, Indiana, Maryland, Michigan, New Jersey, and New York are major producers of cantaloupes. In October and November, small shipment of cantaloupes are available only from Arizona, California, Georgia, and Texas.

In the winter months of December, January, February, March, and April, there is no commercial production of cantaloupes in the United States. The only source for the American consumer

is non-domestic. The major cantaloupe producers in the winter include Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Mexico, and Panama. Much of the cantaloupes from Mexico are shipped into the United States through Arizona and Texas.

Duty suspension on cantaloupes has been in effect for a decade and there have been no adverse effects on domestic agriculture. The reason is simply a matter of geography. Even my home State of Arizona cannot compete with Mexico in the winter for weather warm enough to grow cantaloupes. We are simply too far north to grow cantaloupes so non-domestic sources are needed to meet the demands of today's consumer who wants a wide range of fresh fruits and vegetables throughout the year.

A temporary duty suspension does not harm our farmers; on the contrary, it helps them. When fruits and vegetables are seasonal, consumers tend to forget about them until the season is back in full swing. In the meantime, sales have been lost. But, when non-domestic supplies make fruits and vegetables available throughout the year, there is a smooth transition to the domestic supply when warm weather returns.

Arizona, California, and Texas are the major producers of cantaloupes in summer. Mexico is a major supplier in winter.

The duty suspension I am introducing today is not a new idea. My bill, like the de la Garza bill, would extend the current duty suspension for 2 years after its scheduled expiration at the end of this year. Everyone benefits from this bill: American consumers who will be assured a supply of reasonably priced cantaloupes through the winter months, and American food store workers and operators, shippers, distributors and truck drivers. They all benefit from having a plentiful supply of lower priced foods to sell.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

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

S. 3018

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

SECTION 1. CANTALOUPE.

Subheading 9902.08.07 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/94".

The amendment made by the first of this Act applies with respect to goods entered, released, or withdrawn for consumption after December 31, 1992.

By Mr. SPECTER:

S. 3019. A bill to strengthen the international trade position of the United States; to the Committee on Finance.

TRADE EXPANSION AND ENFORCEMENT ACT

Mr. SPECTER. Mr. President, today I am introducing the Trade Expansion and Enforcement Act of 1992 which will allow the United States to expand trade opportunities for U.S. producers by greatly improving access to overseas markets and to improve enforcement mechanisms under U.S. law to deter unfair trade practices by our trading partners which have the deleterious effect of taking U.S. jobs.

Mr. President, I believe in free trade, but free trade means the cost of production plus a reasonable profit. It does not mean subsidizing goods—goods where there are subsidies by foreign governments. It does not mean dumping, where goods are sold in the United States at prices lower than those charged in their home market.

The essential ingredient of free trade is reciprocity. The United States ought to have equal access to foreign markets just as importers to the United States have access to our markets. But regrettably, that is not the case. In 1988, we enacted a Super 301 provision which gave authority to the executive branch to enforce our trade laws. Regrettably, it has now lapsed, and this bill will reauthorize the Super 301 provisions.

Beyond the Super 301 provision, Mr. President, this legislation will provide for a private right of action so that injured parties may sue in the Federal courts to enjoin goods from coming into the United States which are subsidized or dumped or to get damages for goods which come into this country which are subsidized or dumped.

The remedies at the present time in the International Trade Commission are totally inadequate—no teeth, no deterrence, really very ineffectual.

Recently, the steel producers brought a series of actions with the U.S. Trade Commission and also the Department of Commerce because that is their only available remedy. But it would be enormous—I was about to say enormously more effective, which is not correct. It would be effective. You could go to court and stop dumped, subsidized goods from coming into this country. But there really is no effective enforcement mechanism under the International Trade Commission and the Department of Commerce.

I think back, Mr. President, to 1984 when the International Trade Commission rendered a decision in favor of the American steel industry. The matter then went to the White House for decision by the President. Our late colleague, Senator Heinz, and I visited the Cabinet officers and we received support from Secretary Bill Brock, the U.S. Trade Representative, and from Secretary Malcolm Baldrige of Commerce. But when we got to the Defense Department and to the State Department, we had a flat statement that those Secretaries would urge the President to overrule the International

Trade Commission in the interest of foreign policy and in the interest of State Department policy.

It is inappropriate, Mr. President, to have decisions on trade made in terms of foreign policy or defense policy. If U.S. policy requires certain action along those lines, it ought to come out of the general revenues of the United States as opposed to any one specific industry.

The steel industry in Pennsylvania has been victimized by an attitude which has permitted so much steel to come into the United States for the collateral considerations of State Department policy or foreign policy, and in 1984, regrettably, the President overruled the International Trade Commission, giving further damage to the American steel industry.

This legislation which I have pushed for many years would rectify that problem by making it an issue for the courts where justice would be interpreted so that we stop dumped and subsidized goods from coming into this country.

This legislation, Mr. President, would further reinstate the voluntary restraint program, a program which lapsed on March 31 of this year, and with its lapse especially in the specialty steel industry we are having an influx of subsidized and dumped goods.

Mr. President, I believe the United States should promote the policies of free trade providing there is reciprocity, which is not the fact in the world today. In any event, subsidized and dumped goods do not fit into the pattern of free trade under any interpretation. Experience has been that steel, for example, has been subsidized as much as \$250 a ton. We find the American aircraft industry is forced to compete against foreign airplane manufacturers, which subsidies are given by the governments of Germany and France and other foreign governments, and that is a line of conduct which simply ought not to be tolerated.

This bill contains some provisions recently adopted by the House of Representatives such as reauthorization of the "Super 301" provision under our 1988 Trade Act, and investigation of trade practices and policies of our partners in their markets with the principle mission of increasing U.S. access to such markets. It also contains several provisions which I believe are integral to the enforcement of our trade laws, namely the private right of action to enforce customs fraud, dumping and illegal subsidies.

Mr. President, I believe reciprocity is the cornerstone of free trade policy. United States companies should have unfettered access to foreign markets, like for instance, Japan's, just as we permit such access to our markets. If they are not able to obtain such access because of official policy or other non-market barriers, then the U.S. Govern-

ment should impose appropriate sanctions until such reciprocity is assured. In this way the "market" will run its course. And, more importantly, American jobs will not be lost because of lack of access to foreign markets or unfair trade practices here.

Some of my colleagues will question whether we should be enacting a trade bill while negotiations are under way relative to the Uruguay round and the North America Free Trade Agreement. I would respond, however, by saying that a successful GATT-Uruguay round does not seem imminent and the NAFTA would address only part of the world. Moreover, we have witnessed the expiration of the voluntary restraint agreements for the steel industry in the face of an apparent collapse of negotiation of a multilateral steel agreement. Meanwhile, American jobs—Pennsylvania jobs—are being lost or put at risk because companies cannot access certain markets or they must compete against dumped or subsidized goods. Hence, our constituents can ill afford for us to wait for the negotiators to reach agreement.

I want to impress upon my colleagues this point, Mr. President, the direct consequence of unfair trade practices is loss of U.S. jobs. This was brought in clear view for me early this year when I conducted a series of Judiciary Committee field hearings in my State in January. Those hearings were held in Philadelphia, Pittsburgh, Harrisburg, and Allentown on the general subject of unfair foreign trade practices and their effect on jobs. The participants included business and labor leaders representing every major industry group in the State. They were asked to prepare testimony on how their businesses have been affected by unfair trade practices. Virtually every witness was able to reference specific foreign trade practices which adversely impacted their business activities.

The bill I am introducing will redress many of the concerns expressed in those hearings. In particular, the bill would reauthorize the "Super 301" provision of the Omnibus Trade and Competitiveness Act of 1988. This provision will require the U.S. Trade Representative to identify annually foreign countries and practices that are trade liberalization priorities and, barring an agreement to end such practices, retaliate against those countries. This provision has proven to be an effective tool against unfair trade practices and should be reauthorized.

We have a serious problem, Mr. President, with market access in the Far East relative to automobiles, auto parts, rice, and rice products. This bill addresses these problems by obligating the administration to initiate section 301 investigations against Japan for autos and auto parts, and Japan, Korea, and Taiwan for rice and rice products, and to negotiate trade agree-

ments to overcome the market access problem.

The bill also contains provisions that would modernize procedures to handle customs related matters, including improvements in customs enforcement. In this regard, the bill contains an important provision that would truly facilitate the enforcement of our customs laws, deterring customs fraud in particular. That is, this bill would provide a private right of action for individuals injured by customs fraud to sue in Federal court. A similar enforcement provision would be available for American businesses that have been injured by dumped or subsidized imports.

Consistent with my efforts since 1982 to enact such legislation, on April 1, 1992, I introduced S. 2508 which would provide a private right of action for dumping, illegal subsidies, and customs fraud. For purposes of consolidating trade enforcement mechanisms, however, I have included the substance of S. 2508 in this trade bill.

Mr. President, we have found that our trade has been crippled by subsidies, by dumping, and by customs fraud. The Federal Government is simply unable to handle these issues alone. If private parties had access to the courts to stop subsidies, dumping, or customs fraud, I suggest it would be enormously helpful to trade in our Nation.

We need some teeth to have an effective remedy to subsidized, dumped, or fraudulent goods from coming into this country. Immediate injunctive or monetary relief rather than prospective duties as currently authorized under our trade laws is the sort of teeth that is needed.

I am well aware that whenever there is a request to expand the jurisdiction of the Federal courts, there are complaints from many quarters that the Federal courts are overburdened at the present time. I agree that there are too many cases in litigation in this country. But the issues at stake are too great and I believe the Federal Government is itself too burdened to effectively redress the pernicious effects of subsidized and dumped imports and customs fraud. Accordingly, as I have said over the past decade in trying to enact such legislation, there is a real need to allow private plaintiffs the opportunity to enforce our trade laws.

Industry suffers the dual dilemma of competing against foreign protectionism and having no forum to pursue their grievance other than the executive branch. Mr. Hank Barnette, senior vice president and general counsel of Bethlehem Steel, who testified at the Judiciary Committee hearing in Pittsburgh provides a level of support for the private right of action concept. Mr. Barnette is very familiar with the broad range of our trade policy and was appointed by President Bush to serve on his Advisory Committee on Trade

Policy and Negotiations. He appeared before the Judiciary Committee to echo the support he voiced for private right of action legislation back in 1985:

I said then, and am equally convinced today, the current prospective antidumping remedies provide an inadequate deterrent to dumping. We know that to be a fact. In our industry the practice of dumping has continued unabated for nearly 20 years and it is rampant today. The establishment of an effective private right of action against dumping in the United States Federal Courts would provide a much needed remedy.

The particular provisions in this trade bill would provide a private right of action for injunctive and monetary relief in Federal court to individuals or corporations who have been injured by dumping, subsidies, or customs fraud violations. The provisions would allow the affected industries to seek immediate relief through the Federal courts to halt the illegal importation of products.

Another important provision contained in the legislation I am introducing deals with the March 31 lapse of the voluntary restraint agreements for the steel industry and the subsequent lapse of negotiations for a multilateral steel agreement. Simply put, this bill would extend the voluntary restraint agreements for specialty steel products until March 31, 1995. This date anticipates that a multilateral steel agreement would be successfully negotiated by that time. The extension of VRA's is necessary as a method for stopping dumped and subsidized steel products from coming into this country. The American steel industry has long been victimized by subsidized and dumped steel imports. This clearly violates principles of free trade. This bill would correct that.

Mr. President, I am hopeful that the Senate can move quickly on this legislation. I recognize there are several pressing issues before this body such as the economy and our cities. But, I submit that limited access of U.S. exporters to certain foreign markets coupled with illegal imports into this country, both having a severe adverse effect on American jobs, make this trade legislation no less important. I urge, therefore, my colleagues to join me in supporting this bill.

By Mr. McCONNELL:

S. 3020. A bill to repeal the prohibition in the District of Columbia on individuals carrying self-defense items such as Mace; to the Committee on Governmental Affairs.

REPEAL OF PROHIBITION ON CERTAIN SELF-DEFENSE ITEMS

Mr. McCONNELL. Mr. President, I rise today to introduce a bill to give residents and visitors in the Nation's capital—particularly women—a means of defending themselves against violent crime. My bill would restore to men and women in this city the right to carry Mace—an effective deterrent and

means to defend themselves against assault.

It is no secret that people in this city are in the grips of a violent crime epidemic. Members of Congress have been victimized. Staff members have been terrorized, brutalized, and even murdered. Residents in every quadrant of this city are at risk. Scared. And virtually, legally, defenseless.

Mr. President, as my staff has been making calls to other offices to garner cosponsorships for this bill, many more instances of violent crime—around the Senate buildings and parking lots—have come to light.

Staffers feel besieged, and are apprehensive when they walk to their cars at night—in Capitol Police-patrolled lots.

It should come as no surprise that female staffers are particularly concerned about random violence. For women who are approached by an assailant, losing their purse is the least of their concerns. Women have the additional, and incomprehensible, fear of being raped and otherwise brutally assaulted.

Mr. President, for Capitol Hill staff, walking to their cars, the Metro, or home—in the dark—goes with the job. We can make that walk a little less perilous by enacting this legislation. At the least, we will give staff a means of protecting themselves with something other than their car keys or I.D. cards. Passage of this legislation would give some staffers a sense of security when they leave the confines of these buildings. It would give everyone in this city an added measure of security.

I would like to bring to the Senate's attention a letter I received from a constituent who had recently made her first trip to this city. While touring, her purse was searched at a security checkpoint and the Mace she was carrying was seized. This young woman was told she was committing a crime and had the option of giving the Mace up to be destroyed or being arrested.

As you might imagine, the experience was frightening and enraging. The worst result, in her view, was that: "The law left me vulnerable in a city that by its own admission is perilous and crime-ridden."

Another dramatic, and tragic, illustration of the need for this bill: A year and half ago, a man attacked a woman who was walking home from church in the District. He grabbed her from behind. She took Mace from her purse, sprayed it at the assailant, and escaped. As she was running to a phone to call the police, her sister who was also walking home after church, saw a man rubbing his eyes—not knowing her sister had Mace on her a few minutes earlier, she inquired as to whether he was OK. He grabbed her, dragged her into an alley, and raped her.

He was caught, convicted, and will soon be sentenced. But his victims

have already been sentenced. Sentenced to a lifetime of coping with the physical and psychological trauma of rape.

Granted, this bill is no panacea. It will not stop rape or the random violence that terrorizes people in this city. It would, however, reverse a ridiculous situation whereby women, in particular, have been forced to give up one of the only means available to defend themselves, short of carrying a gun which also is not legal in this city, getting a black belt in a martial art, or walking everywhere with a large, protective, dog.

Mr. President, I have been informed that some women have resorted to carrying small cans of Easy-Off oven cleaner in lieu of Mace as a means of defense. This is an absurd and unacceptable situation.

Will there now be calls to ban the sale of Easy-Off in the District?

The bill I am introducing today gives District of Columbia officials until January 1, 1993 to rescind the Mace-ban. If they do not take the initiative, this bill will kick in and do it for them.

By Mr. SPECTER:

S. 3021. A bill to suspend until January 1, 1995, the duty on n-butylisocyanate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. SPECTER. Mr. President, today I am introducing legislation that will temporarily suspend duties on two chemicals imported and used by my constituent, Miles, Inc., of Pittsburgh, PA, to supply makers of end-use products of importance to the agricultural market in the United States.

Miles Inc. (formerly Mobay) is a Fortune 100, research-based company with businesses in chemicals, health care, and imaging technologies. Headquartered in Pittsburgh, the company has major operations throughout the United States, with 1991 sales of \$6.2 billion.

Because neither chemical is produced in the United States, Miles imports both n-butylisocyanate [NBI] and cyclohexylisocyanate [CHI] to supply the North American market. NBI and CHI both serve as key ingredients in the manufacture of herbicides and fungicides that are used in the highly competitive agricultural market. Miles supplies NBI and CHI to the manufacturers of these end-use products.

My constituent has represented to me that these requests for duty suspensions will help them maintain price stability over time. This will assist those they supply, and ultimately the end-product users in the U.S. agriculture industry, to contain costs and remain competitive.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation.

In this regard, consultations have taken place with the Ways and Means Subcommittee on Trade of the House of Representatives, which has jurisdiction over the companion bills, H.R. 5371 and H.R. 5372, and the office of Representative RICK SANTORUM, the sponsor of H.R. 5371 and H.R. 5372. Both offices have stated that they are aware of no domestic opposition or other opposition to Miles' duty suspension requests. Inquiry has also been made of the Commerce Department, which advises that they will not be able to respond until companion legislation is introduced in the Senate.

In sum, Mr. President, my constituent has represented to me that this legislation will benefit the domestic agriculture industry. Failure to suspend these duties also will adversely affect the international competitiveness of domestic manufacturers who require these chemicals to supply their products to the agriculture industry. For these reasons, I urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3022. A bill to suspend until January 1, 1995, the duty on 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide with application adjuvants; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the existing import duties on 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide [KERB] and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide with application adjuvants used by my constituent, Rohm and Haas Co., in the production of amide-type herbicides. Rohm and Haas expects to import KERB both as a technical grade, active ingredient and as formulated material [KERB 50W]. In the United States, KERB is used primarily as a lettuce herbicide. It is also used, however, as a herbicide for seedling alfalfa and clover, and turf and ornamental plantings.

Rohm and Haas is seeking a temporary suspension of the duty on these products since this will allow the most efficient production of pronamide, and therefore, result in the continued, stable supply of a cost-effective herbicide for U.S. lettuce growers.

Rohm and Haas, a multinational company with main offices in Philadelphia, PA, is principally involved in the manufacture of chemicals and plastics. I am informed that Rohm and Haas is the only manufacturer of pronamide worldwide, it being manufactured at the company's Philadelphia plant and its Mozzanica, Italy plant. The company represents that it intends very shortly to consolidate its operations in its Mozzanica, Italy plant. Accordingly, there will no longer be a need for

the U.S. to impose a tariff on these products to protect an American industry.

In the company's judgment, there are no herbicides that are directly competitive with pronamide and its major uses. KERB is a standard treatment in California where 70 percent of the Nation's lettuce is grown.

Duty suspension legislation, Mr. President, is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Rohm and Haas will not gain any such advantage by this legislation.

My staff has consulted with the Department of Commerce's Office of Industrial Trade, the office of Congressman MIKE ANDREWS, the sponsor of the companion bill, H.R. 4777, and the House Ways and Means Subcommittee on Trade, which has jurisdiction over H.R. 4777. Each of these consultations have confirmed that there is no domestic opposition and no other opposition to Rohm and Haas' duty suspension requests.

In sum, Mr. President, this legislation will allow the most efficient production of KERB. For these reasons I urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3023. A bill to suspend until January 1, 1995, the duty on p-nitrobenzyl; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

Mr. SPECTER. Mr. President, today, I am introducing legislation that will suspend temporarily the duty on p-nitrobenzyl alcohol. Merck & Co., Inc., is seeking this duty suspension legislation in order to remain competitive in the world marketplace with the manufacture of Primaxin/Tienam at its Danville, PA, plant. I am informed that this product is one of the world's leading antibiotics having a broad spectrum of activity against gram-positive and gram-negative aerobic and anaerobic bacteria, including strains resistant to penicillin, cephalosporins, and aminoglycosides.

As you are aware Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Merck & Co., will not gain any such advantage by this legislation. My staff has consulted with the Commerce Department's Office of Industrial Trade, the House of Representatives Committee on Ways and Means, Subcommittee on Trade, which has jurisdiction over the companion legislation, H.R. 4701, and with the office of Representative PAUL KANJORSKI, the sponsor of H.R. 4701. The Trade Subcommittee and the

office of Representative KANJORSKI have stated that they are aware of no domestic opposition or other opposition to Miles' duty suspension requests. The Commerce Department advises that they will not be able to respond until companion legislation is introduced in the Senate.

Merck & Co. represents that without such duty suspension, it is faced with operating at an economic disadvantage vis-a-vis its foreign competitors insofar as Merck & Co. must pay a duty on p-nitrobenzyl alcohol it imports from England. According to Merck & Co., p-nitrobenzyl alcohol is not manufactured in the United States.

In sum Mr. President, without this duty suspension, the ability of Merck & Co., Inc., to preserve its integrity and continue to compete in the world marketplace while maintaining its manufacturing facilities in Danville, PA, is made more difficult. For the foregoing reasons, Mr. President, I, therefore, urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3024. A bill to suspend temporarily the duty on certain mounted television lenses; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the duty on closed circuit television [CCTV] lenses used by my constituent, Burle Industries, Inc. of Lancaster, PA in the production of closed circuit television camera equipment. Burle is seeking this suspension to remain competitive in the world marketplace with its product.

Burle Industries, a Pennsylvania corporation, is principally involved in the manufacture of CCTV cameras and other security equipment and electron tubes. I am informed that Burle is one of a very few remaining domestic companies still engaged in manufacturing closed circuit television cameras in the United States. I am further informed that because CCTV lenses meeting Burle's specifications are generally not available from any other U.S. manufacturer, Burle must purchase from foreign sources the CCTV lenses identified in this legislation. The only other domestic manufacturer, JML Direct Optics, does not, I am advised, produce lenses in sufficient quantities to meet Burle's requirements.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Burle Industries will not gain any such advantage by this legislation. I am informed that the language in the companion House bill, H.R. 2769, introduced by Representative ROBERT WALKER, was revised to comply with a change

requested by the Department of Commerce in order to satisfy other domestic importers of CCTV lenses that there would be no exclusive benefit to one single manufacturer. The legislation I am introducing reflects the Department of Commerce's requested change in language.

My staff has consulted with the Department of Commerce's Office of Industrial Trade, the office of Congressman WALKER, the House Ways and Means Subcommittee on Trade, which has jurisdiction over the companion bill, and the office of Congressman SAM GIBBONS, chairman of the Subcommittee on Trade. Each of these consultations have confirmed that there is no domestic opposition and no other operations to Burtle Industries' duty suspension request.

In sum, Mr. President, my constituent has represented to me that this legislation is vital to its operations, and without it, its ability to remain competitive internationally is jeopardized. For these reasons I urge my colleagues to join me in supporting this legislation.

By Mr. AKAKA (for himself and Mr. INOUE):

S. 3027. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

WORKING FAMILIES TAX RELIEF ACT

Mr. AKAKA. Mr. President, today I am joined by the senior Senator from Hawaii [Mr. INOUE] in introducing legislation to provide tax relief to working families throughout America. Our bill would restore value to the child and dependent care credit by requiring that the credit be adjusted for inflation.

Mr. President, the evidence in support of improving the child and dependent care credit is clear. Over 56 percent of all mothers with children under 6 years old work outside the home, and over 70 percent of women with children over age 6 are in the labor market. Furthermore, the number of single mothers working outside the home has dramatically increased in recent years.

The percentage of Hawaii households in which both parents work outside the home is even higher than the national average. According to projections developed by the Bank of Hawaii based on the 1990 census, 61.8 percent of all Hawaii families have both parents employed, and 71.3 percent of all households have at least two individuals in the work force.

The increased participation of single mothers in the labor market and the large number of two-parent families in which both parents work outside the home has made the dependent care credit one of the most popular and productive tax incentives ever enacted by Congress. Unfortunately, the value of

the credit has declined significantly over the years as inflation has slowly eaten away at the value of this benefit. Measured in constant dollars, the maximum credit of \$2,400 has decreased by 45 percent since it was enacted in 1981.

The maximum amount of employment-related child care expenses allowed under current law—\$2,400 for a single child and \$4,800 for two or more children—has simply failed to keep pace with escalating care costs. Unlike the earned income tax credit [EITC], the standard deduction, the low-income housing credit, and a number of other sections of our Tax Code, the dependent care credit is not adjusted for inflation.

The purpose of this credit is to partially offset the expense of dependent and child care services incurred by parents working outside the home. Yet, while the cost of quality child care has increased as demand exceeds supply, the dependent care credit has failed to keep up with the spiraling costs. The bill we introduce today corrects this problem by automatically adjusting the dependent and child care credit for inflation. Under this legislation, both the dollar limit on the amount creditable and the limitation on earned income would be adjusted annually.

Mr. President, in the past 12 years, the average middle-class family with children has seen its income fall 5 percent, almost \$1,600 after inflation. A family of four earning \$35,000 a year has seen its tax burden increase since 1981. In part, this is due to the diminished value of the child and dependent care credit.

In 1981, the flat credit for dependent care was replaced with a scale to give the greatest benefit of the credit to lower income working families. Since that time, neither the adjusted gross income figures employed in the scale, or the limit on the amount of employment-related expenses used to calculate the credit, have been adjusted for inflation.

Our bill provides a measure of needed relief to working American families. It would index the child and dependent care credit and restore the full benefit of the credit.

The average cost for out-of-home child care exceeds \$3,500 per year per child. Child care or dependent care expenses can seriously strain a family's budget. This burden can become unbearable for single parents, almost invariably single mothers, who must balance the need to work with their parental responsibilities.

Numerous economic studies have shown that the economic policies of the 1980's had a disastrous impact upon the incomes of middle-income families. Inflation-adjusted wages for the median worker fell 7.3 percent from 1979 to 1991. Working Americans have been losing ground in their struggle to preserve their standard of living.

To compensate, American families have been forced to work longer hours, deplete their life savings, and go deeper into debt. There is an urgent need to enact changes in our Tax Code that are profamily and prochildren. The Working Families Tax Relief Act meets both of these goals.

Mr. President, I urge my colleagues to support this important legislation. I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 3027

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 "Working Families Tax Relief Act."

SEC. 2. INFLATION ADJUSTMENT OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Subsection (e) of section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end thereof the following new paragraph:

"(10) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, each dollar amount contained in subsections (c) and (d)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

By Mr. D'AMATO:

S. 3028. A bill to suspend until January 1, 1995, the duty on certain glass articles; to the Committee on Finance.

S. 3029. A bill to provide for a temporary suspension for duty for certain glass articles; to the Committee on Finance.

S. 3030. A bill to extend until January 1, 1997, the existing suspension of duty on certain infant nursery intercoms and monitors; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. D'AMATO. Mr. President, I rise today to introduce three pieces of legislation to amend the Harmonized Tariff Schedule of the United States in order that these will be considered part of the Senate miscellaneous tariff bills of 1992.

The first bill suspends the duty on certain glass particles until January 1, 1995. My colleague, Congresswoman KENNELLY, has introduced companion legislation in the House.

The second bill provides for a temporary suspension for duty for certain glass particles. Congressman MCGRATH has introduced companion legislation in the House.

The third bill extends until January 1, 1997, the existing suspension of duty

on certain infant nursery intercoms and monitors.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 3028

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

SECTION 1. CERTAIN GLASS PRODUCTS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.85.01 Planar optical glass waveguide copiers produced by thallium doping utilizing ion exchange (provided for in chapter 85 or 90) Free No change No change On or before 12/31/94"

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3029

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

SECTION 1. GLASS ENVELOPES AND FUNNELS FOR ENVELOPES.

Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.70.10 Tinted monochrome glass envelopes, complete with sealed facelate, and funnels for envelopes, having a straight skirt of over 2.54 centimeters which is designed to meet the facelate at a 75° angle on all four (4) sides, having a display diagonal of 38.11 centimeters or 43.19 centimeters (provided for in subheading 7011.20.00) Free No Change No Change On or before 12/31/94"

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3030

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

SECTION 1. CERTAIN INFANT NURSERY INTERCOMS AND MONITORS.

Headings 9902.85.25 and 9902.85.26 of the Harmonized Tariff Schedule of the United States (relating to certain infant nursery intercommunication systems and monitor systems, respectively) are each amended by striking "12/31/92" and inserting "12/31/96".

By Mr. BRYAN (for himself and Mr. REID):

S. 3032. A bill to extend the temporary suspension of duty on three-dimensional cameras; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

• Mr. BRYAN. Mr. President, today I am introducing legislation with the senior Senator from Nevada to extend the temporary duty suspension for 3-D cameras. This suspension was enacted in 1990 through legislation we sponsored but is due to expire at the end of this year.

The Nishika Corp., which has located in Henderson, NV is the sole owner of the worldwide patent rights for 3-D cameras. Since the initial duty suspension legislation, the company's work force has more than quadrupled and the company has invested over \$4 million into its facilities, becoming a significant employer in the Henderson community.

The camera is unique and uses standard 35mm film on which it produces a three-dimensional photograph that can be viewed without special glasses. The permanent tariff schedules do not adequately reflect the unique nature of this camera. New classifications need to be created for new products such as the 3-D camera.

I urge my distinguished colleagues to support our bill to extend the 3-D camera duty suspension from December 31, 1992, to December 31, 1994.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 3032

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

SECTION 1. EXTENSION OF SUSPENSION OF DUTY ON THREE-DIMENSIONAL CAMERAS.

(a) IN GENERAL.—Heading 9902.90.06 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting in lieu thereof "12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1992.

• Mr. REID. Mr. President, today I am joining Senator BRYAN in introducing legislation to extend the temporary duty suspension for 3-D cameras. This suspension was enacted in 1990 through legislation we sponsored on behalf of Nishika Corp. in Henderson, NV. Since the initial duty suspension legislation, the company's work force has more than quadrupled, and the company has invested over \$4 million into its facilities, becoming a significant employer in the Henderson community.

The Henderson company currently employs more than 135 persons in research and development, photo finishing, marketing, and administration for 3-D cameras. This camera is unique and uses standard 35mm film on which it produces a three-dimensional

photograph that can be viewed without special glasses. The camera itself and its photofinishing process have been improved by the Nevada employees.

The permanent tariff schedules do not adequately reflect the unique nature of this camera because, in general, they cannot respond automatically to new developments and technology. New classifications need to be created for new products such as the 3-D camera.

However, the duty suspension for 3-D cameras will expire at the end of this year, as will almost all such suspensions enacted in 1990. Unless this suspension is renewed, many of the Henderson company's employees may see their jobs disappear. I urge my colleagues to support our bill to extend 3-D camera duty suspension from December 31, 1992 to December 31, 1994.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 3033. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolox; to the Committee on Finance.

S. 3034. A bill to suspend temporarily the duty on Procaine Penicillin G (sterile and nonsterile); to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator BOND, I am introducing today two miscellaneous tariff bills. These bills are virtually identical to two previous bills introduced last year, S. 1485 and S. 1486, except for certain technical corrections. The bills we are introducing today are intended to supersede those previously introduced bills. I ask unanimous consent that the texts of the two new bills be printed in the RECORD.

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

S. 3033

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

SECTION 1. PYRANTEL TARTRATE WITH ZEOLEX.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12 Pyrantel Tartrate with Zeolox (provided for in sub-heading 3003.90.00) Free No change No change On or before 12/31/94"

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3034

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

SECTION 1. PROCAINE PENICILLIN G (STERILE AND NONSTERILE).

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

*9902.31.12	Procaine Penicillin G (Sterile and Non-sterile) (provided for in subheading 2941.10.20)	Free	No change	No change	On or before 12/3/94
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(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 3035. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

*9902.31.12	D-dihydroxyphenyl glycine (provided for in subheading 2921.30.20)	Free	No change	No change	On or before 12/31/94
9902.31.13	D(-)-4-hydroxyphenyl glycine (provided for in subheading 2922.29.23)	Free	No change	No change	On or before 12/31/94
9902.31.14	D(-)-alpha-phenyl glycine (provided for in subheading 2922.49.35)	Free	No change	No change	On or before 12/31/94
9902.31.15	Bis-Trimethylsilylurea (provided for in subheading 2931.00.50)	Free	No change	No change	On or before 12/31/94
9902.31.16	7-amino-desacetoxy cephalosporanic acid (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94
9902.31.17	6-amino penicillanic acid (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94
9902.31.18	Penicillin V potassium (provided for in subheading 2941.10.10)	Free	No change	No change	On or before 12/31/94
9902.31.19	Penicillin G potassium (provided for in subheading 2941.10.10)	Free	No change	No change	On or before 12/31/94

(b) CHAPTER 35 CHEMICALS.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is further amended by inserting in numerical sequence the following new headings:

*9902.35.07	Penicillin G amide (provided for in subheading 3507.90.00)	Free	No change	No change	On or before 12/31/94
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(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DANFORTH (for himself and Mr. KOHL):

S. 3036. A bill to suspend until January 1, 1995, the existing suspension of duty on 6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator KOHL, today I am introducing legislation to extend temporarily the existing suspension of duty for Schaeffer Salt (6-Hydroxy-2-naphthalenesulfonic acid). Schaeffer Salt is used in the production of certain food coloring and is not currently available from a domestic supplier. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 3036

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

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY ON 6-HYDROXY-2-NAPHTHALENESULFONIC ACID, AND ITS SODIUM, POTASSIUM, AND AMMONIUM SALTS.

(a) IN GENERAL.—Heading 9902.29.10 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94".

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator BOND, today I am introducing legislation to suspend temporarily the duty on nine chemicals used in the manufacture of generic penicillin and cephalosporin drug products in the United States. Generic drug manufacturers have not been able to obtain these chemicals domestically. Nor do there appear to be any competing substitutes that are available from a domestic supplier at this time. At a time of skyrocketing health care costs, the low-cost generic drugs produced from these chemicals are critically important to many U.S.

consumers, especially the poor, elderly, and the very young. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 3035

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

SECTION 1. CERTAIN CHEMICALS.

(a) CHAPTER 29 CHEMICALS.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

Free	No change	No change	On or before 12/31/94
Free	No change	No change	On or before 12/31/94
Free	No change	No change	On or before 12/31/94
Free	No change	No change	On or before 12/31/94
Free	No change	No change	On or before 12/31/94
Free	No change	No change	On or before 12/31/94
Free	No change	No change	On or before 12/31/94
Free	No change	No change	On or before 12/31/94

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1993.

By Mr. DANFORTH (for himself and Mr. BREAUX):

S. 3037. A bill to liquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

RELIQUIDATION OF CERTAIN ENTRIES ON CERTAIN EXCESSIVE DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator BREAUX, I am introducing today legislation to correct certain clerical errors by the Customs Service that have prevented the Bunge Corporation of St. Louis, MO from receiving refunds on excess countervailing duty deposits previously paid by Bunge.

Under our trade laws, where an import is subject to a countervailing duty order, the importer of the product is required to pay countervailing duty deposits based on the estimated countervailing duty rate established by the Department of Commerce. Later, if the actual countervailing duty rate is found to be lower than that previously estimated, the importer is entitled to a refund on the excess deposited, plus interest.

During the 1980's, one division of Bunge imported cotton yarns from a related company in Peru. Those imports were subject to an outstanding countervailing duty order, and Bunge therefore paid deposits on each of these imports based on the estimated countervailing duty rate. Unfortunately, due to some clerical errors, Customs liquidated—that is, closed-out certain entries prior to the determination of the actual countervailing duty rate that was to apply. By the time Bunge became aware of this problem, it was too late for the Customs Service to correct the error and refund Bunge its excess deposits. It is therefore necessary to introduce this legislation to author-

ize the reliquidation of these entries so that the excess deposits can be refunded to Bunge with appropriate interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 3037

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

SECTION 1. AUTHORITY FOR RELIQUIDATION AND PAYMENT OF INTEREST.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to section 2, upon proper request filed with the appropriate customs officer within 1980 days after the date of the enactment of this Act—

(1) any entry listed in section 3 that was not reliquidated as of such date of enactment shall be reliquidated so as to reduce the amount of countervailing duty imposed on such entry to the amount found by the Secretary of Commerce to be owed as a result of final review under title VII of the Tariff Act of 1930 and a refund of any excess countervailing duty so found shall be made to the importer of record; and

(2) interest on the amount of any excess countervailing duty found as a result of—

(A) any reliquidation under paragraph (1); or

(B) a reliquidation of any entry listed under section 3 that occurred before such date of enactment;

shall be paid to the importer of record.

SEC. 2. ADMINISTRATION.

(a) REQUEST INFORMATION.—A request filed under section 1 shall contain sufficient information to enable the United States Custom Service—

(1) to locate the entry in question; or
(2) to reconstruct the entry if it cannot be located.

(b) INTEREST.—Interest shall be paid under paragraph (2) of section 1 on the excess countervailing duty imposed on an entry from the date of the liquidation of the entry to the date of the reliquidation.

(c) TIME FOR MAKING REFUNDS AND PAYMENTS.—

(1) The refund of excess countervailing duties, and the payment of interest thereon, resulting from a reliquidation under section 1(1) shall be made within 90 days after the date of the reliquidation.

(2) The payment of interest or reliquidations described in section 1(2)(B) shall be made within 90 days after the date on which the request therefore is filed under section 1.

SEC. 3. ENTRIES.

The entries referred to in section 1 are as follows:

Entry No.:	Date of Entry
832779703	05/06/83
832779716	05/06/83
832782677	05/31/83
832782680	05/31/83
832785852	06/23/83
832793174	08/11/83
832796074	08/29/83
841387694	06/20/84
841390432	07/11/84
841616064	08/15/84
842683627	02/03/84
842691732	03/30/84
842691745	03/30/84
842716484	08/27/84
842720098	09/20/84
855108089	10/10/84
855118613	11/26/84
856113838	11/01/84

By Mr. DANFORTH

S. 3039. A bill to extend until January 1, 1996, the existing suspension of duty on triallate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, today I am introducing legislation to extend temporarily the existing suspension of duty for triallate (S-(2,3,3-trichlorallyl) diisopropyl thiocarbamate). Triallate is the active technical ingredient of a herbicide used to control wild oats in small grain crops such as wheat and barley. There has been no U.S. manufacturer of this product since 1986, and the duty on this product has been suspended since passage of the 1988 Trade Act. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 3039

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

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY ON TRIALLATE.

(a) IN GENERAL.—Heading 9902.29.60 of the Harmonized Tariff Schedule of the United States (relating to S-(2,3,3'-trichloroallyl)diisopropylthiocarbamate) is amended by striking "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, after December 31, 1992.

By Mr. BENTSEN:

S. 3041. A bill to amend the International Revenue Code of 1986 to establish a national commission on private pension plans; to the Committee on Finance.

NATIONAL COMMISSION ON PRIVATE PENSIONS ACT

Mr. BENTSEN. Mr. President, I am pleased to introduce legislation that would create a National Commission on Private Pension Plans.

ERISA, the Employee Retirement Income Security Act of 1974, passed the Senate by a unanimous vote in 1974. But as one of the authors of that legislation, let me assure you that it wasn't easy. There were a lot of hurdles to jump. Senator Javits had been trying to get pension legislation enacted for 7 long years. When I first joined the Finance Committee in 1973, enactment of ERISA became my highest priority. Working with Jake Javits and Senator Harrison Williams of New Jersey, who was then Chairman of the Labor Committee, we jumped all those hurdles. After long years of effort, President Ford signed the bill in the Rose Garden on Labor Day of 1974.

ERISA was enacted because enough members of Congress agreed on this basic point: the Federal Government has a role in creating a system where American workers earn private pension benefits to supplement Social Security benefits and a role in ensuring that promised pension benefits are paid. ERISA made sure that workers a day short of retirement wouldn't have to fear being fired and losing that pension they had worked for years to attain. ERISA created the Pension Benefit Guaranty Corporation to ensure that workers didn't lose their pensions just because their employer went bankrupt. ERISA required that employers fund their retirement promises and imposed fiduciary obligations on the individuals responsible for investing those pension assets. ERISA created private rights of action to ensure that workers could protect their retirement benefits.

But a great deal has happened since that day in the Rose Garden in 1974. The size and structure of retirement plans have changed and the rules governing retirement plans have changed—often on a piecemeal basis.

According to the Department of Labor, pension coverage increased from 26 million workers in 1970 to over 42 million in 1989. Over that same period, the number of retirees receiving a pension from a private plan jumped by almost 300 percent. Retirement benefit payments rose from \$7.4 billion in 1970 to over \$133 billion in 1989.

Assets held in pension plans have also risen dramatically. According to the Employee Benefits Research Institute the assets held in all pension plans in 1990 equaled almost \$3 trillion, up from only \$241 million in 1970. And pension plans now own almost 25 percent of the corporate equity in America.

This staggering growth in pension plans has occurred despite numerous changes in the laws governing the private pension system over the last decade. These changes have made the sys-

tem more complex, and the administrative burden of maintaining retirement plans has risen substantially. Since 1980, legislation on retirement plans has been enacted in almost every year. IRS regulations have also multiplied, both in number and in length. Many of these changes were adopted without any analysis of the cumulative impact on our private pension system.

As we approach the 20th anniversary of ERISA, it is time to reevaluate where our private pension system stands and to look at ways to improve it. It's time to look anew at a great success story—the benefits that ERISA has provided to millions of Americans and see how we can make things even better.

According to a study by the National Federation of Independent Business, only 18 percent of small employers provide retirement coverage to all their employees. Medium-sized and large employers cover over 80 percent of their workers and government employers cover about 90 percent. In many cases, small employers simply do not have the financial resources to provide pension coverage. But more and more, they are being discouraged from establishing new plans because they are unable to deal with the complexity of the pension laws and regulations. We need to look for ways to get the employees of small employers into the private retirement system.

The Pension Benefit Guaranty Corporation [PBGC] fulfills the important function of protecting retirement benefits for over 30 million workers. But it seems that every few years the PBGC comes to Congress requesting premium increases of other legislative changes. We need to look for ways to make sure that any problems at the PBGC are dealt with once and for all.

The dramatic rise in retirement plan assets has led to increasing questions of how active these retirement plans should be in corporate governance. In addition, the investment decisions involving plans that hold trillions of dollars in assets are worthy of further analysis.

Our pension system works. It delivers trillions of dollars in retirement security to millions of Americans who have worked hard and earned the right to financial security in retirement. But we must not assume that it is working perfectly. That is what the Commission created by this bill would look at. Over a period of less than 2 years the National Commission on Private Retirement Plans would be charged with reviewing existing Federal incentives and programs that encourage and protect private retirement savings. This is an important step and urge my colleagues to join me in support of this legislation. I ask that a copy of the bill be printed in the RECORD following my remarks.

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

S. 3041

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

SECTION 1. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

"(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall consist of—

"(A) 6 members to be appointed by the President;

"(B) 6 members to be appointed by the Speaker of the House of Representatives; and

"(C) 6 members to be appointed by the President pro tempore of the Senate.

"(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

"(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

"(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

"(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

"(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

"(1)(A) Members of the Commission shall be appointed during the period beginning February 1, 1993, and ending March 1, 1993, for terms ending on September 1, 1994.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4) The Commission shall meet at the call of the Chairman.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

"(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made 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 such title that relate to classification and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

"(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

"(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993 and 1994, such sums as may be necessary to carry out this section.

"(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

"(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

"(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of

national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 41, United States Code."

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7524. National Commission on Private Pension Plans."•

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. DODD, Mr. SANFORD, and Mr. LEVIN):

S. 3046. A bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes; to the Committee on Finance.

1930 TARIFF ACT AMENDMENTS ACT

• Mr. ROCKEFELLER. Mr. President, I am today introducing legislation to address a number of problems that have emerged in our antidumping and countervailing duty laws over the past 13 years of experience with them. Mr. President, these laws are not new—they date back over 70 years—but they are virtually our only line of defense against unfair trade practices, and it is important that we keep them current.

Last updated in 1979 following the Tokyo round of trade negotiations, these laws represent a GATT-consistent means of addressing two kinds of unfair trade practices that have become increasing problems in the global marketplace. The countervailing duty law is designed to offset government subsidies, and the antidumping law is designed to deal with dumping, which is defined as selling below one's home market price, a third market price, or the cost of production.

In both cases, the theory is that these practices, the former by governments and the latter by individual producers, distort the market system and thereby confer an unfair advantage. Because of that, the General Agreement on Tariffs and Trade has erected multilaterally agreed-upon codes intended to provide some discipline over these practices. U.S. law embodies those codes.

I should emphasize, Mr. President, that these laws are not designed to be either punitive or arbitrary. If an unfair practice is found, the penalty is a duty on the import in an amount calculated to offset the dumping or subsidy. In order to obtain such a duty, a domestic complainant must demonstrate both that the unfair practice is occurring and that the domestic industry has been injured by it. Over the life of these statutes there have been numerous cases where the subsidy or dumping is clearly established, but the International Trade Commission has determined that, even so, there has not been material injury.

While the laws are not punitive, we do want them to be effective. The United States is somewhat unusual in the

world in its reliance on its legal system and relatively transparent procedures to deal with these problems. Most countries find other, less formal means—sometimes outright quotas or other import limits, sometimes informal arrangements that result in the voluntary limitation of imports after government pressure. This is why American manufacturers are so concerned with the Uruguay rounds Dunkel draft, which would require changes that would weaken U.S. law and would weaken discipline over these practices. Other countries can make these concessions because they don't rely on these laws. If we do the same, we have nothing else as a fallback.

Even without the Dunkel draft, however, the effectiveness of these laws is declining, largely because, over time, importers learn how to evade them or how to minimize the impact of the penalties. This is not a new problem. We have been plugging leaks in these dikes for years, passing amendments piecemeal as we encounter new types of violations. The proper approach at this point would be a complete overhaul, as we undertook in 1979, but realistically, that is most likely to occur after the conclusion of the Uruguay round, an event that will probably occur after Congress adjourns this year, if it happens at all.

In the short run, however, there are a number of problems that have been identified that can easily be addressed without a comprehensive revision of the laws. Some of them have already been identified by others. The anticircumvention language in this bill, for example, is the same as that proposed by Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, in his omnibus trade bill, H.R. 5100, which passed the House on July 8. Other provisions can hardly be called major changes in the law, but each of them is intended to address a serious problem of current procedure or legal interpretation that has arisen in recent years. A number of them relate to the experiences of West Virginia firms with the trade laws, particularly those in the steel industry. I would also note, however, that since most of these provisions would apply to cases begun after the date of enactment, they will not have an effect on pending cases, including those filed by the steel industry.

It is my hope, now that the House has sent us a trade bill, that the Senate can address these issues this year and not let any more time pass before taking remedial action. I will be working to that end, Mr. President, and hope that other Senators will join me in that effort.

Since these provisions, not to mention current law, are complicated, they deserve some explanation in a way that I hope will be clear to both Senators and members of the public who read

these remarks after they are printed. Accordingly, let me try to summarize each of the provisions in the bill and the problems they are trying to address.

First, standard for initiation: Current law mandates a fairly low standard for accepting antidumping or countervailing duty petitions. Over the years, however, the Commerce Department bureaucracy has effectively raised the standard to demand more information and evidence before accepting a petition. This has had the effect of increasing the expense of filing and deterring cases from being pursued.

Mr. President, congressional intent on this matter was expressed very clearly in 1979. We wanted a low standard for accepting petitions because we wanted every citizen to have access to this important administrative process. In some respects, the procedures we adopted in 1979 made winning a case somewhat more difficult—particularly in the case of a subsidy complaint, where we added an injury test—and Congress felt, therefore, it was very important that we give petitioners every opportunity to have their complaint fully and carefully considered.

The bill would address this problem by clarifying the statute to require that petitions contain "a short and plain statement of the elements necessary for the imposition of the duty . . . and adequate information to give notice of the factual basis for the petitioner's allegations." While current law is also an adequate expression of Congressional intent, its meaning has been distorted over time by the Department, and it is appropriate to state again in statutory form our determination that the standard for accepting a petition be a low one.

Second, determination of material injury—volume of imports: When the International Trade Commission votes on injury in a dumping or countervailing duty case, it considers whether the industry is injured at the time of the vote. That can lead to negative decisions in the numerous cases where the act of filing the petition had an impact on the quantity of imports. Importers often reduce their shipments during the period of investigation due to the market uncertainty the petition creates or in the hopes of securing a negative decision from the Commission by arguing that the domestic industry could not be injured because imports have declined.

The bill addresses this problem by simply making clear that no negative inference can be drawn from a record of declining imports after the filing of a petition.

Third, price competition: Normally, when considering a purchase, a consumer would compare the actual prices he would have to pay for competing goods. The Commission, however, sometimes compares an import's

price at the port to the domestic product's factory price. This can lead to the conclusion that the import sells at a higher price than the domestic product, when from the actual consumer point of view the opposite might be true.

The bill would address these situations by directing the Commission to compare prices of goods as they are sold to the ultimate consumer. That should produce a more appropriate comparison.

Fourth, cumulation: As countries develop and the production/manufacturing process becomes increasingly decentralized, we have begun to encounter the phenomenon of similar imports from a wide variety of countries, many of them with only a small share of our market. Pursuing an unfair trade complaint against only the largest importers, however, is often helpful only in the short term, as those importers, once subject to dumping or countervailing duties, are quickly replaced by others who were not subject to the trade action.

American industry has responded to this problem first by filing cases against more than just the biggest importers and by encouraging the Commission to cumulate imports in its consideration of injury—that is, to determine whether all the imports collectively from the various countries subject to investigation were causing injury rather than whether the imports from each country were individually causing injury.

This provision of law, which first appeared in law in 1984 and was subsequently amended in 1988, has produced some unexpected problems in its administration, one of which relates to the circumstance of a complaint being filed against a new source of imports after a final affirmative determination has been made on the other sources of imports. At that point, the new imports cannot be cumulated with the old ones, because the latter are no longer subject to investigation. As a result, the law effectively encourages what might be called serial dumping—the repeated entry of new dumped imports from new sources after each old source is addressed through a trade complaint.

The bill addresses this problem through a look-back provision, which directs the Commission in the above circumstances to consider the injurious dumping over the previous three years as an important factor in determining the vulnerability of the industry to injury in the present case.

Fifth: A related problem in the administration of the cumulation provisions relates to the Commission's 1988 authority to exclude negligible imports from an investigation. Following an affirmative final determination on the remaining imports, those that were dropped on the grounds of negligibility can and probably will grow signifi-

cantly and become a new dumping problem. Just as in the previous provision, these imports are hard to reach because they cannot be cumulated with the earlier imports.

The bill addresses this problem in a manner similar to the direct cumulation problem above. If a subsequent petition is filed within 3 years of an earlier affirmative determination—the Commission's normal investigative period—on imports that had been found negligible, the imports covered by the later petition will be deemed to be causing material injury if the Commission would have reached an affirmative decision on them had the pattern of their volume, price, import penetration, and other factors been of similar dimensions during the earlier period of investigation when the imports were found to be negligible.

Sixth, suspension agreements: Current law gives the administering authority the option of suspending an investigation, along with any duties that might be imposed, in return for commitments by the importing parties, generally to cease the injurious activity. If the agreement is subsequently violated, the case would essentially pick up at the point it was suspended. Although the government has quite properly entered into very few of these agreements over the years, concern has arisen that the way the law is structured it could be to the advantage of a foreign party to enter into such an agreement temporarily and then violate it at a point when economic conditions made the likely outcome of the case when it was resumed more favorable to them. In other words, someone who was dumping might agree to suspend such activity because he anticipated losing the case, but he might at some later point deliberately violate the agreement and resume dumping in the expectation that the domestic industry could no longer establish injury or dumping of the same magnitude.

The Commission commented on this possibility in its decision last year on Sheet Piling from Canada:

... Congress has directed the Commission not to consider the effect of the suspension agreement when determining which merchandise is subject to investigation. 19 U.S.C. 1673c(j). Subsection (j), however, does not direct the Commission to ignore the impact of a suspension agreement on relevant economic indicators, such as changes in the volume or price of imports brought about by an agreement to eliminate LTFV sales. Such an interpretation would provide a benefit to importers who violate suspension agreements. Moreover, it would create an incentive for all importers to violate suspension agreements as soon as prices rise, imports drop, and the condition of the domestic industry improves.

The bill provides that, in an investigation that has been resumed because of such a violation, the Commission may not consider a decline in the volume of imports or an improvement in the condition of the domestic indus-

try—both of which may occur as a result of a suspension agreement—to be indicators that the domestic industry is not injured. Similar language precluding the Commerce Department from considering changes in the foreign market value or the U.S. price of the good after the date of the suspension agreement is also included. This language is consistent with congressional intent and an appropriate clarification of an unanticipated problem when the 1979 changes were made.

Seventh, concentration of imports: In an investigation involving a regional industry, the Commission may find injury only "if there is a concentration of subsidized or dumped imports into" the region. The legislative history of this provision makes it clear that such concentration exists when the ratio of the dumped or subsidized imports to the consumption of the imports and the domestic product is clearly higher in the regional market than the rest of the U.S. This is essentially a market share test, and the Commission initially applied it in a manner faithful to Congressional intent, as in certain steel wire nails from the Republic of Korea (1980), and cut-to-length carbon steel plate from the Federal Republic of Germany (1984).

More recently, however, the Commission has tended to ignore this standard and has begun to look simply at whether the region in question accounts for a large share of the imports. With an occasional exception, the Commission has generally found that standard satisfied when the region accounts for at least 80 percent of the imports, as in Gray Portland Cement and Cement Clinker from Mexico (1989). This standard is not what Congress intended, and it has in several cases resulted in finding no import concentration in situations where use of the proper standard would likely have resulted in the opposite conclusion. Examples are Gray Portland Cement and Cement Clinker from Japan (1991), and dry aluminum sulfate from Sweden (1989).

The amendment solves this problem simply by incorporating into the statute the language from the legislative history of the Trade Agreements Act of 1979, ensuring that the Commission in future investigations will apply the clearly higher standard Congress intended.

Eighth, definition of subsidy: Although the Tokyo round made some progress in defining what a subsidy is, our experience since then has made clear that both the round's Subsidies Code and United States practice do not adequately reach some government subsidies that have a clear impact on an industry's ability to export. In particular, the Commerce Department currently does not apply countervailing duties against international development bank—the World Bank or its counterpart regional institutions—

loans or loan guarantees, even if they are at concessionary rates or even if the loan would not have been available from commercial sources—in other words, when the recipient is not credit-worthy.

The bill's response to that gap is very straightforward. It simply includes such loans in the statutory definition of a subsidy.

Similarly, a problem has arisen with respect to loans or loan guarantees for the expansion of production or improvements in existing production when the effect of such loans is to increase production for export purposes. In such cases, the loan or loan guarantee is in reality an export subsidy, even though it may not be explained that way by the offending government.

In order to plug that gap, the bill defines as an export subsidy any loan by a government for expansion of production, or for improvements to existing production where one-third or more of the output can reasonably be expected to be exported.

Ninth, circumvention: One of the most difficult and complex problems this bill attempts to deal with is circumvention of dumping duties. This problem was not anticipated in 1979, but it should come as no surprise that over 13 years importers and foreign manufacturers have learned a great deal about our law, including its loopholes, and have discovered how to exploit those gaps to their advantage. The trend toward globalization of production has also contributed significantly toward the problem by making it easier for producers to move their production or assembly from place to place to stay ahead of dumping duty orders.

At the most obvious level, Mr. President, circumvention is fraud, which is already addressed in our law. If, for example, duties have been imposed on photo albums from Korea, and the same albums suddenly start appearing from another country, such as Singapore, falsely labeled as originating in the new country, then we have adequate statutory authority to address the problem, although sufficient enforcement resources is always a problem in case of this kind. It is not hard for a determined importer consistently to stay ahead of Customs enforcement authorities.

The more complicated situations, of course, are when the product in question is in some fashion transformed in the second country, thus permitting the argument that the import is no longer of the dumping country's origin. Often that also involves a Customs Service decision as to whether the product has been sufficiently altered or sufficient value has been added in the second country to transfer origin. Most complicated in this category is when assembly of a finished product is moved into the United States. In that

case, the dumped end product is no longer being imported, but most or all of its component parts are, for assembly here. Since both U.S. law and GATT rules limit attaching dumping duties to the "like" product, the duties cannot simply and easily be transferred from the finished product to its parts.

Another, related, problem, deals with what is known as diversionary dumping. It occurs when intermediate goods on which there is an outstanding dumping duty order are shipped to a third country and are there incorporated into a finished product which is subsequently imported into the United States. An example would be steel sheet or coil from Taiwan which has been found to be dumped in the U.S. and which is then shipped to Korea and made into pipe and tube, which is then imported into the United States. Current law does not address this problem, and the Administration has regularly opposed any serious effort to deal with it.

The solution to the first problem, the case where final assembly is in the United States and the components are imported from countries other than that covered by the initial duty order, the bill would apply the existing order in cases where the same company was involved in the assembly in the United States and the parts came from historic suppliers. This is the same approach as that proposed by Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, in H.R. 5100, his recently passed omnibus trade bill.

The problem of diversionary dumping is addressed with language that is a somewhat revised version of a proposal first made by several members of the Finance Committee in 1986 and 1987. A version of this provision was initially incorporated into the Senate markup vehicle for the 1988 trade bill but was ultimately removed due to opposition from the Reagan administration. A much more modest version was incorporated into the bill, but it is so limited it has not successfully dealt with the problem.

Tenth, monitoring: Current law provides for Commerce Department monitoring of imports in the limited circumstance where more than one anti-dumping duty order on the same merchandise is already in effect. Despite numerous requests, there has never been a monitoring program initiated under this provision, which is unfortunate, since the act of monitoring can have a discouraging effect on dumped imports without forcing hard-pressed domestic industries to go to the expense of filing a formal complaint.

The bill would broaden somewhat Commerce's authority by permitting a monitoring request when there is only one other antidumping duty order outstanding. That would not reduce the Commerce Department's discretion but

would at least expand the universe of situations where monitoring could occur.

Eleventh, upstream subsidies: One of the post-1979 problems Congress attempted to address in the 1980s was that of upstream subsidies—a manufacturer's use of an input or component part that benefits from a subsidy. Accepting this concept, as we have done, leaves the Commerce Department with the technical problem of determining the value of the benefit of the subsidy to the manufacturer.

In the first case where this issue was raised, Certain Agricultural Tillage Tools from Brazil, Commerce established a hierarchy of price comparisons for determining such a value.

In general, the methodology is to compare the price paid to the subsidized input supplier to:

First, prices charged by unsubsidized producers of the inputs in the same country;

Second, prices paid for unsubsidized imports of the input for use downstream producers;

Third, information on world market prices in cases of commodity products;

Fourth, the best information available to calculate a benchmark price.

This construct, in my judgment, is an adequate elaboration of congressional intent, and it appears to have been successful in practice. Now, however, the Department has announced its intention to abandon this methodology and instead compare the price paid by the producer to a subsidized supplier in the country under investigation to F.O.B. prices of subsidized and unsubsidized foreign suppliers. This is an unwarranted and uncalled-for change in an otherwise acceptable practice. The amendment in my bill would prevent this change simply by putting into the statute the previous Commerce practice.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 3046

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

SECTION 1. STANDARD FOR INITIATING PETITION.

(a) COUNTERVAILING DUTIES.—

(1) PETITION REQUIREMENTS.—The first sentence of section 702(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671a(b)(1)) is amended by striking "which alleges" and all that follows through "allegations" and inserting "which contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 701(a) and adequate information to give notice of the factual basis for the petitioner's allegations".

(2) PETITION DETERMINATION.—Paragraph (1) of section 702(c) of such Act (19 U.S.C. 1671a(c)(1)) is amended by striking "contains information" and all that follows through "allegations" and inserting "contains a

short and plain statement of the elements necessary for the imposition of the duty imposed by section 701(a) and adequate information to give notice of the factual basis for the petitioner's allegations".

(b) ANTIDUMPING DUTIES.—

(1) PETITION REQUIREMENTS.—The first sentence of section 732(b)(1) of such Act (19 U.S.C. 1673a(b)(1)) is amended by striking "which alleges" and all that follows through "allegations" and inserting "which contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 731 and adequate information to give notice of the factual basis for the petitioner's allegations".

(2) PETITION DETERMINATION.—Paragraph (1) of section 732(c) of such Act (19 U.S.C. 1673a(c)(1)) is amended by striking "contains information" and all that follows through "allegations" and inserting "contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 731 and adequate information to give notice of the factual basis for the petitioner's allegations".

SEC. 2. DETERMINATION OF MATERIAL INJURY.

(a) VOLUME OF IMPORTS.—Section 771(7)(C)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(i)) is amended by adding at the end thereof the following new sentence: "An inference shall not be made that there is no material injury, if the volume of imports has decreased after the initiation of an investigation under section 702 or 732."

(b) PRICE COMPETITION.—Section 771(7)(C)(ii) of such Act (19 U.S.C. 1677(7)(C)(ii)) is amended by inserting immediately after subclause (II) the following flush sentence:

"For purposes of this clause, the Commission shall compare the price at which imported merchandise is sold to the ultimate consumer with the price at which like products of the United States are sold to the ultimate consumer."

(c) CUMULATION.—Section 771(7)(C)(iv) of such Act (19 U.S.C. 1677(7)(C)(iv)) is amended by adding at the end thereof the following new subclause:

"(III) LOOK-BACK.—For purposes of clauses (i) and (ii) and subparagraph (F), if a petition is filed under this title with respect to a product or like product which was the basis of a final affirmative determination during the 3 years preceding the filing of such petition, the Commission shall consider as part of its investigation of the new petition the previous injurious dumping or subsidization as an important factor in determining the industry's vulnerability to material injury."

(d) NEGLIGIBILITY.—Section 771(7)(C) of such Act (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

"(vi) TREATMENT OF NEGLIGIBLE IMPORTS IN SUBSEQUENT INVESTIGATIONS.—Notwithstanding clause (v), in the case of a petition filed under this title with respect to the importation of merchandise which was the subject of a final affirmative determination during the 3 years preceding the filing of such petition, importation of merchandise otherwise considered negligible shall not be considered negligible and shall be treated as having an adverse impact on the domestic industry, if the pattern, volume, price, import penetration, and other factors of such imports, when considered as part of the current investigation, would result in an affirmative determination."

(e) CONCENTRATION OF IMPORTS.—Section 771(4)(C) of such Act (19 U.S.C. 1677(4)(C)) is amended by adding at the end thereof the

following new sentence: "Concentration of subsidized or dumped imports exists with respect to a market, if the percentage of subsidized or dumped imports to consumption of imports and domestically produced like products in such market is clearly higher than the percentage is in the rest of the United States."

SEC. 3. EFFECT OF SUSPENSION AGREEMENTS ON FINAL DETERMINATION.

Section 734(j) of the Tariff Act of 1930 (19 U.S.C. 1673c(j)) is amended—

(1) by striking "In making a final determination" and inserting:

"(1) IN GENERAL.—In making a final determination", and

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

"(2) OTHER FACTORS.—In a case in which a suspension of investigation has been terminated under subsection (i)(1) or an investigation has been continued under subsection (g), in making a final determination—

"(A) the Commission shall not consider as a factor supporting a negative determination any decrease in imports subject to such investigation or any improvement in the condition of the domestic industry which occurred after the suspension agreement became effective, and

"(B) the administering authority shall not consider as a factor supporting a negative determination any decrease in foreign market value of imports subject to such investigation or any increase in United States prices which occurred after the suspension agreement became effective."

SEC. 4. DETERMINATION OF SUBSIDY.

(a) LOANS BY INTERNATIONAL DEVELOPMENT BANKS.—Section 771(5)(A)(i)(I) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(A)(i)(I)) is amended by inserting "(including loans or loan guarantees by an international development bank)" after "loan guarantees".

(b) CAPITAL AND LOANS TO EXPAND PRODUCTION.—Section 771(5)(A) of such Act (19 U.S.C. 1677(5)(A)) is amended by adding at the end thereof the following new clause:

"(iii) The provision of capital, loans, or loan guarantees by a government for the expansion of production or improvements in existing production, if one-third or more of the output from such production can reasonably be expected to be exported."

SEC. 5. PREVENTION OF CIRCUMVENTION OR DIVERSION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—Section 781(a) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) is amended to read as follows:

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—In determining whether imported parts or components are circumventing an antidumping or countervailing duty order or finding and whether to include such parts or components in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,
 "(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order,

"(C) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (2) applies, and

"(D) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or 303,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components supplied by the exporter or producer with respect to which such order or finding applies, from suppliers that have historically supplied the parts or components to that exporter or producer, or from any party in the exporting country supplying parts or components on behalf of such an exporter or producer, and

"(ii) the value of the imported parts and components referred to in clause (i), whether considered individually or collectively, is significant in relation to the total value of all parts and components used in the assembly or completion operation, excluding packing, of the imported merchandise covered by the order or finding, or

"(C) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading an antidumping or countervailing duty order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect."

(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—Section 781(b) of the Tariff Act of 1930 (19 U.S.C. 1677j(b)) is amended to read as follows:

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—In determining whether merchandise completed or assembled in a foreign country is circumventing an antidumping or countervailing duty order or finding and whether to include such merchandise in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,
 "(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order,

"(C) whether the manufacturer or exporter of the merchandise described in paragraph (2)(B) is related to the person who uses the merchandise described in paragraph (2)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(D) whether imports into the foreign country of the merchandise described in paragraph (2)(B) have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise imported into the United States is either of the same class or kind or incorporates an essential component that is of the same class or kind as merchandise

produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303; and

"(B)(i)(I) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to such order or finding, is produced in the foreign country with respect to which such order or finding applies, or is supplied by the exporter or producer with respect to which such order or finding applies or by suppliers that have historically supplied the parts or components to that exporter or producer, and

"(II) the merchandise referred to in subclause (I) which is used in the assembly or completion of the imported merchandise has a value that is significant in relation to the total value of all parts or components used in the assembly or completion operation, excluding packing, or

"(i) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading a countervailing or antidumping duty order or finding, and

"(C) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect."

(c) CONSTRUCTION PROVISION.—Section 781 of the Tariff Act of 1930 (19 U.S.C. 1677j) is amended by adding at the end the following new subsection:

"(f) CONSTRUCTION PROVISION.—Nothing in this title shall be deemed to limit the authority of the administering authority to include provisions in any final order issued pursuant to—

"(1) an antidumping duty order issued under section 736,

"(2) a finding issued under the Antidumping Act, 1921, or

"(3) a countervailing duty order issued under section 706 or section 303,

the purpose of which is to prevent the evasion of any remedy provided for in such finding or order or to otherwise safeguard the integrity of such finding or order."

SEC. 6. DETERMINATION OF COMPETITIVE BENEFIT IN UPSTREAM SUBSIDIES.

Section 771A(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1677-1(b)(1)) is amended—

(1) by striking "Except" and inserting "(A) Except",

(2) by striking "another seller" and inserting "an unsubsidized seller" in subparagraph (A), as redesignated by paragraph (1), and

(3) by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), determination of the price the manufacturer or producer would otherwise pay for the product in obtaining it from an unsubsidized seller shall be based on the following factors in the order in which such factors are listed:

"(i) the price paid by the manufacturer or producer to an unsubsidized seller located in the same country as the seller of the input product,

"(ii) the price paid by the manufacturer or producer to an unsubsidized seller located in

a country other than the country of the seller of the input product,

"(iii) information on prices (including all delivery fees) from an unsubsidized seller of the input product located in the same country as the subsidized seller of the input product, or

"(iv) information on prices (including all delivery fees) from an unsubsidized seller of the input product located in a country other than the country of the subsidized seller of the input product."

SEC. 7. DIVERSIONARY INPUT DUMPING.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by inserting after section 771B the following new section:

"SEC. 771C. DIVERSIONARY INPUT DUMPING.

"For purposes of this title, diversionary input dumping occurs when—

"(1) a producer or manufacturer incorporates into merchandise under investigation a component or a material which is the product of another country (other than the United States), and which is the subject of—

"(A) an antidumping duty order issued under section 736, or

"(B) an international arrangement or agreement described in section 734, if such arrangement or agreement was entered into after an affirmative preliminary determination was made under section 733(b), and

"(2) the producer or manufacturer under investigation purchased the material or component at a price which is less than the foreign market value (determined under section 773(e))."

(b) FOREIGN VALUE.—

(1) IN GENERAL.—Paragraph (2) of section 773(a) of such Act (19 U.S.C. 1677b(a)(2)) is amended by inserting "(or, if the administering authority finds there is a reasonable basis to believe that diversionary input dumping is occurring which has a significant effect on the cost of producing the merchandise under investigation)" after "paragraph (1)(A)".

(2) SPECIAL RULE FOR DIVERSIONARY INPUT DUMPING.—Section 773(e) of such Act (19 U.S.C. 1677b(e)) is amended by adding at the end thereof the following new paragraph:

"(5) DIVERSIONARY INPUT DUMPING.—If the administering authority determines that diversionary input dumping is occurring and has a significant effect on the cost of producing the merchandise under investigation, the administering authority shall, in calculating the cost of the material or component under paragraph (1)(A), include the amount of the diversionary input dumping determined to exist with respect to such material or component. For purposes of the preceding sentence, the amount of the diversionary input dumping is the difference, if any, by which—

"(A) the foreign market value of the input material or component involved, as calculated under this title, exceeds

"(B) the purchase price of the input material or component paid by the producer or manufacturer of the merchandise under investigation."

(c) PROCEDURES FOR INITIATING AN ANTI-DUMPING INVESTIGATION.—Section 732(a) of such Act (19 U.S.C. 1673a(a)) is amended by adding at the end thereof the following new paragraph:

"(3) CASES INVOLVING DIVERSIONARY INPUT DUMPING.—The administering authority shall investigate whether diversionary input dumping is occurring whenever the administering authority has reasonable grounds to believe or suspect that—

"(A) diversionary input dumping (as defined in section 771C) is occurring,

"(B) such diversionary input dumping has a significant effect on the cost of producing the merchandise under investigation, and

"(C) official Government or other reliable, generally accepted trade statistics indicate that subsequent to the imposition of an anti-dumping duty order or entry into force of an international agreement relating to imports into the United States of the material or component in question, shipments to the United States of the merchandise under investigation have increased (either in quantity or market share)."

(d) TIMETABLE FOR PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Section 733(b)(1) of such Act (19 U.S.C. 1673b(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) IF DIVERSIONARY INPUT DUMPING INVOLVED.—If, as part of a petition filed under section 732(b), or an investigation commenced under section 732(a), the administering authority has reasonable grounds to believe or suspect that diversionary input dumping is occurring, the administering authority may treat the investigation as an extraordinarily complicated case under subsection (c) and may extend the period of time for making a preliminary determination accordingly."

(e) CLERICAL AMENDMENT.—The table of contents for subtitle VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 771B the following new item:

"Sec. 771C. Diversionary input dumping."

SEC. 8. MONITORING.

(a) IN GENERAL.—Section 732(a)(2)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1673a(a)(2)(A)(i)) is amended by striking "more than one" and inserting "one or more".

(b) DOWNSTREAM PRODUCT MONITORING.—Section 780(a)(2)(B)(iii) of such Act (19 U.S.C. 1677i(a)(2)(B)(iii)) is amended by striking "at least 2" and inserting "1 or more".

SEC. 9. APPLICATION OF AMENDMENTS TO CANADA.

The amendments made by this Act apply with respect to goods imported into the United States from Canada.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) STANDARD FOR INITIATING PETITION; DETERMINATION OF INJURY.—The amendments made by section 1 (relating to the provisions of sections 702 and 732 of the Tariff Act of 1930) and section 2 (relating to the provisions of sections 771(7)(C) and 771(4)(C) of the Tariff Act of 1930) apply with respect to investigations initiated on or after the date of the enactment of this Act.

(c) PREVENTION OF CIRCUMVENTION.—The amendments made by section 5 (relating to section 781 of the Tariff Act of 1930) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.●

By Mr. BREAUX (for himself, and Mr. LOTT) by request:

S. 3047. A bill to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

MARITIME REFORM ACT

● Mr. BREAUX. Mr. President, I, along with my colleague, Senator LOTT, am

introducing a bill today, the administration's Maritime Reform Act of 1992, by request. I hope this bill, or a comparable bill that I intend to introduce, will lead to a much needed overhaul of the U.S. maritime industry. For the first time in 20 years, we have a major maritime reform effort that has the potential to give the maritime industry in this country the boost it so desperately needs. I believe that it is imperative that my colleagues and I work together to reach an agreement on a viable maritime reform bill before the industry reaches the point of no return.

Over the last 20 years, the U.S. maritime industry has been in a continuous state of decline. Lykes Lines, a Louisiana shipping company and one of the oldest in the country, has been forced to begin replacing its U.S.-flag fleet with foreign-flag vessels. The two largest U.S.-flag carriers, American President Lines and Sealand, have vowed to follow Lykes's lead unless a bill that will revitalize the industry is passed in the near future. That is why it is so important that this bill be introduced today.

I wish to point out to my colleagues that I do not believe that this bill is the ultimate cure for all that ails the industry. Aside from containing what I believe to be a number of substantive flaws, I understand that it may also present some budgetary problems. That is why I intend to introduce a maritime reform bill of my own soon. In the meantime, however, I hope that the introduction of this bill, the administration's bill, will serve as a catalyst for the reform and revitalization of the U.S. maritime industry.

Mr. President, I request that the text of the bill and my statement be printed in the RECORD.

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

S. 3047

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

TITLE I—AMENDMENTS TO THE MERCHANT MARINE ACT, 1936

SEC. 101. SHORT TITLE.

This title may be cited as the "Maritime Reform Act of 1992".

SEC. 102. CONTINGENCY RETAINER PROGRAM.

(a) The Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101 et seq.), is amended by inserting after title III the following new title:

"TITLE IV—CONTINGENCY RETAINER PROGRAM

"SEC. 401. The Secretary of Transportation shall encourage the establishment of a fleet of active, militarily useful, privately owned vessels to meet Department of Defense and other security requirements, while also maintaining an American presence in international commercial shipping. The fleet shall be known as the 'Contingency Retainer Fleet.'

"SEC. 402. (a) The Contingency Retainer Fleet shall consist of up to 74 privately

owned, United States-flag vessels for which there are in effect operating agreements under this title.

"(b) A vessel may not be included in the Contingency Retainer Fleet unless—

"(1) it is operated by an "ocean common carrier" as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), or it is a roll-on/roll-off vessel; "(2) it is not more than fifteen years of age on the date an operating agreement is entered into under Section 403, unless it is included in an operating-differential subsidy contract and meets the requirements of Section 103;

"(3) it is operated in foreign trade;

"(4) the Secretary of Defense determines, within 30 days after receiving notification from the Secretary of Transportation of the intent of the Secretary of Transportation to include a vessel in the Contingency Retainer Fleet, that the vessel is militarily useful for meeting the sealift needs of the United States with respect to national emergencies;

"(5) the owner or operator of the vessel enters into an operating agreement with the Secretary of Transportation that includes that vessel; and

"(6) the owner or operator of the vessel is a citizen of the United States under Section 905(c) of this Act.

"(c) The Secretary of Transportation shall, after receiving an application for inclusion of a vessel in the Contingency Retainer Fleet and after consultation with the Secretary of Defense, determine whether the vessel is eligible for inclusion in the Contingency Retainer Fleet.

"(d)(1) A vessel shall not be considered to be ineligible for inclusion in the Contingency Retainer Fleet and shall not be excluded from coverage of an operating agreement, solely because it was not constructed in the United States.

"(2) A vessel not constructed in the United States that is included in the Contingency Retainer Fleet shall be deemed to have been United States-built for the purposes of sections 901(b) and 901b of this Act.

"SEC. 403. (a) The Secretary of Transportation shall require, as a condition of including any vessel in the Contingency Retainer Fleet, that the owner or operator of the vessel enter into an operating agreement with the Secretary of Transportation pursuant to this section.

"(b)(1) An operating agreement pursuant to this section shall require that, during the effective period of the agreement—

"(A) each vessel covered by the operating agreement—

"(i) shall be operated in the foreign trade, and

"(ii) shall not be operated in the coastwise trade of the United States or in mixed domestic and foreign trade; and

"(B) the owner or operator of a vessel covered by the operating agreement shall have the vessel documented under chapter 121 of subtitle II of title 46, United States Code, and maintain that documentation.

"(c)(1) An operating agreement under this section shall provide that the Secretary of Transportation pay to the owner or operator of a vessel that is included in the operating agreement, in accordance with this subsection, an amount per year per vessel which shall not exceed:

"(A) for fiscal year 1994, \$2,500,000;

"(B) for fiscal year 1995, \$2,500,000;

"(C) for fiscal year 1996, \$2,330,000;

"(D) for fiscal year 1997, \$2,160,000;

"(E) for fiscal year 1998, \$1,990,000;

"(F) for fiscal year 1999, \$1,820,000; and

"(G) for fiscal year 2000, \$1,600,000.

"(2) The Secretary of Transportation may not enter into an operating agreement under this section unless appropriations sufficient to cover the entire term of the agreement are available. There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 through 2000.

"(3) The amount per year paid to the operator of a vessel under an operating agreement pursuant to this section shall be paid at the beginning of each month in equal installments.

"(4) The amount of a payment under this subsection for a vessel shall not be reduced by reason of operation of the vessel to carry civilian or military preference cargoes pursuant to—

"(A) section 901(a), 901(b) or 901b of this Act;

"(B) section 2631 of title 10, United States Code; or

"(C) section 1241-1 of title 46, Appendix, United States Code.

"(5) The Secretary of Transportation shall not make any payment under this subsection for a vessel—

"(A) that is subject to an operating-differential subsidy contract under title VI of this Act;

"(B) with respect to any period in which the vessel is not operated or maintained in accordance with the operating agreement; or

"(C) that is not offered and accepted for enrollment in a sealift readiness program approved by the Secretary of Defense.

"(d)(1) In consultation with the Secretary of Defense, an operating agreement under this section shall require that, upon a request of the Secretary of Defense during time war, national emergency, or when deemed necessary by the Secretary of Defense in the interest of national security, the owner or operator of a vessel covered by the operating agreement shall either make the vessel available or provide vessel space on a guaranteed basis, as determined by the Secretary of Defense, to the Secretary of Defense as soon as practicable—

"(A) at the first port in the United States the vessel is scheduled to call after the date of submission of the request;

"(B) at the port in the United States to which the vessel is nearest after the date of submission of the request; or

"(C) in any other reasonable manner, as specified by the Secretary of Defense in the request.

"(2) The Secretary of Transportation shall not reduce the amount of equal monthly installment payments under subsection (c) to an owner or operator who makes a vessel available or provides vessel space to the Secretary of Defense pursuant to this subsection.

"(3) The Secretary of Defense shall, upon the termination of the need for which a vessel is delivered under this subsection, return the vessel to the owner or operator of the vessel—

"(A) at a place that is mutually agreed upon by the Secretary of Defense and the owner or operator of the vessel; and

"(B) in the condition in which it was delivered to the Secretary of Defense, excluding normal wear and tear.

"(e) An operating agreement executed pursuant to this section shall be effective for a period of not more than seven years, ending September 30, 2000.

"SEC. 404. DEFINITIONS.

"For the purposes of this title:

"(1) The term 'citizen of the United States' means a person that is a citizen of the United States under section 905(c) of this Act.

"(2) The term 'operating agreement' means an operating agreement that takes effect under section 403, covering one or more vessels included in the Contingency Retainer Fleet."

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on the date which is 120 days after the date of enactment of the Maritime Reform Act of 1992.

SEC. 103. ELIGIBILITY OF VESSELS INCLUDED IN OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

(a) VESSEL AGE LIMITS.—

(1) Any vessel fifteen years of age or less included in an operating-differential subsidy contract may be offered for inclusion in the Contingency Retainer Fleet.

(2) Any vessel more than fifteen years of age included in an operating-differential subsidy contract may be offered for inclusion in the Contingency Retainer Fleet within ninety days after the date of enactment of this Act.

(3) No vessel that is twenty-five or more years of age included in an operating-differential subsidy contract shall be included in the Contingency Retainer Fleet unless the owner or operator—

(A) has a contract in place with a shipyard for the delivery of a replacement of that vessel for the Contingency Retainer Fleet no later than thirty months from the date of enactment of this Act; or

(B) acquires a replacement of that vessel for the Contingency Retainer Fleet meeting the requirements of section 402 of title IV no later than twelve months from the date of enactment of this Act.

(b) The vessel ages specified in subsections (a)(2) and (3) shall apply as of the date a vessel is offered for inclusion in the Contingency Retainer Fleet.

SEC. 104. OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

(a) After the date of enactment of this Act, the Secretary of Transportation shall not enter into any new contract for an operating-differential subsidy under title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*).

(b) Notwithstanding any other provision of this Act, any contract in effect under title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*) on the day before the date of enactment of this Act—

(1) shall continue in effect under its term and terminate as set forth in the contract; and

(2) may not be renewed.

(c) With respect to liquid or dry bulk cargo carrying vessels receiving operating-differential subsidy under contracts in force on the date of enactment of this Act, upon termination of those contracts on the termination dates set forth in those contracts as of the date of enactment of this Act, section 506 of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1156), shall not apply to the vessels included in those contracts.

SEC. 105. CONSTRUCTION-DIFFERENTIAL SUBSIDY.

(a) Section 503 of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1153), is amended by adding at the end thereof the following new sentence:

"Any vessel constructed with the aid of construction-differential subsidy and not included in the Contingency Retainer Fleet, whose owner entered into an operating agreement with the Secretary of Transportation under title IV of this Act for other

vessels, is not required to remain documented under the laws of the United States, so long as there remains no debt due the United States arising under title XI of the Act."

(b) Section 511(c) of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1161(c)), is amended by adding the following new sentence at the end of the subsection:

"This subsection shall not apply to deposits made to a construction reserve fund after the date of enactment of the Maritime Reform Act of 1992."

SEC. 106. AMENDMENTS TO TITLE VI.

(a) Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171, *et seq.*), is amended as follows:

(1) Section 605(b) (46 App. U.S.C. 1175(b)) is amended by adding the following new sentence at the end of the subsection:

"After September 30, 1992, the Secretary of Transportation shall enter no new formal order under this subsection."

(2) Section 607 (46 App. U.S.C. 1177) is amended as follows:

(A) By substituting "subsection (c)(1)" for "subsection (k)(1)" in the first sentence of subsection (a).

(B) By striking out the second sentence in subsection (a) and inserting a new second sentence as follows:

"Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels documented under the laws of the United States for operation in the foreign or domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under section 136(c) of the Internal Revenue Code of 1986."

(C) By striking out "subsection (b)(1)(A)" in the third sentence of subsection (a) and inserting in lieu thereof "section 136(a)(1)(A) of the Internal Revenue Code of 1986".

(D) By striking out subsection (k)(1)(A), and by redesignating subsections (k)(1)(B) and (k)(1)(C) as subsections (k)(1)(A) and (k)(1)(B).

(E) By striking out subsection (k)(2)(A), and by redesignating subsection (k)(2)(B) as subsection (k)(2)(A).

(F) By inserting a new subsection (k)(2)(B) as follows:

"(B) which the person maintaining the fund agrees with the Secretary will be operated in the foreign or domestic trade or in the fisheries of the United States."

(G) By striking out subsection (k)(2)(C).

(H) By substituting "subsection (d)" for "subsection (1)" in subsection (k)(6).

(I) By striking out subsections (b) through (i).

and by redesignating subsections (j) through (m) as subsections (b) through (e).

(J) By inserting a new subsection (f) as follows:

"(f) Cross Reference. For rules applicable to the tax treatment of fund deposits, earnings, and withdrawals, see section 136 of the Internal Revenue Code of 1986."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for taxable years beginning after the date of enactment of the Maritime Reform Act of 1992: *Provided*, That any withdrawal made within 120 days after such date of enactment shall be a nonqualified withdrawal, if used in connection with the acquisition, construction, or reconstruction of a vessel—

(1) that is not constructed or reconstructed in the United States, or

(2) that will not be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

SEC. 107. AMENDMENTS TO TITLE IX.

(a) Title IX of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1241 *et seq.*), is amended as follows:

(1) Section 905 (46 App. U.S.C. 1244) is amended as follows:

(A) By striking subsection (a) and inserting a new subsection (a) as follows:

"(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country, and shall also include trade between foreign ports."; and

(B) By striking subsection (c) and inserting a new subsection (c) as follows:

"(c) The words "citizen of the United States" include a corporation, partnership, association, trust, joint venture, or other entity if it owns a vessel eligible for documentation under chapter 121 of subtitle II of title 46, United States Code, and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum, as defined in section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802)."

(2) A new section 910 is added as follows:

"SEC. 910. (a) Notwithstanding any other provision of the Maritime Reform Act of 1992, a vessel constructed, reconstructed, or repaired in a foreign shipyard with the aid of subsidies or equivalent measures determined by the United States Trade Representative to cause, or threaten to cause, significant adverse effects on shipyards in the United States, or significant distortion in trade in vessels shall not be permitted to participate in the following benefits—

"(1) consideration as a qualified vessel for purposes of inclusion under the Contingency Retainer Program;

"(2) eligibility for any qualified withdrawals from the capital, capital gain, and ordinary income accounts under section 136 of the Internal Revenue Code of 1986;

"(3) immediate eligibility for the carriage of cargo preference goods; and

"(4) reduction in ad valorem duty on repairs of vessels contained in Section 203 of Title II of the Maritime Reform Act of 1992.

"(b) In making the determination referred to in subsection (a), the United States Trade Representative shall consult with appropriate Executive agencies.

"(c) any denial of benefits pursuant to subsection (a) shall be prospective from the date of an affirmative determination by the United States Trade Representative and shall not affect a vessel on which a contract for construction, reconstruction, or repair in a foreign shipyard had been entered into prior to such date.

"(d) The United States Trade Representative shall publish rules implementing this section not later than 90 days after the date of enactment of this Act.

"(e) Nothing in this section shall create a cause of action or any other claim or defense that may be asserted by a private party in any Federal or State court of the United States."

SEC. 108. FOREIGN-FLAG FEEDER VESSELS.

(a) The provisions of law set forth in 46 App. U.S.C. 1241(a), 1241(b)(1), 1241-1, and 1241f, and 10 U.S.C. 2631 requiring the use of United States-flag vessels shall be deemed

fulfilled, as to the total of any shipment, if the actual ocean transportation of each shipment for which the United States-flag carrier has issued its own through bill-of-lading between the original port of lading and the port of final discharge, consists of transportation of the cargo by a combination of United States and foreign-flag vessels. The use of foreign-flag vessels shall be as authorized by the Secretary of Transportation under such terms and conditions as the Secretary shall prescribe by rule under section 204 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114).

SEC. 109. CARRIAGE OF CARGO PREFERENCE GOODS.

(a) After the date of enactment of this Act, bulk cargo vessels constructed after the date of enactment and liner vessels shall be deemed to have been United States-built for the purposes of sections 901(b) and 901b of the Merchant Marine Act, 1936, as amended.

(b) The amendments made by subsection (a) shall be effective beginning on the date which is 120 days after the enactment of the Maritime Reform Act of 1992.

SEC. 110. REEMPLOYMENT RIGHTS FOR MERCHANT MARINERS.

(a) Title III of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1131), is amended by inserting after section 301 the following new section:

"SEC. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to the same reemployment rights and other benefits as the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty. The enforcement mechanism provided by chapter 43 of title 38, including the right to adjudication in the Federal courts, shall be applicable.

"(b) An individual shall be entitled to the benefits of subsection (a) of this section if such individual—

"(1) was employed in the activation or operation of a vessel used by or under contract to the United States for war, armed conflict, national emergency, or maritime mobilization need (including training purposes or testing for readiness and suitability for mission performance); and

"(2) during the period of such employment possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable), and did not commit an act prohibited by chapter 77 or chapter 115, of title 46, United States Code.

"(c) (1) Upon request, the Secretary of Transportation shall issue to an eligible individual a certification of entitlement, which, for purposes of reemployment rights and benefits provided by this section, shall be considered to be the equivalent of a certificate referred to in clause (1) of section 2021(a) of title 38, United States Code.

"(2) An individual may submit an application for certification of entitlement under this subsection to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (b) with respect to which the application is submitted."

SEC. 111. AMENDMENT TO THE OIL POLLUTION ACT OF 1990.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking "\$50,000,000 in any fiscal year" and inserting in lieu thereof "\$44,000,000 in fiscal year 1993, \$37,000,000 in fiscal year 1994, \$43 million in fiscal year 1995, \$50,000,000 in fiscal year 1996,

\$42,000,000 in fiscal year 1997, and \$50,000,000 in any fiscal year thereafter".

TITLE II—INTERNAL REVENUE CODE AND TARIFF ACT AMENDMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Capital Construction Fund Amendments of 1992".

SEC. 202. INTERNAL REVENUE CODE AMENDMENTS.

(a) Section 7518 of the Internal Revenue Code of 1986 is amended as follows:

(1) Subsection (a)(1)(D) is revised to read "the receipts from the investment or reinvestment of amounts held in such fund, less the taxes described in subsection (h)(1)(B)."

(2) Subsection (a)(2) is amended by substituting "lessor" for "owner".

(3) Subsection (c)(1)(A) is amended by deleting "and section 607 of the Merchant Marine Act, 1936".

(4) Subsection (c)(1)(C) is deleted.

(5) Subsection (c)(1)(D) is amended by deleting "and section 607 of the Merchant Marine Act, 1936".

(6) Subsections (c)(1)(D) and (c)(1)(E) are redesignated as subsections (c)(1)(C) and (c)(1)(D), respectively.

(7) Subsection (c)(3) is added as follows:

"(3) EARNINGS TREATED AS DEPOSITS.—The earnings of any capital construction fund for any taxable year, less the amount described in subsection (h)(1)(B), shall be treated as an amount deposited for such taxable year."

(8) Subsection (d)(2)(B) is revised to add at the end thereof "and".

(9) Subsection (d)(2)(C) is revised to read "aftertax amounts referred to in subsection (a)(1)(D)."

(10) Subsection (d)(2)(D) is deleted.

(11) Subsection (d)(3)(A) is revised to read "amounts representing long-term capital gains (as defined in section 1222) and referred to in subsection (a)(1)(C), reduced by".

(12) Subsection (d)(3)(B) is revised to read "amounts representing long-term capital losses (as defined in section 1222) on assets held in the fund."

(13) Subsection (d)(4)(B)(i) is revised to read "amounts representing short-term capital gains (as defined in section 1222) and referred to in subsection (a)(1)(C), reduced by".

(14) Subsection (d)(4)(B)(ii) is revised to read "amounts representing short-term capital losses (as defined in section 1222) on assets held in the fund, and".

(15) Subsection (d)(4)(C) is revised to read "amounts received from a transaction described in subsection (a)(1)(C) that are not referred to in paragraphs (2)(B), (3)(A), or (4)(B)(i)."

(16) Subsections (d)(4)(D) and (E) are deleted.

(17) Subsection (e)(1)(B) is amended by deleting "or" at the end thereof.

(18) Subsection (e)(1)(C) is amended by substituting "or" for "." at the end thereof.

(19) Subsection (e)(1)(D) is added to read: "(D) the payment of amounts that reduce the principal amount of a qualified lease of a qualified vessel or a barge or a container which is part of the complement of a qualified vessel."

(20) The last sentence of subsection (e)(1) is revised to read:

"A qualified lease is considered a debt instrument issued for property to which section 1274 applies and the date the lease is entered into by the parties is considered the 'date of the sale or exchange' referred to in section 1274(b)(2)(A)."

(21) The heading and first sentence of subsection (f)(4) are revised to read:

"(4) ADJUSTMENT TO BASIS OF VESSELS, ETC., WHERE WITHDRAWALS PAY PRINCIPAL ON DEBT

OR LEASE OBLIGATION.—If any portion of a qualified withdrawal made to pay the principal on any indebtedness pursuant to subsection (e)(1)(C), or to reduce the principal amount of any qualified lease pursuant to subsection (e)(1)(D), is made out of the ordinary income account or the capital gain account, an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund."

(22) Substitute "subsection (1)" for "subsection (h)" in subsection (g)(1).

(23) Subsection (g)(3)(B) is revised to read: "(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of long-term capital gain (as defined in section 1222), and".

(24) Subsection (g)(3)(C)(i) is amended by deleting "no interest shall be payable under section 6601 and".

(25) Subsection (g)(3)(C)(ii) is revised to read:

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be payable in accordance with section 6601 from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and".

(26) Subsection (g)(4) is deleted.

(27) Subsection (g)(5)(B) is deleted.

(28) Subsections (g)(5)(C) through (E) are redesignated as subsections (g)(5)(B) through (D).

(29) Subsection (g)(6)(A) is amended by substituting "paragraph (4)" for "paragraph (5)" and by revising the last sentence to read:

"With respect to the portion of any non-qualified withdrawal made out of the capital gain account during a taxable year and to which section 1(h) or 1201(a) applies, the rate of tax taken into account under the preceding sentence shall be the rate specified in section 1(h) or 1201(a), whichever applies."

(30) Subsections (g)(5) and (g)(6) are redesignated as subsections (g)(4) and (g)(5), respectively.

(31) Subsections (h) and (i) are redesignated as subsections (i) and (j), respectively, and a new subsection (h) is added to read:

"(h) TAXATION OF EARNINGS ON INVESTMENTS.—

"(1) IN GENERAL. The tax imposed by chapter 1 shall be determined—

"(A) by excluding from gross income the earnings from the investment and reinvestment of amounts held in a capital construction fund, and

"(B) by increasing the tax imposed by chapter 1 by the product of the amount of such earnings and the highest rate of tax specified in section 1 (section 11, in the case of a corporation).

"(2) MAXIMUM RATE ON NET CAPITAL GAINS.—With respect to fund earnings that are net capital gains (as defined in section 1222), the rate of tax taken into account in paragraph (1)(B) shall be the rate specified in section 1(h) or 1201(a), whichever applies."

(32) Subsection 7518(j), as redesignated by paragraph (31) is revised to read:

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

"(1) QUALIFIED LEASE.—A qualified lease is a lease of property, with a term at least equal to the applicable recovery period for such property under section 168, and with respect to which, for all purposes of the Inter-

nal Revenue Code, the parties agree in writing at the time the lease is entered into to treat the lessee as the owner of the qualified vessel (and barges and containers, if any, which are part of the complement of the qualified vessel).

"(2) MERCHANT MARINE ACT.—If not otherwise provided by this section, any term defined in section 607(c) of the Merchant Marine Act, 1936, as amended by the Maritime Reform Act of 1992, which is used in this section (including the definition of 'Secretary') has the meaning prescribed by section 607(c) as amended by the Maritime Reform Act of 1992."

(b) Section 56(c)(2) of the Internal Revenue Code of 1986 is amended:

(A) By substituting "(A) and (B) of section 7518(c)(1)" for "(A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such section 607)" in subparagraph (A).

(B) By amending subparagraph (A)(ii) to read as follows:

"(ii) any earnings (including gains and losses) after December 31, 1986 and before the first taxable year beginning after the date of enactment of the Maritime Reform Act of 1992, on amounts in such fund, and"

(C) By striking "(or the corresponding provisions of such section 607)" from subparagraph (B).

(c) Section 136(a) of the Internal Revenue Code of 1986 is amended:

(A) By striking paragraph (4).

(B) By redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) Section 543(a)(1)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) interest on amounts set aside in a capital construction fund under section 136 or in a construction reserve fund under section 511 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1161)."

(e) The Internal Revenue Code of 1986 is amended as follows:

(1) By redesignating section 136 as section 137.

(2) By redesignating section 7518 as section 136.

(3) By amending the table of sections for part III of subchapter B of chapter 1 by deleting the item referencing section 136, and adding the following items:

"136. Tax incentives relating to Merchant Marine capital construction fund.

"137. Cross references to other Acts.

(4) By deleting the item referencing section 7518 in the table of sections for chapter 77.

(f) The amendments made by Section 202 are effective for taxable years beginning after the date of enactment.

SEC. 203. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466), is amended as follows:

(1) By striking the words "50 per centum" and inserting in lieu thereof "25 per centum" effective October 1, 1993, in section (a); and

(2) By repealing the section in its entirety effective October 1, 1994.●

By Mr. BOND:

S. 3048. A bill to suspend temporarily the duties on Pentetretotide; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

● Mr. BOND. Mr. President, today, I am introducing a bill to suspend temporarily the duties on Pentetretotide.

Pentetreotide is a chemical intermediate used in the manufacture of a radiodiagnostic product that will provide for the early detection of a variety of cancers in children and adults.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3048

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

SECTION 1.—That subchapter II of chapter 99 of the Harmonized Tariff Schedules of the United States is amended by inserting in numerical sequence the following new subheadings:

9902.98.00	Pentetreotide (Tar. No. 138651-02- 6) (provided for in subheading 3822.00.50).	Free	No change	On or before 12/ 31/94
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SEC. 2. The amendment made by the first section of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. BOREN:

S. 3052. A bill to extend for 3 years the existing suspension of duty on stuffed dolls and the skins thereof; to the Committee on Finance.

EXTENSION OF TEMPORARY SUSPENSION OF CERTAIN DUTIES

● Mr. BOREN. Mr. President, on behalf of the domestic jobs produced and consumers served as a result of the stuffed doll products sold in the United States, I ask unanimous consent that the following bill be introduced and referred to the appropriate committee and that the text of the bill be printed in the RECORD.

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

S. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subheading 9902.95.01 of the Harmonized Tariff Schedule of the United States are each amended by striking out "12/31/92" and inserting "12/31/95."

SEC. 2. The amendments made by the first section of this Act apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after December 31, 1992.●

By Mr. KENNEDY (for himself, and Mr. KERRY):

S. 3053. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT COMPENSATION BENEFITS EXTENSION ACT

Mr. KENNEDY. Earlier this month, Congress passed legislation extending the Federal Emergency Unemployment Benefits Program. This law was a half-way measure that was widely misunderstood. It provided a desperately

needed safety net to 1½ million unemployed workers across the country who will exhaust their State unemployment benefits in the coming months. The recession is clearly not over; the jobs are still not there. As a result, like the nearly 2 million workers who have already received Federal emergency benefits, these unemployed workers needed the protection that the Federal benefits provide.

Unfortunately, while the law passed earlier this month ensured that the more recently unemployed will receive Federal benefits, it did not provide additional Federal benefits for the long-term unemployed whose Federal benefits have ready been exhausted. Those whose benefits have run out are enduring real hardship. They face a national unemployment rate of 7.8 percent, and the future holds little hope that jobs will soon be available.

Workers want jobs, not more unemployment benefits. But in the current situation, Congress must do what it can to help them survive this long and painful recession.

For this reason, Senator KERRY and I are today introducing legislation to provide an additional 13 weeks of Federal emergency benefits to unemployed workers whose previous Federal benefits have run out. It will also provide 13 additional weeks to those who are still receiving Federal benefits or who qualify for these benefits in the future.

It will be an uphill battle to pass this legislation. It will cost approximately \$5 billion, and a great deal will depend on the level of unemployment in the months between now and the time Congress adjourns this fall.

I plan to work with the Senate Finance Committee to identify appropriate revenue sources to offset the cost of this legislation. I hope the President will agree to work with us as well in order to turn this proposal into law. Unemployed workers in Massachusetts and across America deserve this help, and Congress must not abandon them.

Mr. KERRY. Mr. President, I am pleased to cosponsor this legislation, which will address a serious problem faced by many hard working Americans trying to house, feed, and provide for their families during a depressed economic climate.

This bill will offer a lifeline of 13 additional weeks of emergency unemployment benefits under the Emergency Unemployment Compensation Program. In Massachusetts, we have endured a protracted period of high unemployment and this bill will address the individuals there and in many other places that just want assistance while they continue to try to provide for themselves and their families. When we voted to extend emergency unemployment benefits earlier this month, individuals who are eligible to receive but had not received emergency

benefits and those currently participating in the program were protected. However individuals who have exhausted their State benefits and were about to exhaust or had exhausted emergency benefits were not included in the July extension. These individuals, many of whom live in areas of high unemployment and negative economic growth, are facing mortgage payments, health care costs, utility bills, and other expenses necessary for themselves and their families with no income and without any resources they previously had dissipated during their months of unemployment. These individuals are not lazy nor did they choose to be unemployed for over 1 year because they do not want to provide for their families. People in this dilemma deserve relief.

This bill would provide 13 additional weeks of benefits for individuals who previously had been told that they had exhausted all State and emergency benefits. The eligibility criteria for benefits remains the same, so this bill will not expand the number of individuals participating in the Emergency Unemployment Compensation Program. It is important to also note that the extension will be available regardless of the length of the benefit period in a given State. Whether a person lives in a State offering 26 or 20 weeks of extended benefits, a year-long period of unemployment has a devastating impact.

Ultimately, the best relief for the long-term unemployed is the security of a full-time job. It is imperative that long-term measures be taken to resuscitate our economy. But while we grapple with that challenge, too many individuals are among the long-term unemployed or are employed in positions that are inadequate to support their families. This bill represents an interim step, in the form of continued assistance to those particularly hard hit by a stagnant economy.

ADDITIONAL COSPONSORS

S. 1002

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

S. 1398

At the request of Mr. REID, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1398, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S.

1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1658

At the request of Mr. NICKLES, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1658, a bill to require the Secretary of Labor, with respect to contracts covering federally financed and assisted construction, and labor standards provisions applicable to nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act, to ensure that helpers are treated equitably, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from Hawaii [Mr. INOUE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2254, a bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2323

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2323, a bill to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes.

S. 2372

At the request of Mr. CRANSTON, the name of the Senator from Maryland [Mr. MIKULSKI] was added as a cosponsor of S. 2372, a bill to amend 1718 of title 38, United States Code, to provide that the compensation of veterans under certain rehabilitative services programs in State homes not be consid-

ered to be compensation for the purposes of calculating the pensions of such veterans.

S. 2389

At the request of Mr. BRADLEY, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2389, a bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2560

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2560, a bill to reclassify the cost of international peacekeeping activities from international affairs to national defense.

S. 2652

At the request of Mr. BIDEN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2652, a bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

S. 2656

At the request of Mr. FORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2682

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2749

At the request of Mr. SEYMOUR, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2749, a bill to grant a right of use and occupancy of a certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange, and for other purposes.

S. 2826

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

S. 2877

At the request of Mr. COATS, the name of the Senator from Kentucky

[Mr. MCCONNELL] was added as a cosponsor of S. 2877, a bill entitled the "Interstate Transportation on Municipal Waste Act of 1992."

S. 2899

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2899, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

S. 2907

At the request of Mr. KERRY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2907, a bill to reform the National Flood Insurance Program.

S. 2949

At the request of Mr. KENNEDY, the names of the Senator from Illinois [Mr. SIMON], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 3001

At the request of Mr. DOMENICI, the names of the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 3001, a bill to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes.

S. 3004

At the request of Mr. SANFORD, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 3004, a bill to provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties.

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the names of the Senator from Florida [Mr. MACK], the Senator from Georgia [Mr. FOWLER], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Texas [Mr. BENTSEN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week," and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. BROWN], the Senator from Hawaii [Mr. INOUE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Wyoming [Mr. WALLOP], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

SENATE RESOLUTION 326—RELATING TO THE ESTABLISHMENT OF A NATIONAL INSTITUTES FOR THE ENVIRONMENT

Mr. SANFORD submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 326.

Whereas the Earth and its inhabitants are threatened by unprecedented environmental degradation;

Whereas human health is dependent on the health of the environment;

Whereas the United States spends more than \$115,000,000,000 annually on environmental protection but invests only a small fraction of that amount on environmental research;

Whereas a strong scientific and research community is essential for effective programs to protect the environment;

Whereas many efforts to protect the environment are reactive and therefore expensive and inefficient;

Whereas there is no overall coordinated effort by the Federal government to understand how the environment functions and how people affect, and are affected by, the environment;

Whereas the United States lacks solutions to many environmental problems and the experts to develop and implement solutions;

Whereas the United States lacks mechanisms for stable support of long-term environmental research;

Whereas the United States lacks mechanisms to establish priorities for comprehensive environmental research; and

Whereas incentives for public and private funding of basic and applied environmental research are virtually non-existent: Now, therefore, be it

Resolved, That it is the sense of the Senate that a National Institutes for the Environment should be established—

(1) to provide a coordinated, nationwide program for establishing priorities for comprehensive environmental research; and

(2) to support, through competitive awards, basic and applied environmental research and training that encompasses a wide variety of disciplines and is aimed at understanding, preventing, and solving environmental problems.

• Mr. SANFORD. Mr. President, we are all familiar with the wide range of environmental issues facing us today, from ozone depletion and loss of biological diversity to global warming and groundwater contamination, and these are only a few.

We also know that, for a variety of reasons, we are lacking effective analysis and solutions for many of these environmental problems.

I strongly believe that a new Federal research funding agency, to be called the National Institutes for the Environment, has great potential for addressing the environmental issues of the day. It is for that reason that I am here today to introduce a resolution expressing the sense of the Senate that a National Institutes for the Environment [NIE] should be established.

In contrast to the \$115 billion that goes into fighting pollution in the United States each year, our Federal Government spends less than \$3 billion a year on environmental research. The variety and scope of environmental matters facing us today demands that we invest more in this important area of concern.

Some people may be skeptical about the need for more research, but I believe that there are several inadequacies in our present system.

First of all, as we all know, controversy due to lack of agreed-upon scientific evidence results in political inaction. One side cries that the sky is falling, and the other side demands that we have more research; in the meantime, nothing gets done. This was the case for many years with the depletion of the ozone layer. We are now learning that the ozone is being depleted much faster than we previously thought. How many more cases of skin cancer will we see due to the inaction that resulted from the controversy that we had over the ozone depletion theories? And we still know very little about the effect of ozone loss on plants and marine species, many of which we depend on for food. Many of us wish we had conducted more ozone layer research earlier.

Global warming is another example of controversy and inaction. Many scientists believe that current global tem-

perature trends suggest a human induced warming of the world's climate. Other people chalk up the rise in temperature to the natural and recurring variations in the Earth's climate. The dilemma arises again: Do we have enough research to know whether or not should we act? If so, what are the most cost-effective solutions?

Clearly, these example show that our present system is not meeting our environmental research needs. This is where the National Institutes for the Environment would help. The NIE will help sponsor the research which we so badly need. By authorizing and funding the NIE, we can move away from controversy and inaction and move toward timely research and sound solutions.

I realize that some people may worry that spending more on environmental research will just lead to more environmental regulations, and thus, increase the cost of business and increase the Federal bureaucracy. I do not believe it. It is the poorly conceived regulations, based on inadequate or faulty data, that sometimes prove unnecessarily expensive for Government, business, and consumers. The NIE, by sponsoring thorough research on such issues, would not only help us better analyze the problems, but also better formulate the solutions.

The contamination of our surface and ground water with pesticides is one example. If we had had more environmental research, we would have better regulated the use of pesticides. We would have understood the transport of pesticides into water and would have been developing better methods of pesticide application and more alternatives to chemical pesticides. Such research could have saved us lost crops and farmland and prevented costly contamination of drinking water and wild areas.

This is just one example where the NIE, by sponsoring more and better research, has great potential for helping our Nation find the best and least costly solutions to our environmental dilemmas. As we face other uncertainties on such matters as dioxin, pesticides, and hazardous waste disposal, which affect both environmental and public health, we must have the best research available so that the Government's decisions are the wisest and the least costly. The NIE will help us in that effort.

The NIE can save us money in other ways, by shifting the emphasis from responding to environmental problems to preventing environmental problems. We currently spend billions of dollars on cleanup of environmental problems, but only a little on research of their causes; money would be far better spent preventing these catastrophies in the first place. It is far better and less costly to nip a problem in the bud.

Let me give you one example. My state is one of many dealing with the

siting of a hazardous waste disposal facility. Calling it controversial is an understatement. As this siting process drags on, I can only wonder why we haven't done more to reduce the use of hazardous materials, rather than waste so much time, energy, and money on siting so many hazardous waste dumps. And this is just one example of where we could save more by researching and addressing environmental problems at the source.

One of the most important parts of the NIE proposal is the establishment of a National Library for the Environment that will help collect and distribute information on the environment. At the present time, we have no clearinghouse for information on the many environmental topics that concern us today. We need to collect information on the research that has been done and is being done by our Federal agencies, our State governments, industry, non-governmental organizations, and our colleges and universities. By providing a central coordinator of information, linked through computer databases and accessible to anyone with a computer, we can help distribute valuable information to concerned groups across the United States so that the research can be put to use on the widest scale possible. This NIE Library will also coordinate research done through different agencies, and therefore, let us spend our research money more wisely.

One question which certainly arises from the discussion of a National Institutes for the Environment is: Why can't we just put more money into the existing Federal research agencies? It is true that we have several Federal Government agencies doing environmental research, including the National Science Foundation, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and others. Unfortunately, most Government research is limited to regulatory and management needs and relatively little is directed at understanding the basics of environmental problems and their solutions or at broader issues. The money provided to these several agencies is well spent, but it is, nevertheless, an incomplete and inadequate system.

Rather than only putting more money into these agencies, we need research that would reach across and beyond specific agency needs and expand our research capabilities. And through the NIE's nonregulatory research, we could cut across various agencies and solve complex problems, like ecosystem management and restoration and pollution prevention and mitigation, which do not neatly fit within the purview of any one agency. A major function of the NIE would be not only to have agencies cooperating more effectively, but analyzing and evaluating current information so that those who need the information could more easily have it.

Given these many research needs, numerous scientific groups, environmental groups, private individuals, and legislators have given their support to the NIE concept. They believe, as I do, that the NIE has great potential to help us look at our problems and solve them in a thorough, effective, and scientific manner.

The NIE would use grant programs to sponsor nonregulatory and extramural environmental research. The NIE would not be a big Federal bureaucracy. It would not have its own research laboratories. It would provide grant money to the best scientists in every State of the Nation in order to ensure the highest quality research.

The NIE's research areas would address such topics as the relationship between humans and the environment, biological resources, ecosystem management and restoration, environmental change, sustainable resources and development, pollution prevention and mitigation, and environmental technology.

Through fiscal year 1991 appropriations and Federal Government grants, the National Academy of Sciences [NAS] is now conducting a study of the NIE concept. The NAS study should be finished early in 1993. Later in 1993, congressional legislation will be introduced to authorize and appropriate funds for the NIE.

And although this idea is a year or so away from authorization and funding, I believe that it is important to get the NIE concept moving in Congress now, and to hear praise and criticism, and to improve the blueprint for the NIE. This is an idea whose time has come, and the sooner we get this idea moving in Congress, the better off we all will be.

I invite my colleagues to join me in cosponsoring this resolution and in supporting the establishment of the National Institutes for the Environment.●

AMENDMENTS SUBMITTED

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTES

BINGAMAN (AND OTHERS) AMENDMENT NO. 2740

Mr. BAUCUS for (Mr. BINGAMAN for himself, Mr. LEVIN, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCAIN, and Mr. D'AMATO) proposed an amendment to the bill (S. 2877), the Interstate Transportation of Municipal Wastes Act of 1992, as follows:

At the appropriate place, insert the following new section:

SEC. . BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free-Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in sections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free-Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992-1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—
(A) the Immigration and Naturalization Service of the Department of Justice; and
(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treat-

ment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

BAUCUS AMENDMENT NO. 2741

Mr. BAUCUS proposed an amendment to the bill (S. 2877), supra, as follows:

On page 4, line 7, strike "(date of introduction)" and insert "June 18, 1992".

On page 5, line 10, insert "annual" before "amount equal".

On page 5, line 22, strike "such landfills" and insert "each such landfill".

On page 5, line 23, insert "annual" before "volumes".

On page 6, line 2, strike "or" and insert "and".

On page 7, line 4, strike "section" and insert "paragraph".

On page 7, line 15, insert "from" before "a Governor".

On page 8, line 11, insert "as determined in accordance with subparagraph (C)" after "1992" and before the comma.

On page 8, line 13, insert "under subparagraph (C)" before "as having".

On page 10, line 11, strike "location" and insert "locational standards".

On page 10, line 12, insert "constructed" after "landfill cells".

On page 10, line 22, insert "the land or" after "over".

On page 11, line 11, strike ", glass, and rock" and insert "and glass".

On page 12, line 8, strike "the" before "property".

On page 12, line 11, insert "generated" after "solid waste".

On page 12, line 16, insert a comma after "composition".

On page 12, line 19, strike "such other" after "mixed with".

On page 13, line 6, strike "(date of introduction)" and insert "June 18, 1992".

On page 10, line 12, insert "on and" after "cells".

On page 12, line 4, strike "industry" and insert "industrial facility".

On page 2, line 26, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 5, line 13, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 7, line 9, after "and", insert "the first six months of".

On page 7, strike line 22 and insert "and the first six months of calendar year 1992, and".

On page 8, line 11, after "and" insert "the first six months of".

On page 2, strike lines 12 through 14 and insert "ment; and an affected local solid waste planning unit, if such local solid waste planning unit exists under state law, a Governor may—".

CONRAD (AND OTHERS) AMENDMENT NO. 2742

Mr. CONRAD (for himself, Mr. DASCHLE, Mr. REID, Mr. RIEGLE, and Mr. METZENBAUM) proposed an amendment to the bill S. 2877, supra, as follows:

On page 10, delete lines 18-23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located."

CONRAD (AND OTHERS) AMENDMENT NO. 2743

Mr. CONRAD (for himself, Mr. DASCHLE, and Mr. METZENBAUM) proposed an amendment to the bill S. 2877, supra, as follows:

At an appropriate place in the bill, insert the following:

SEC. . (a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of nonhazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of nonhazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial nonhazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial nonhazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste

generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy, and

(5) solid waste regulated under Subtitle C of the Resource Conservation and Recovery Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9 a.m., in executive session, to mark up a National Defense Authorization Act for Fiscal Year 1993, and other pending legislation referred to the Committee on Armed Services.

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

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9:30 a.m., for a hearing on "Children of War: Violence and America's Youth".

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on July 23, 1992, at 9:30 a.m. on Marine mammal legislation.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 10 a.m. to hold a hearing on U.S. refugee programs for 1993.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Thursday, July 23, 1992, at 10:30 a.m. to conduct a hearing on the state of the U.S. economy and America's global competitive position.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, at 10 a.m., to hold a hearing on S. 2064, the Nuclear Testing Moratorium Act and other nuclear testing issues.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 23, at 2 p.m., in executive session, to mark up a National Defense Authorization Act for Fiscal Year 1993, and other pending legislation referred to the Committee on Armed Services.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Select Committee on POW/MIA Affairs be authorized to meet on Thursday, July 23, at 4 p.m., in room 385 of the Senate Russell Office Building for an open meeting for further discussion on declassification of POW/MIA documents.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9:30 a.m., to hold a joint hearing with the Committee on House Administration, U.S. House of Representatives. The committee will receive testimony on S. 2813, the "GPO Gateway to Government Act of 1992" and H.R. 2772, the "GPO Wide Information Network for Data Online Act of 1991."

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 23, 1992, beginning at 9:30 a.m., in room 485 Russell Senate Office Building, on S. 2833, the Crow Settlement Act.

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

ADDITIONAL STATEMENTS
TRIBUTE TO FRANKFORT

• Mr. McCONNELL. Mr. President, I rise today to recognize the city of Frankfort in Franklin County.

Kentucky's capital city lies in a picturesque valley, marked by wooded bluffs overlooking the curving path of

the Kentucky River. It is on the banks of this river, which rolls right through the center of the city, where one finds more than just laws being made.

High above the river on a prominent bluff is the historic Frankfort Cemetery, the final resting place for many of Kentucky's favorites sons. Sixteen Governors are buried there, as are Vice President Richard M. Johnson and Daniel Boone.

Surprisingly, only half of the people who work in Frankfort do so for the government. An underwear plant, automotive parts factories, and a distillery account for many of the nongovernmental jobs in the city.

Frankfort is proud to have Kentucky State University. The university has the lowest student-to-faculty ratio of any of the State's public universities and is currently starting on a \$11.3 million physical education facility this summer.

Since becoming Kentucky's capital in 1792, all eyes focus on the city when the lawmakers assemble in Frankfort for their legislative sessions.

Winters in Frankfort are never dull even in the off years as the city plays host to one of Kentucky's favorite pastimes when it hosts the girl's State basketball tournament.

Although Frankfort is one of the smaller State capitals, it is a place where the charm of the historic downtown has not been overwhelmed by cold, bureaucratic edifices. The good people of Frankfort have created a city that all Kentuckians can be proud to call their capital.

Mr. President, I would like the following article from the Louisville Courier-Journal to be submitted into the RECORD.

The article follows:

THE PUBLIC TROUGH ISN'T ALL THAT FEEDS
CAPITAL'S ECONOMY
(By C. Ray Hall)

Here is a perhaps astonishing fact about Frankfort: At any given time, more people in the state capital are making underwear than are making laws. This is not necessarily a bad thing, since, in the short term at least, life without laws is more imaginable than life without underwear.

Some savvy merchants might still save their ad budgets for the middle and the end of the month, timed to government paydays. But about half the people who work in Frankfort—like the 1,041 employees at Fruit of the Loom—make do without a government paycheck. They make an array of essentials from bourbon to concrete to car wheels to candy laced with bourbon.

Frankfort also makes history—a kind that's often as bittersweet as the boxwood fragrance waiting around Liberty Hall, the two-century-old home of Kentucky's first senator, John Brown. It's said to be haunted by a benign ghost called "The Gray Lady."

Living in a town as steeped in history as Frankfort can be a consolation, as if a benign ghost were looking over your shoulder. You come to realize: Whatever happens has happened before, usually; and it was probably worse.

The 1978 flood was bad, but the one in 1937 was worse.

When FBI agents descended on the Capitol a few months ago in search of graft, they found it. But, graftwise, the bar was set very high a century ago by "Honest" Dick Tate, the state treasurer who disappeared, along with nearly \$250,000. (First Methodist Church pastor William R. Jennings alluded to recurring scandals a few Sundays ago when he was preaching about Huck Finn's prayer problem. Jennings advised his flock to be thankful for what they had, instead of asking for more—advice a century too late for both Huck and Honest Dick.)

People who chafed at the presence of an empire-building governor named Wilkinson over the last four years had only to think of the empire builder who founded the town in 1786. Gen. James Wilkinson, who named the principal street for himself, once schemed to break off Kentucky from Virginia and align it with Spain.

One drama they don't play out any more: efforts to wrest the capital away from Frankfort that persisted for more than 100 years. Whenever Louisville or Lexington challenged Frankfort, the little town on the Kentucky River managed to keep the capital by finding funds at home and friends elsewhere.

"We were always able to get strength from out in the rural counties to keep it in Frankfort," says former mayor Frank Sower, the 81-year-old great, great grandson of one of the state's first two senators. Sower often goes up to the somewhat awe-inspiring Frankfort Cemetery to tend the begonias in the family plot. Up there in the constant breeze, near Daniel Boone's grave, you can see a tableau unlikely to be duplicated in many states: Stretched out below is the Capitol and, across the river, a wide pasture speckled with grazing cattle. Frankfort looks like the capital of Ruritania.

So it is not surprising that it's a place where time seems to pass slowly. For example, when people say "the new Capitol," they mean the one that's only 82 years old. The famous floral clock behind the (new) Capitol might strike some as a sardonic symbol of state government: a functional ornament that suggests constant, smooth movement. Instead, the huge hands do not move smoothly: For 59 seconds every minute, they are still; then they jerk forward.

Frankfort is one of the smallest state capitals, so small that signs on the city buses simply say "East," "West" and so on.

As a little town with big impact, Frankfort is, on the whole, unlike any other place in the state. But it does share similarities with other Kentucky towns. Like Maysville, it is almost preciously quaint, even down to the brick sidewalks and the eclectic array of steeples, the most ornate of which sits atop the library named for artist Paul Sawlyer; like mountain towns, it feels a bit claustrophobic in the middle; like Midway, it has a main street split in half by a railroad track.

Like Louisville, Frankfort is a river town where it's hard for the casual visitor to engage the river. It had a tourist boat, called the Shawnee Chief, that came to a bad end. "It took a trip over the dam last summer," notes river enthusiast Rick Isaacs. "The boat got loose in the middle of the night with no one on her."

Like Louisville, Frankfort has had its wrangles over school desegregation; highly publicized flaps over country clubs' snubs of minorities; episodes of urban renewal that fell hardest on black neighborhoods, resulting in cold, contemporary architecture that rises up like a bully over the gracious old town.

Like Bowling Green and Lexington, it has a state university that is trying to lay to rest controversies over presidents and purse strings. (Frankfort's episode is settled, apparently, with the installation of Mary Smith as president of Kentucky State University. It is the state's historically black college, but enrollment is 52 percent white, a condition that has prevailed since the late 1970s. This whitening of K-State also has been accompanied by a greening: a 1980s building boom that will continue this summer when construction starts on an \$11.3 million physical-education facility.)

Like a lot of places in Kentucky, Franklin County is heavily Democratic. Republicans are outnumbered 23,294 to 2,131, a situation echoed somewhat awkwardly in the halls of the Old Capitol Annex. A gallery of governors' portraits features a wall of proper-sized Democrats surrounding a decidedly down-sized painting of Louie Nunn, the only Republican governor in the last 44 years. "Louie Nunn was good to Frankfort," says city clerk Ann Hoover, offering the ever-present olive branch. That's another thing about Frankfort: People are nice to strangers, including Republicans. You never know when you'll be working for, or with, them.

Like Lexington, Frankfort imbues many of its citizens with a spirit that they live in a chosen place. Clothing salesman Sonny Yates says: "I wouldn't move to Louisville if you paid me. . . . And I wouldn't move to Lexington if you gave me Spenthrift Farm."

But like other small towns in Kentucky, it betrays at least a trace of insecurity. At a recent tourism forum, a crafts-shop merchant, Rene Siria said, "I've . . . heard people say if it didn't come from Lexington or Louisville, it's not any good. . . . Is there something we can do to cheer up our own people?"

Such disparate urges tend to make the place introspective. Maybe a little too introspective sometimes. According to local mythology, Frankfort is the divorce capital of Kentucky. In truth, that distinction belongs to Logan County, with a divorce rate 2½ times that of Franklin County.

Unlike most places in Kentucky, Frankfort has a reasonably shock-proof economy. "We used to say having the capital here made it a Depression-proof place," says Sower. "Even in the 1929 Depression, you could make a living here," Gershman says. And a new businessman, David Stephenson, who as a Lexington banker foreclosed on failed businesses for 12 years, recently showed his faith in Frankfort's economy by opening a downtown restaurant with an upscale image and a downscale name: Bullfrogs. Explaining the inspiration for the name, he jokes, "Drunk."

Even with an army of stone-sober consultants, you'd be hard-pressed to think of a better name for a place specializing in steaks and frog legs.

Stephenson finds Frankfort "a tight community, like most small towns. Everybody knows everybody's business."

As the seat of state government, it is a town with a peculiar, tenuous social contract. "Every four years," says Irv Gershman, "we see the hierarchy come and go. We can't get attached to them. . . . A lot of people don't like to get too attached to them because they hate to lose their friends after four years."

He continues: "There is a definite difference in the politicians and the people who live in Frankfort. . . . You must understand, the legislators being in town only helps the restaurants, bars and hotels."

The most perceptible impact on Frankfort is this: When the legislators are in town, the place has a discernible night life. (This is still Kentucky, though, and the thing that brings motel-bursting numbers of people to town is not the legislature but the Girls' State Basketball Tournament.)

Community education director Terry Foster says: "When you move here, you think 'state government, state government, state government.' But so many people who work for state government have no interest in Frankfort at all, except as a place to work. They come in here and they use us and they go out."

And he doesn't just mean they get out after four years. He means they get out after 4 o'clock. State government employs 35,000 people 12,400 of them work in Frankfort; but only about 6,800 of those people actually work and live in Franklin County.

Frankfort bustles in the daylight, at least until 4:30, when, as the locals say, "the state lets off." Then it's a quiet and peaceful place again. Too quiet for some.

"A lot of friends my age (twenty-something) have chosen to live in Lexington or Louisville and commute," says Amy Carman, spokeswoman for the Kentucky Historical Society.

The most famous commuters, of course, are the 138 lawmakers who descend on Frankfort every other winter. Their presence doesn't always redound to Frankfort's glory, or even its gain. Some of them doubtless size up Frankfort against their hometowns, and figure the capital has what it needs.

"The perception," says Mayor Huston Wells, "is that Frankfort gets everything it wants. Quite the contrary. We have to beg and plead harder than any other community, because Frankfort is more or less taken for granted. Not just taken for granted, but overlooked as having needs. . . ." Frank Sower, the former mayor, takes the long view, as might be expected of a history buff, "I can't say there's any jealousy of Frankfort," he says. "When Frankfort improves, the people of Kentucky should be proud of their capital."

Population (1990): Frankfort, 25,965; Franklin County, 43,781

Per capita income (1989): Franklin County, \$15,649, or \$1,826 above state average.

Jobs (1990): State and local government, 14,371; wholesale/retail trade, 3,925; manufacturing, 3,912; services, 3,268; contract construction, 929.

Big employers: Fruit of the Loom, 1,041 employees; Topy (auto wheels), 515; Allied/Bendix (air brake components), 388; Jim Beam Brands, 325; Frankfort Plastics, 300.

Education: Kentucky State University, 2,534 students; Franklin County Schools, 8,222; Frankfort Independent Schools, 833; Good Shepherd School, 288; Capital Day School, 174; Franklin County Area Vocational School, 215.

Transportation: Air—Capital City Airport (one paved 5,000-foot runway); nearest airport with regularly scheduled commercial service, Bluegrass Airport, Lexington, 24 miles, Rail—CSX Transportation, Truck—44 lines serve Frankfort.

Media: Newspaper—Frankfort State Journal, daily, Radio—WKY-AM/WKY-FM (adult contemporary); WKED-AM (country), Television—Cable 10 covers local public affairs; 39 cable channels, including network outlets from Louisville, Lexington and Danville.

Topography: Bisected by the Kentucky River's S-shaped path, Frankfort lies in a picturesque valley marked by steep, wooded

hillsides, exposed limestone cliffs and rolling farmland.

FAMOUS FACTS AND FIGURES

Frankfort's "Corner in Celebrities," a downtown section along Wapping Street, was home to some 40 statesman and other notables; governors, U.S. senators, Cabinet officers and Supreme Court Justices, Bibb lettuce, of all things, was invented by John Bibb in his back yard. Another resident was George Vest, who served in the U.S. Senate 25 years, but is best remembered for uttering the phrase "Dog is man's best friend" during the closing arguments of an 1870 trial over the killing of a dog.

Frankfort became Kentucky's capital in 1792. Frankfort's bid to become the capital was helped immensely by its offer of \$3,000 (plus \$140 worth of locks and hinges) to the new state. One of the selectors who voted for Frankfort was Robert Todd, who forsook his hometown, Lexington, Todd eventually became better known as the father-in-law of Abraham Lincoln.

When the Capitol burned in 1813, Frankfort guaranteed \$19,600 to rebuild—and therefore keep—the capital. The only other bid was Woodford County's \$550, in 1824, fire gutted the new capitol, and a third was built. It still stands and is known as the Old Capitol. The last efforts to wrest the capital away from Frankfort came in 1890 and 1904 from Louisville and Lexington.

With floods and fires, Frankfort has lived through many turbulent times, but none dicier than January 1990. That's when William Goebel, the Democratic candidate who claimed victory in a governor's election, was shot on the lawn of the Old Capitol. He died four days later, after having been sworn into office. But the controversy did not die. Democrats and Republicans both claimed to have the legitimate governor, Frankfort resembled an armed camp, and Kentucky teetered on the edge of civil war.

Daniel Boone, who died in Missouri in 1820, was brought back to Kentucky and reburied in the Frankfort Cemetery in 1846 after lying in state more than six weeks. The cemetery overlooking the Kentucky River is the resting place for at least 20,000 others (and perhaps twice that many, in unmarked graves). Sixteen governors are buried there, as are Vice President Richard M. Johnson and artist Paul Sawyer.

Founded in 1786 by Gen. James Wilkinson, Frankfort took its name from Frank's Ford a Kentucky River ford named for Stephen Frank, a settler killed by Indians in 1780.

With one professor for every 13 students, Kentucky State University has the lowest student-to-faculty ratio of any of the state's public universities.

Kentucky's time and place in American history could be divined in the rotunda the Capitol, where there are five statues: Abraham Lincoln, Henry Clay, Jefferson Davis, Alben Barkley and Dr. Ephraim McDowell. Only one of them, Barkley, lived in the 20th century.

When Henry Clay was a state legislator, he was called a liar and a poltroon by Humphrey Marshall before their fellow lawmakers. Clay challenged Marshall to a duel. They shot it out in Indiana, with Clay suffering a leg wound.

To see the only Kentucky house designed by Frank Lloyd Wright, go to 509 S. Shelby St. It was the home of a Presbyterian minister, Jesse K. Zeigler, who met Wright on a cruise.

When the old governor's mansion was being built, stonemason Thomas Metcalfe helped lay the foundation; Robert Letcher

laid some of the brick. Later both lived there as governor (Metcalfe, 1828-32; Letcher, 1840-44)•

CORRIDOR G: ALMOST HEAVEN

• Mr. ROCKEFELLER. Mr. President, I rise today with pride as I share the enormous progress being made on the highway systems in my State of West Virginia.

As Senator from West Virginia and as Governor, I have been dedicated to the completion of the Appalachian Regional Commission corridor system. In West Virginia, the completion of corridor G would connect the coal and timber country to the vast trade market by providing safe, modern, and efficient road systems on which to travel. This connection will promote economic development, highway safety and much needed employment opportunities for southern West Virginia.

In 1989, I introduced precedent setting legislation resulting in the tapping of the highway trust fund surplus to fund the completion of the corridors. In 1991, the highway bill passed the Congress and was signed into law by the President. This legislation authorized the expenditure of \$151 billion over a 6-year period, which included an \$8 billion bonus from the trust fund surplus. These funds will be used to complete the corridors and many other vital transportation projects throughout the State, the Appalachian region and the Nation.

Earlier this month a segment of road, measuring only six-tenths of 1 mile, connecting the Tug Fork River Bridge and West Williamson was dedicated and opened to traffic. Although it may seem like a minuscule portion of construction to celebrate, for the residents of southern West Virginia it is a triumph over the craggy terrain of that area of our State. The immense rock wall that was removed created not only a physical but also a mental barrier for the people. It was an overwhelming obstacle to overcome in the effort to achieve economic parity for West Virginia.

At long last, the industries of southern West Virginia are no longer prisoners incarcerated by mountain barriers, but thriving enterprises in the global marketplace. It is truly a victory for the people of West Virginia to finally be moving toward economic equality with the rest of the Nation after years of victimization by the rugged terrain so prevalent throughout Appalachia.

No longer will barriers, such as the immense rock wall that barricaded road construction in Southern West Virginia, leave our roads half way to nowhere. Instead, West Virginia roads will be roads that lead to economic equality and employment opportunities for the State of West Virginia: this in turn will provide yet another strong,

contributing link to the economic chain of existence of the United States.•

TRIBUTE TO FIREFIGHTER GEORGE MOTCHKOWITZ

• Mr. D'AMATO. Mr. President, very rarely is courage displayed as it was on March 3, 1992, when a brave and selfless man by the name of George Motchkowitz risked life and limb to do a job that is done everyday by the 2 million volunteer firefighters in the United States. The natural and complete professionalism that marked his actions on that fateful day should be lauded and I ask my colleagues, indeed, all Americans, to join me in celebrating the heroism that firefighters exhibit everyday.

Volunteer firefighters provide one of the most valuable services imaginable to this country and its people—that of saving lives; the lives of our families. Firefighters preserve the integrity of the safety in the communities they serve. Every year, volunteer firefighters are injured, and even die in the service of this country. The ability to act rationally and safely, under circumstances that would cause most people to panic, is second nature to these special individuals. Volunteer firefighting is one of the hardest jobs imaginable, and it is frequently rewarded only by the knowledge that the service they provide is vital to their community.

On March 3, 1992, a young man was walking in the fields near his school, the Great Neck North High School, when he fell into a well. The well was some 60 feet deep, and the youth incurred serious injuries to his neck and back. Fortunately for him, he was not walking alone. His brother and several friends were there to seek help. They ran back to the school and called for help. Those who quickly arrived on the scene were the Alert Fire Company and the Vigilant Fire Company of Great Neck, NY, and the Nassau County Police Department. The men and women of those brave squads acted with extreme valor to save the adolescent.

First Assistant Fire Chief George Motchkowitz of the Alert Fire Company volunteered to be lowered down to the young man. A true professional, George quickly recognized the nature of the boy's injuries, and braced him appropriately. Less than 1 hour after the accident, the youth was on his way to the hospital. Thanks to the amazing bravery of George Motchkowitz, and all the heroic rescuers in Great Neck that day, that young man was saved.

The everyday occurrences of fires, accidents, and natural disasters are made bearable only by the courageous actions of our volunteer firefighters and other emergency crews. The tragedy that almost occurred in Great Neck is not at all unique. Tragically, horrible

things happen in our lives everyday. We need to be able to count on these citizens, whose loyalty to the safety of their community is undaunted by the greatest of disasters. For his heroic act at Great Neck I commend First Assistant Chief George Motchkowitz. I suggest that my colleagues, and all Americans, remember these unsung heroes, like George Motchkowitz, and consider the debt that each of us owes to those who give of themselves freely and gladly everyday for the safety and welfare of each of us.•

DEMOCRATIC HISPANIC TASK FORCE FIELD HEARING

• Mr. SIMON. Mr. President, last May in my home State of Illinois, I chaired a field hearing of the Senate Democratic Hispanic Task Force on Issues Facing the Hispanic Family—Education, Employment, and Health Care. I want to share with my colleagues in the Senate the recommendations and testimony of the witnesses at the hearing. Therefore, on Monday and Tuesday of this week I included a section of testimony presented at the hearing. I ask unanimous consent that a third section of testimony be included in the RECORD at this point.

The material follows:

TESTIMONY OF MARY GONZALEZ KOENIG, ASSISTANT TO THE MAYOR FOR EMPLOYMENT AND TRAINING, CHICAGO, BEFORE THE SENATE DEMOCRATIC HISPANIC TASK FORCE

Our Nation is just emerging from a prolonged recession, and national attention is focused on our economic future. Competitiveness and productivity of the workforce are of greater concern to policy makers and elected officials now than at any point in recent memory. Hispanics have much at stake. It is a time for choices and a time for action.

The marketplace for goods and services is shaped today by the global nature of competition. Technological changes have permitted employers to combine many jobs into fewer jobs with broader responsibilities. The need for workers with more highly-developed skills has shifted labor demand away from unskilled, low value-added employment.

The education and skill requirements for employment have been elevated, as companies seek out workers who can respond to these complex demands. The kinds of blue collar jobs that were once available in abundance are largely gone and won't return again.

America's human capital is the element that will drive its standard of living. That is why the ability to access high-quality occupational training is the critical workforce issue facing the Hispanic population.

Hispanics currently have the lowest level of educational attainment of any major population group. Nationally, only about half of Hispanic adults are high school graduates; less than one in 10 graduates from college.

While Hispanics as a group are not highly educated, they participate heavily in the labor force. Hispanic employment in Chicago increased by a stunning 66 percent since 1983. Nearly 7 of 10 Hispanic city residents were working or actively seeking work, a proportion significantly higher than for the whole population citywide.

What is the result of this combination of factors?

Hispanics remain clustered in a narrow segment of the job market which is more likely to be affected by both sudden dislocations and the long-term trend of fewer factory jobs. Over 40 percent of Hispanic workers are employed in industrial sectors like manufacturing and wholesale trade, with higher than average unemployment rates and lower than average projections for employment growth, a proportion far larger than other race or ethnic groups.

Furthermore, Hispanics are conspicuously absent from occupational categories like managers and professional and technical workers, which are characterized by low unemployment and high growth potential. Only about 10 percent of Hispanics worked in these categories compared to about 20 of blacks and 30 whites. Hispanics are not yet well positioned to prosper in the high performance work organizations that will lead the technological advance of 21st century America.

What should we do about it? Let me suggest a general direction. I returned recently from a 2-week study tour of the education and job training systems of Germany, Denmark, and Sweden. Organized by the National Council of La Raza [NCLR], the largest national Hispanic organization, the tour was funded by the German Marshall Fund of the United States and the Ford Foundation.

Those nations have made a commitment to work based education and training programs that focus on individual human resource development. Such a commitment is imperative for this country and is in the particular interest of Hispanics—so long as unique cultural differences of diverse groups are recognized, and equal access to training and advancement is assured.

It was clear to us on the study team that U.S. policies and practices guiding job preparation need major restructuring, and—while the American solution must reflect our Nation's unique history, culture, and institutional systems—much can be learned from the European experience.

The European education and training systems we reviewed reflected strategic national directions. They had a legislative base and a taxing structure which supported a holistic training effort. That structure was characterized by genuine, ongoing, institutionalized collaboration among the key stakeholders in employment and training: government, business and industry, and unions, from the national to the local level. We have experimented with public-private partnerships in this country, and have established them in national programs like the Job Training Partnership Act. This concept should be expanded significantly.

The education and training systems we visited reflect a recognition of the need for lifelong learning, with opportunities for upgrading skills at various stages in the individual's working life. There is a growing emphasis on developing skills relevant to a family of occupations rather than one single job, as a means of developing a workforce adaptable to economic and technological changes.

Skill training must be affordable for young people and their families. The European countries already provide meaningful training wages, so even those from poor families can remain in long-term training. This makes skill training accessible to everyone—not just those who can afford to be without wages for a period which can last more than 3 years.

Hispanic workers now have earnings far below those of other groups. Will we remain

a people of low wages or become a people of high skills? Access to the right kind of workforce training is the critical issue.

TESTIMONY OF PEDRO A. GALVA BEFORE THE SENATE DEMOCRATIC HISPANIC TASK FORCE

Good Morning, Senator Paul Simon, distinguished committee members, panel and visitors. Thank you for the privilege of testifying before this committee and to present ideas regarding the development of the Hispanic Community in the United States and the needs of this particular community in the overall development of our nation.

Hispanics represent a major force both politically and economically in the U.S. Numbers are growing and expected to continue to grow over a long period of time. We are supposed to become the number one minority by the year 2020. However, hasten to add that numbers do not translate into political power and economic advantages unless we can grow in level of empowerment, education and training. There is always a major lag in numbers and political and economic fruition. Although we have made major strides in the last decade, we are still far behind in the fulfillment of major goals in the areas of political, economic and educational achievement. I intend to concentrate my remarks on the effect of education and training as the foundation of the development of any community be that one large or small in the context of the larger society and what the Federal Government can or cannot do to enhance this educational empowerment that is so critical to the economic development of our community in this country.

As you well know, education and training is something that "no one can take away" from us. It cannot be stolen, denied, forbidden, postponed. It is for this reason that I propose that Employment and Training and education are the most critical elements in the development of any group be it minority, majority or otherwise. In particular I want to discuss the importance of employment and training to the economic development of our community.

First a few words about The College of Office Technology. We started offering employment and training services at the transition from CETA to JTPA back in 1982-83. Then we were known as Assurance Corporation Technical Institute (ACTI). We grew from training 60 participants per year to now training 360.

We offer a very versatile program providing a choice of curriculum and practical job training skills needed in today's automated office. Participants who successfully graduate from our program carry with them entry level skills in the following areas: Typing, word processing, data entry, accounting, calculating as well as remedial education in English and basic mathematics. All this is accomplished in a period of 16-20 weeks of full time training, seven hours per day, five days a week. Our program is a very intensive intervention and one in which the participant cannot be allowed to miss too many days of classes, if they do, they have to make up hours missed during evening hours. In a fast pace curriculum offering like this one, students who do not have the commitment and have not made arrangements necessary to concentrate their efforts in the training do not and cannot succeed.

With the single exception of 1982-83, our first year of operation, we have achieved placement goals between 79 and 89 percent for all of our programs. Over 70% of those placements have been training related and have been documented with letters of employment from the employer.

It has been our philosophy during those years to do exactly as the legislation calls for in its title. Comprehensive Employment Training Act meant that people must be trained for jobs in the private and public sector of the economy. When CETA was delivering no better than 36% placement rate nationwide, the agency that I worked for (SER-Jobs for Progress, Inc.) was consistently placing people on jobs at the rate of 75% or better. We concentrated our efforts in providing the best training possible with an eye on preparing the person for real and existing jobs in the economy at that time. It worked because we ran a no-nonsense program designed to prepare people that were ready to be trained and ready to enter the workforce after the training. Once you get that initial element, the rest is easy.

Story of Maria Perez, on public aid, became pregnant during the training program, goes on to complete the training and get job at the University of Illinois, finishes a bachelor of arts and become an insurance underwriter for a major insurance company. Angelina Becerra, cannot take the GED test because she is under 18 and not a year out of high school, ask for a second chance (she is going to die in six months), completes the program, gets hired by Standard Oil in downtown Chicago, "I am still waiting for her die". Jose Zaragoza, GED participant also, not interested in class, does not pass the GED Test but completes the program, get a training opportunity at his father's union carpentry shop, completes it and makes more money than the teacher was making at that time.

There are many more stories like the ones above. I can assure you that these programs work. I have seen them work every day of my life for the last 17 years.

What are the most critical issues facing the Hispanic community in this country? I believe that employment and training and public education are at the forefront of it.

There is nothing more critical and important to any young group of immigrants than to be able to get the education and/or training they need to meaningfully enter the workforce.

In years gone by, it was relatively easy. Agricultural and industrial societies allowed entrance into the middle class through hard work, very little education was needed. It has changed today and the only way of entering the middle class is through education and/or training.

JOB TRAINING PARTNERSHIP ACT [JTPA]

This is the only piece of legislation that specifically deals with transitioning people from unemployment and lack of job skills to the attainment of those skills needed to enter the workforce.

JTPA has done an excellent job of providing both young and adult Hispanics with the skills necessary to be able to compete for jobs in the labor market. In 1982-83 only about 14 percent of the people served in the city of Chicago were of Hispanic origin, today this rate is between 27 and 28 percent. What is even more critical is that placement rates have been consistently higher for the Job Training Partnership Act [JTPA] than it was for its predecessor, The Comprehensive Employment and Training Act [CETA]. For the City of Chicago this rate has been between 60 and 70 percent over the last five years.

Hispanics need the services that JTPA offers. It is the only vehicle that we have, aside from the educational system, for bridging the gap between school and the world of work.

JTPA, as it undergoes the scrutiny of the Senate and House Conference Committee, should not be allowed to become the panacea for all the problems facing the unemployed. The beauty of JTPA, as it was initially conceived, was that it would serve those that were willing and ready to be trained for jobs. This type of training requires a concentrated effort not only on the part of educational agencies but more critically from the participants.

At present, the amount of paperwork, guidelines, mandates that service providers and participants must be subjected to is threatening to make of JTPA an ineffective tool for the delivery of effective employment and training services. This must not be allowed to happen.

The solution to problems being experienced by Hispanics and other minorities cannot be resolved by government hand-outs or even public service employment programs or the overregulation of these programs. The solution lies with creating more opportunities through JTPA or similar legislation in conjunction with the private sector.

JTPA may have minor problems of abuse typical of government programs. I can assure you that whatever problems it may have are not going to be cured by adding more regulations and more paperwork. They can best be minimized or cured altogether by increasing program monitoring at all levels, Service Delivery Areas, State Government, Department of Labor: drop-in unannounced and ask to see participants records, train monitors well so that they know what to look for and how to evaluate program operation and whether legislative and regulatory mandates are being followed by service providers and other players in the system. This methodology will go a lot further in stamping out abuse in government programs than mountains of regulations and its accompanying cohort of paperwork.

One major weakness in the JTPA system is that *Recent immigrants*, including Hispanics, are not faring very well getting the services they need under JTPA, reasons are as follows:

(a) recent immigrants cannot afford to go to school full time because they have family commitments either here or back in their home countries.

(b) They need the support while in training existing under previous legislation but not in JTPA.

(c) Economic and job picture have changed in this country so that the level of education needed to gain meaningful employment has gone up consistently. It demands more skills today to obtain the same job than it did ten years ago.

What can be done to correct these problems? (a) liberalize eligibility mandates so that programs can be more flexible in its admissions procedures, (b) do not take the focus of JTPA away from jobs but lower the percentage of placement outcomes that this program must have in order to be successful. Today the only positive outcome for an adult is a job placement, there should be other outcomes that are considered positive terminations, (c) increase supportive services so that adults can participate without jeopardizing "bread and butter" on their table. I do not recommend a throw-back to the full allowance system but a little more liberal than it is at the present time.

I encourage you to expand the Job Training Partnership Act so that more people will have that second chance to break the cycle of dependency on government programs. JTPA has been criticized for not doing

enough for the people most in need, namely of creaming, it is my belief that this is an unfair and unfounded criticism and this is why: (a) more than 40% of the people in the JTPA system are public aid recipients or receiving other types of government support (this was less than 15% under CETA), (b) It is not the goal of JTPA to create jobs, it is, in my opinion, to prepare people without skills and give them a level playing field to compete for jobs in the private sector, in this scenario, it is the employer that dictates the people they will hire and service providers must provide them with people with the skills employers require, (c) some of the so called "most in need" have other barriers to employment that are very difficult to resolve and must be intervened before a serious job training program starts (ex Offenders, substance abusers, homeless, etc.). If job training intervention is started while those problems are unresolved, there is a 70 to 90 percent chance of failure.

Finally, I want to leave you with the thought that effective employment and training programs such as JTPA are an investment in our future and should and must be expanded. It has been suggested by some experts that if we allow our present educational system to continue to deteriorate, do not expand successful interventions (such as JTPA) for those that the public school system has failed or is failing then, in not too distant a future, half of the population will have to work to care for the other half in public aid, social security, prison population, etc. this is a sobering thought and one that cries out for a larger and better system of employment and training in this country, as one of the solutions to this vexing and potentially ominous problem.

Thank you very much for your patience and God bless you.

ADDITIONAL TESTIMONY

The educational system

Education is a very critical issue facing our community and one in which the battle is not on the winning side. About 50% of Hispanics in this country do not stay long enough in our public school system to graduate from high school. What is even more sad, those who graduate are coming out without the basic educational skills to proceed to higher education or enter the job market. Clemente, Wells high schools in Chicago are typical example of high drop-out rates that predominates in the Hispanic community and that schools are facing. The Federal Government has a role as a catalyst for change in our system of public education. What is needed is not a set of new regulations and more paperwork to satisfy yet another set of rules imposed on our system but rather leadership from elected and non-elected officials to prod the system on to reform itself. For the future educational and economic health of our children, we beg for your leadership Senator Simon, other elected officials and community.

The U.S. is the only industrialized nation that does not have a coherent policy for moving its young people from school to the workforce. It is not for a lack of programs or expenditure in education and employment and training. I used the word coherent because that is what it lacks.

It is a quilt of programs fitting no pattern, coordination and therefore does not accomplish the results desired. The United States spends, per capita, more on education and training than any other industrialized nation, anywhere from \$300 to \$400 billion dollars is spent in the U.S. in public and private education.

The programs are there: Vocational Education Act, The Job Training Partnership Act, Title IV, Financial Aid programs, the private and public system of education, etc.

The reason that we do not get the results from our educational system as other industrialized nations are getting is due to the fact that we have imposed on our public school system the responsibility for dealing with the problems that we as a society, are afraid to face: racial integration (busing), hunger, disintegration of morality (teen pregnancy), disintegration of the home (divorce). A host of entities that have been created to live off our system of education. The farthest from the mind of some educators today is that the system was created to educate children (as the most important element of education) and not to provide jobs for teachers, administrators and others.

Until we change that equation, the system for transferring people from school and training programs to jobs is going to continue to be a haphazardous one.

Again, for the future of our children we must all get involved in creating a better system of public education for our sons and daughters. We cannot delegate this responsibility on the Federal Government alone, we must all get involved at the local level to do our part. I submit to you that providing a working employment and training and educational system for adults, youths and our children, is the most critical issue facing the Hispanic community in this country.

Thank you for your patience and God bless you.

TESTIMONY OF ADELA CEPEDA, ABACUS FINANCIAL GROUP BEFORE THE SENATE DEMOCRATIC TASK FORCE

Good morning Senator Simon. My name is Adela Cepeda. I own an investment management firm, Abacus Financial Group, based here in Chicago. I am also a board member of the Latino Institute, a research and advocacy group concerned with the interests of Latinos in Chicago and the state of Illinois. As part of its research effort in the area of economic development, the Latino Institute surveyed 136 Chicago Latino business owners in 1991 in order to develop a comprehensive data base on the status of Latino owned businesses. I will quote from the preliminary results of that survey in the course of my statement.

The establishment and growth of Latino-owned and operated businesses is critical to the development needs of the whole community: it stabilizes Latino neighborhoods, it nurtures a Latino professional class and major Latino institutions as well.

In order for Latino businesses to exist, there must be access to financial capital. Institutional roadblocks to securing business financing severely limit all small business development, but particularly inhibit growth in the Latino business community. The Federal government can remove these roadblocks and act as a stimulant to growth instead of remaining a deterrent through better distribution of existing pools of Federal dollars. The first level of capital necessary for the creation of a new business, called "venture" or "seed" capital, is virtually unavailable to Latino entrepreneurs. Because we are such a poor community, it is often impossible to raise this initial capital from informal sources. Institutions that make venture capital investments often look for businesses of a certain size that preclude many of us from accessing this source.

This barrier to capital remains for Latinos despite the fact that hundreds of millions of

dollars earmarked for minority business entrepreneurial development are channeled through Minority Enterprise Small Business Investment Corporations, or "MSBIC's". More dollars, and greater access to financing for Latino businesses is imperative.

The next level of capital for small businesses is debt financing, where again billions of dollars are devoted by the Federal government for Small Business Administration, or "SBA", loans. The Latino Institute survey found that in spite of the existence of the MSBIC and SBA loan programs, 52% of the Latino business owner respondents found the Federal government or private lenders not to be helpful for their credit needs. Less than 1% found the Federal government to be a source of any business assistance whatsoever. This is consistent with how SBA loans are distributed. Of \$4.9 billion SBA loans made in 1991, only 4.0% were made to Hispanic firms. Clearly, these very important sources of capital, are not reaching the Latino community. In a developing business sector, such as ours, Federal dollars are critical building blocks to successful emerging business enterprises.

As we all know, the Federal government guarantees bank deposits, therefore, indirectly subsidizing banks. These same banks nevertheless severely limit the number of mortgage loans made to Latinos. If this is the pattern with home loans, which are fully collateralized, what can we expect from banks in the area of business loans to emerging Latino corporations? The Federal government must be more aggressive in stimulating area banks to make commercial loans in the Latino community.

Nevertheless, with personal funds and the help of family members and local chambers of commerce, our entrepreneurial urges are strong and thriving, in spite of the barriers. In Illinois the Institute identified an 80% increase in the number of Hispanic-owned businesses to 9,636 firms in 1987 from 5,218 in 1982. But how can the Federal government help these firms stay in business, particularly in the early years when short track records and small size often preclude their competition on a level playing field?

Senators, there are some very real ways to support our small businesses. In 1990 the SBA set aside under its 8(a) program \$3.8 billion nationally in Federal contracts for minority owned firms. Crain's Chicago Business reported that only 1.2% of this amount went to Illinois firms. The Resolution Trust Corporation, "RTC", charged with the job of repairing insolvent thrift institutions, awarded \$1.8 billion in contracts since its inception in 1989—yet only 2.1% of these dollars went to Latino firms. We need to capture a more equitable share for Illinois and for the Latino community.

Finally, once we have managed to build a stable business, the rules are often changed. For example, the Department of Transportation, "DOT", has recently changed its definition of what constitutes a disadvantaged business enterprise. Firms with revenues exceeding \$15 million no longer meet this definition—regardless of industry considerations. Many building contractors spend a significant portion of their revenues in cost of goods, such that \$15 million in revenues is not a significant size by industry standards. Yet, they now stand to lose an important revenue source from DOT. The capricious application of set aside rules stand to hurt the same firms identified as needing assistance to enter competitive industries. More than anything, a serious, disciplined approach to set asides needs to be applied throughout the various federal agencies.

Thank you very much.

LATINO INSTITUTE, CHICAGO, IL

A 1991 Latino Institute survey of 136 Chicago Latino businesspersons revealed the following:

Where do Latino Businesspersons Go for Help?

Survey respondents were more likely to seek business assistance from family members, friends and other business people than from governmental agencies.

Survey respondents were more likely to contact a Latino chamber of commerce for assistance than a non-Latino chamber of commerce.

66.7% of respondents who contacted a Latino chamber of commerce found it "helpful" or "very helpful"; only 37.1% of respondents who contacted the U.S. Small Business Administration found it "helpful" or "very helpful."

How Latino Businesspersons Rate Infrastructure/Business Environment?

A majority of survey respondents found the following conditions to be "Excellent" or "Good": Auto Traffic Flow; Adequacy of Roadways; Public Transportation; Availability of Public Utilities; Adequacy of Fire Protection; and Market Access.

45.6% of respondents rated the availability of government assistance as "Poor" or "Very Poor"

How Latino Businesspersons Rate Obstacles to Better Business?

39.0% of respondents rate obtaining working capital as a "Major Problem"

36.8% of respondents rate parking as a "Major Problem"

41.9% of respondents rate crime as a "Major Problem"

A majority of respondents rate the following as "No Problem" or "Minor Problem": Zoning Restrictions; Traffic; and Machinery/Equipment.

Sources of Credit for Latino Businesses?

Half of surveyed businesses (52.2%) have not found the federal government or private lenders to be helpful for their credit needs.

Less than one percent (0.7%) of respondents cited the federal government as "most helpful" in acquiring credit.●

BRAIN INJURY REHABILITATION QUALITY ACT OF 1992—S. 3002

● Mr. CONRAD. Mr. President, I am pleased to be an original cosponsor of legislation intended to improve the lives of brain-injured Americans and their families, the Brain Injury Rehabilitation Quality Act of 1992. My interest and concern in this area has resulted from several cases brought to my attention by my constituents in North Dakota.

One specific case involves a Williston, ND, family whose son was the final victim of the well-publicized California "night stalker" slayings in 1985. This individual, a victim of senseless violent crime, was then further victimized by an unscrupulous rehabilitation facility. A second case describes a Glenfield, ND, family's state of turmoil as services that would provide their brain-injured son the chance to develop to his fullest potential are denied or dismissed as someone else's responsibility.

North Dakotans suffering from traumatic brain injury [TBI] and their families have told me of their frustration with patients slipping through the cracks between various Government agencies and private care providers. This occurs because there is no coordination of care or management of treatment and rehabilitation services. In addition, there is a lack of demonstrated, effective treatments for individuals with TBI, and there have been specific cases of waste, fraud, and even abuse in the head injury rehabilitation industry.

The Brain Injury Rehabilitation Quality Act of 1992 will assist the 2 million Americans who suffer traumatic brain injuries each year from various sources including automobile, motorcycle, and bicycle accidents, recreational accidents, assaults, and other tragic incidents. Approximately 500,000 of these victims will survive requiring expensive hospitalization. The cost of providing medical services for individuals who suffer traumatic brain injuries is estimated to be \$25 billion a year.

Our bill allows for optional Medicaid coverage of case-management services for individuals with TBI. Case managers would assess, plan, and coordinate a broad range of services while making sure that the best value and highest quality care is achieved. In addition, the bill provides for marketing standards to protect consumers against the rising tide of waste, fraud, and abuse in the field of rehabilitation services. Finally, the bill establishes a national TBI registry and requires the agency for health care policy and research to conduct a study of the effectiveness of the treatment brain-injured patients receive.

The initiatives in the Brain Injury Rehabilitation Quality Act of 1992 would lead to the development of a more consistent, effective set of guidelines for head injury treatments and rehabilitation services. I am proud to be an original cosponsor of this important legislation.●

CAPTIVE NATIONS WEEK

● Mr. SIMON. Mr. President, this week commemorates the 33d anniversary of Captive Nations Week. Since 1959, we have used the third week of July to remind Americans of those people throughout the world who are not free in their own countries.

This anniversary is particularly meaningful. Last year at this time, there were still 15 different republics in Europe and Central Asia that were forced to pay allegiance to the Communist government in Moscow. Through the brave work of people like Boris Yeltsin and Mikhail Gorbachev, the citizens of the former Soviet Union have been set free and allowed to pursue their own vision of democracy. As

we celebrate these triumphs, we also need to be supportive to these new democracies to ensure what former President Richard Nixon recently called the "victory of freedom."

Despite this year of unprecedented freedom for captive nations, we still need to remember those countries that continue to deny basic freedoms to their citizens. The Communist governments of China, Cuba, and North Korea provide the most egregious examples.

Since 1949, the People's Republic of China has not allowed over 1 billion people the most elementary freedoms that are taken for granted in most of the rest of the world. The freedom of expression, religion, and, as we all saw in Tiananmen Square in June 1989, even the basic freedom of assembly is brutally denied to Chinese citizens. In addition, the Chinese Government is trying to systematically destroy the formerly autonomous region of Tibet and the other minority groups who live along the fringes of the PRC. The unique culture, language, and religion of Tibetans may be extinguished if the Chinese Government continues its repressive tactics in this captive nation.

Only 90 miles south of the United States, Fidel Castro keeps Cubans captive in his cult of socialism. Without the generous Soviet subsidies, Cubans are now forced to live under even more austere conditions. Mr. Castro ought to allow his citizens to participate in a democratic process.

In North Korea, as Kim Il Sung prepares to pass his dictatorship along to his son, this Communist government continues to play a dangerous shell game with nuclear weapons. The peninsula of Korea and its citizens remain unnaturally divided because of the anachronistic views of a few people in Pyongyang.

We also need keep our attention on those people oppressed in countries we do not necessary consider captive. Haitians, Kuwaitis, Christians in the south of Sudan, the people of Kosova in Serbia, the Karens and the Rohingya Muslims in Burma, conservative Muslims in North Africa, the Baha'is in Iran, the Kurds in Iraq and black South Africans are all people who face hostile governments.

As we commemorate this extraordinary year in which the Soviet empire folded, let us remember that more than one in five people on this planet remain unfree. Let us do what we can in this body and in this country to bring about a peaceful end to the problem of captive nations.●

THE F/A-18E/F

● Mr. D'AMATO. Mr. President, \$194 billion. That is what this country just committed to with the signing of a letter contract for the F/A-18E/F; \$194 billion. And that Navy estimate, which came under punishing criticism by the

DOD IG for both its assumptions and omissions, will certainly go up.

What do we get for \$194 billion? One thing we do not get is an F/A-18 that brings to bear any more capabilities than F/A-18's currently serving with the fleet. To minimize cost and risk, the F/A-18E/F will have avionics no different than night attack F/A-18C/Ds. That means the same sensors, the same weapons, the same all-weather limitations. What we get for \$194 billion is an F/A-18E/F that flies a few more miles and carries a few more pounds than those in production now.

Only DOD would force the American taxpayer to pay so much for so little.

We still do not have the required cost and operational effectiveness analysis for the F/A-18E/F. None of the cost data challenged by the Pentagon Inspector General has been corrected or independently validated. It is unclear whether the requirements established by the Under Secretary of Defense (Acquisition) for entry into Engineering and Manufacturing Development: "submission of a fully funded F/A-18E/F program * * * in the Navy Program Objectives Memorandum" and submission of "initial data [from] the comprehensive A-X COEA," were met. The F/A-18E/F juggernaut just keeps rolling along.●

THE LOS ANGELES VELOWAY

● Mr. CRANSTON. Mr. President, I rise today to bring to the attention of the Senate an innovative project in my State that seeks to create an efficient and environmentally beneficial transportation option.

It is called the veloway and it represents the kind of creative thinking we need in the future if we are to reduce successfully our traffic congestion and improve our air quality without compromising our economy or competitiveness.

The veloway is a bicycle route that would provide bike commuters in west Los Angeles with a safe and efficient route for their transportation needs. The elevated veloway would allow bicyclists to travel from Brentwood and west Los Angeles over the traffic-clogged 405 freeway to the UCLA campus and Westwood. It would serve 10,000 bicyclists in the communities of Santa Monica, Westwood, and Brentwood.

Without this route, riders must share streets with heavy, high speed traffic which discourages many people from riding their bikes. Offering a safer alternative route would increase bike ridership and benefit the community by reducing traffic congestion and reducing air pollution.

Los Angeles has long sought and has been supportive of transportation alternatives that are pollution free and reduce gridlock. Private, local, and State funds have been pledged to the veloway. It has the support of city offi-

cial, council members, and administrators from the neighboring UCLA campus.

I commend such attempts to solve complex transportation problems. Mr. President, this body has devoted a great deal of its time and effort to the issue of transportation efficiency. We know that a more efficient infrastructure benefits the economy, reduces air pollution, and saves energy. Congress has passed transportation legislation, clean air legislation, and energy legislation that encourages the development of these kinds of innovative and alternative transportation options.

But, unfortunately, Mr. President, the veloway will remain just a good idea; it will not become a reality. As beneficial as this project is to Los Angeles, it is being held back by the inflexibility and shortsightedness of the Department of Veterans Affairs.

The proposed route must cross the VA Medical Center property in order to avoid the heavily congested city streets. The proponents of the veloway have negotiated with the VA for several years. They have addressed concerns about the safety of the VA patients and about the impact of traffic on the property. The proponents changed the route several times trying to reach some kind of agreement with VA officials and agreed to accept any route the VA suggested.

All this has been to no avail. The VA has categorically denied any use of its property for the veloway. Rather than cooperate with the community to help solve its transportation problems, the VA rejected the request without an explanation.

This kind of project is important to Los Angeles. I believe the VA should work with the community to help it reach its goals of reducing traffic congestion and providing a cleaner transportation alternative. I hope the VA will reexamine the merits of this project and reconsider its decision.●

FEDERAL GRANTS FOR STATE AND LOCAL "GI BILL" FOR CHILDREN ACT

● Mr. DANFORTH. Mr. President, yesterday I introduced legislation with Senators HATCH, KASTEN, BROWN, COCHRAN, THURMOND, D'AMATO, SMITH, and PACKWOOD to encourage, assist and evaluate educational choice programs. I ask unanimous consent that the text of that legislation, Federal Grants for State and Local "GI Bills" for Children Act, S. 3010, be printed in the RECORD at this time.

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

S. 3010

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Grants for State and Local 'GI Bills' for Children Act".

SEC. 2. PURPOSE.

The purposes of this Act are—

(1) to assist and encourage States and localities to—

(A) provide children from middle- and low-income families with more of the same choices regarding all elementary and secondary schools and other academic programs that children from wealthier families already have;

(B) improve schools and other academic programs by providing middle- and low-income parents with increased consumer power and dollars to choose the schools and programs that such parents determine best fit the needs of their children;

(C) more fully engage middle- and low-income parents in their children's schooling; and

(D) through families, provide new dollars at the school site that teachers and principals may use to help all children achieve the high educational standards called for by the National Education Goals;

(2) to encourage the creation and use of supplementary academic programs during and after regular school hours, on weekends, and during school vacation periods, for children of middle- and low-income families; and

(3) to demonstrate, through a competitive discretionary grant program, the effects of State and local programs that provide middle- and low-income families with more of the same choices regarding all schools, including public, private, or religious schools, that wealthier families have.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—For the purpose of carrying out this Act, there are authorized to be appropriated \$500,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 2000.

(b) RESERVATION.—From the sums appropriated pursuant to the authority of subsection (a) for any fiscal year, the Secretary may reserve not more than \$2,000,000 to carry out the national evaluation described in section 13.

SEC. 4. PROGRAM AUTHORIZED.

The Secretary is authorized to make grants, on a competitive basis, to States and localities to enable such States and localities to carry out educational choice programs in accordance with the provisions of this Act.

SEC. 5. STATE OR LOCALITY ELIGIBILITY.

A State or locality is eligible for a grant under this Act if such State or locality—

(1) has taken significant steps to provide a choice of schools to families with school children residing in the program area described in the application submitted under section 8, including families that are not eligible for scholarships under this Act;

(2) during the year for which a grant under this Act is sought, will, if awarded such a grant, provide scholarships to parents of eligible children that may be redeemed for elementary or secondary education for their children at a broad variety of public and private elementary and secondary schools, including religious schools, if any, serving that area; and

(3) permits all lawfully operating public and private elementary and secondary schools, including religious schools, if any, serving that area, to participate in its program assisted under this Act if such schools so choose.

SEC. 6. SCHOLARSHIPS.

(a) IN GENERAL.—Each grantee receiving funds under this Act shall use such funds to provide scholarships to the parents of eligible children described in section 7.

(b) AMOUNT.—The amount of each scholarship under this Act shall be the sum of—

(1) \$1,000; and

(2) an additional amount, if any, of State, local, or nongovernmental funds.

(c) SPECIAL RULE.—Notwithstanding any other provision of law, the amount of scholarship assistance received under this Act shall not be deemed income of the parents for Federal income tax purposes or for determining eligibility for any other Federal assistance.

SEC. 7. ELIGIBLE CHILDREN.

(a) IN GENERAL.—Each grantee receiving funds under this Act shall provide a scholarship—

(1) to the parents of children who—

(A) reside in the program area described in the application submitted under section 8;

(B) will attend a public or private elementary or secondary school that is participating in a program assisted under this Act; and

(C) are from a middle-income or low-income family, as determined by the grantee in accordance with regulations prescribed by the Secretary, except that the maximum family income for eligibility may not exceed the State or national median family income (adjusted for family size), whichever is higher, as determined by the Secretary, in consultation with the Bureau of the Census, on the basis of the most recent satisfactory data available; and

(2) in each year of the grantee's program to each child to whom the grantee provided a scholarship in the previous year of the program, unless—

(A) the child no longer resides in the program area;

(B) the child no longer attends school; or

(C) notwithstanding paragraph (1)(C), the child's family income exceeds, by 20 percent or more, the maximum family income of families who received scholarships from the grantee in the preceding year.

(b) SPECIAL RULE.—If the amount of the grant under this Act is not sufficient to provide a scholarship to each eligible child in the program area who is from a family with an income level described in this section, then the grantee shall provide scholarships to parents of children in such area who are from the lowest income families.

SEC. 8. APPLICATIONS.

(a) IN GENERAL.—Each State or locality that wishes to receive a grant under this Act shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) CONTENTS.—Each such application shall contain—

(1) a description of the program area to be served;

(2) an economic profile of children residing in the program area, in terms of family income and poverty status;

(3) the family income range of children who will be eligible to participate in the proposed program, consistent with section 7, and a description of the applicant's method for identifying children who fall within that range;

(4) an estimate of the number of children, within the income range specified in paragraph (3), who will be eligible to receive scholarships under the program;

(5) information demonstrating that the applicant's proposed program complies with the eligibility requirements of section 5 and with the other requirements of this Act;

(6) a description of the procedures the applicant has used, including timely and meaningful consultation with private school officials, to encourage public and private elementary and secondary schools to participate in the program and to ensure maximum educational choices for the parents of eligible children and for other children residing in the program area;

(7) an identification of the public, private, or religious elementary and secondary schools that are eligible and have chosen to participate in the program;

(8) a description of how the applicant will inform children and their parents of the program and of the choices available to such parents and children under the program, including the availability of supplementary academic services described in section 11(2);

(9) a description of the procedures to be used to provide scholarships to parents and to enable parents to redeem those scholarships, such as the issuance of checks payable to both parents and schools;

(10) a description of—

(A) the procedures by which a school will make a pro rata refund to the grantee of the scholarship for any participating eligible child who, before completing 50 percent of the school attendance period for which the scholarship was issued—

(i) is released or expelled from the school; or

(ii) withdraws from the school for any reason; or

(B) another refund policy that addresses special circumstances the applicant can reasonably anticipate and that the applicant demonstrates, to the Secretary's satisfaction, adequately protects participating eligible children, in accordance with the purposes of this Act;

(11) a description of procedures the applicant will use to—

(A) determine a child's continuing eligibility to participate in the program; and

(B) bring new children into the program;

(12) an assurance that the applicant will cooperate in carrying out the national evaluation described in section 13;

(13) an assurance that the applicant will maintain such records relating to the program as the Secretary may require and will comply with the Secretary's reasonable requests for information about the program;

(14) a description of State and local funds (including tax benefits) and nongovernmental funds, if any, that will be available to supplement scholarship funds provided under this Act; and

(15) such other assurances and information as the Secretary may require.

(c) UPDATING.—Each such application shall be updated annually as the Secretary may determine necessary to reflect revised conditions.

SEC. 9. APPROVAL OF PROGRAMS.

(a) PROGRAM SELECTION.—

(1) IN GENERAL.—From applications received under this Act in each fiscal year, the Secretary shall approve applications for educational choice programs on the basis of—

(A) the number and variety of educational choices that are available under the program to families of eligible children;

(B) the extent to which educational choices among public, private, and religious schools are available to all families in the program area, including families that are not eligible for scholarships under this Act;

(C) the proportion of children who will participate in the program who are from low-income families;

(D) the applicant's financial support of the program, such as the amount of State, local,

and nongovernmental funds that will be provided to supplement Federal funds, including not only direct expenditures for scholarships, but also other economic incentives provided to families participating in the program, such as tax relief programs; and

(E) other criteria established by the Secretary.

(2) SPECIAL RULE.—In considering the factors described in paragraph (1)(D), the Secretary may take into account differences in local conditions.

(b) GRANT DISTRIBUTION.—The Secretary shall ensure that to the extent feasible grants under this Act are awarded for programs in urban and rural areas and in different areas of the Nation.

SEC. 10. AMOUNT AND DURATION OF GRANTS.

(a) AMOUNT.—The Secretary shall award grants annually taking into account the availability of appropriations, the number and quality of applications, and other factors related to the purposes of this Act. The Secretary determines are appropriate.

(b) DURATION AND RENEWAL.—Each grant awarded under this Act may be awarded for a period of not more than 4 years, and may be renewed for an additional 4-year period.

SEC. 11. USE OF SCHOLARSHIP FUNDS.

The Federal portion of any scholarship awarded under this Act shall be used in the following sequence:

(1) FIRST.—First, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and
(B) the reasonable costs of the child's transportation to the school, if—

(i) the school is not the school to which the child would be assigned in the absence of a program assisted under this Act; and

(ii) the parents of an eligible child choose to use the scholarship funds for that purpose.

(2) SECOND.—Second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than \$500, from any provider chosen by the parents that the grantee, in accordance with regulations prescribed by the Secretary, determines is capable of providing such services and has an appropriate refund policy.

(3) THIRD.—Third—

(A) if the child attends a public school, for use by such school to enable such school to conduct educational programs that help students at such school achieve high levels of academic excellence; or

(B) if the child attends a private school, any remaining funds shall be made available to the grantee to enable the grantee to award additional scholarships under this Act in that year or the succeeding year of the grantee's program.

SEC. 12. EFFECT ON OTHER PROGRAMS.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Notwithstanding any other provision of law, a local educational agency that, in the absence of an educational choice program that is funded under this Act, would provide services to a participating child under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, shall provide such services to such child.

(b) INDIVIDUALS WITH DISABILITY EDUCATION ACT.—Nothing in this Act shall be construed to affect the applicability or requirements of part B of the Individuals with Disabilities Education Act.

(c) SPECIAL RULES.—

(1) ASSISTANCE TO FAMILIES NOT INSTITUTIONS.—Scholarships under this Act are aid to families, not institutions. A parent's expenditure of scholarship funds at a school or

for supplementary academic services shall not be construed to be Federal financial aid or assistance to that school or to the provider of those supplementary academic services.

(2) ANTIDISCRIMINATION PROVISIONS.—

(A) IN GENERAL.—Notwithstanding the provisions of paragraph (1), in order to receive scholarship funds under this Act a school or provider of academic services shall comply with the antidiscrimination provisions of section 601 of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 901 of title IX of the Education Amendments of 1972 (20 U.S.C. 1681), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) IMPLEMENTING REGULATIONS REQUIRED.—The Secretary shall promulgate regulations to implement the provisions of this paragraph, taking into account the purposes of this Act and the nature, variety, and missions of schools and providers that may participate in providing services to children under this Act.

(d) CONSIDERATION OF FEDERAL FUNDS PROHIBITED.—No Federal, State, or local agency may, in any fiscal year, take into account Federal funds provided to a grantee or to the parents of any child under this Act in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such grantee or to the school attended by such child.

(e) STATE LAW.—Nothing in this Act shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by religious or other private institutions, except that no provision of a State constitution or State law shall be construed or applied to prohibit any grantee from paying the administrative costs of a program under this Act or providing any Federal funds received under this Act to parents for use at a religious or other private institution.

(f) SECRETARY.—Nothing in this Act shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program assisted under this Act.

SEC. 13. NATIONAL EVALUATION.

From funds reserved under section 3(b), the Secretary shall conduct a national evaluation of the activities assisted under this Act. Such evaluation shall, at a minimum—

(1) assess the implementation of programs assisted under this Act and such programs' effect on participants, schools, and communities in the program area, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare educational achievement of participating children with the achievement of similar nonparticipating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of children who use scholarships provided under this Act to attend schools other than the schools such children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools such children would attend in the absence of the program.

SEC. 14. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this Act.

(b) PRIVATE CAUSE OF ACTION PROHIBITED.—No provision or requirement of this Act shall

be enforced through a private cause of action.

SEC. 15. DEFINITIONS.

For the purpose of this Act—

(1) the terms "elementary school", "local educational agency", "parent", "secondary school", and "State educational agency" have the same meanings given to such terms in section 1471 of the Elementary and Secondary Education Act of 1965;

(2) the term "locality" means—

(A) a unit of general purpose local government, such as a city, township, or village; or
(B) a local educational agency;

(3) the term "Secretary" means the Secretary of Education; and

(4) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 16. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of enactment of this Act.●

THE PROGRAM FOR TOMORROW

Mr. DOLE. Mr. President, if the majority leader will yield, I wonder if the majority leader has any idea what the program may be for tomorrow.

PROGRAM

Mr. MITCHELL. Mr. President, I think the distinguished Republican leader for his inquiry.

It has been my expectation that the Senate would consider the energy bill tomorrow. As we know, cloture was not invoked on the motion to proceed to that bill.

Following that vote, the chairman and ranking member of the Energy Committee engaged in a colloquy regarding the discussions on the one issue which is the basis upon which cloture was not invoked.

I am advised that the participants have now returned to the meeting in which they were engaged. If those negotiations produce a result, it is my hope that we will be able to get consent to proceed to that bill tomorrow.

In any event, we will not know that until the morning. It is my suggestion that we now recess until tomorrow nothing, at which time I expect we will both receive a report on the status of those discussions.

Mr. DOLE. Will there be a period for morning business tomorrow morning?

Mr. MITCHELL. Yes, I anticipate there will be.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 10 A.M. TOMORROW
MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate

HOUSE OF REPRESENTATIVES—Thursday, July 23, 1992

The House met at 9 a.m.

Rev. William L. George, Georgetown University, Washington, DC, offered the following prayer:

Lord God, You have created us in Your image and sustain us.

Dear Lord, as Your children we ask for Your guidance in leading our Nation, and in fulfilling the hopes and dreams of her people. Please give us the grace to face any challenge with courage. Give us the wisdom to know the truth and the vision to see our duty. We pray that You give us the strength to act with determination and fortitude.

Temper our actions with compassion, and temper our compassion with justice. Look kindly on our efforts to bring the full measure of Your gifts of liberty and prosperity to all across America. Above all, let us not lose sight that when we serve others, and sustain that sacred trust between the people and their Government, we serve You. Dear Lord, please bless these United States of America.

Please bless the Members who have gone before us marked with the sign of peace, especially our beloved Silvio Conte.

We ask Your special blessing on our Chaplain, Jim Ford. We pray that You continue to bless us with his service. As always, we thank You our Lord and our God forever and ever. 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 Mexico [Mr. SCHIFF] come forward and lead the House in the Pledge of Allegiance.

Mr. SCHIFF 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.

REQUEST FOR PERMISSION TO VACATE PROCEEDINGS ON ATKINS AMENDMENT TO H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. REGULA. Mr. Speaker, I ask unanimous consent that the proceed-

ings on the Atkins amendment of last night be vacated.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. VENTO. Mr. Speaker, reserving the right to object, I do not know what the agreement was. I know the substance of this amendment and understand it is something that I favor. But I do not understand the gentleman's request and why he is asking it.

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

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, the problem is that the amendment came up, and there was an agreement that there would not be anything controversial. Our colleague, the gentleman from Alaska, Mr. DON YOUNG, was advised he could go home, and he had an interest in raising a point of order on that amendment. And because of the statement that there would not be anything controversial, he was not here when the amendment was offered and, therefore, did not have his opportunity to offer his point of order.

Mr. VENTO. What would be the effect of agreeing to the gentleman's request?

Mr. REGULA. The effect would be to start over again on the Atkins amendment, and the gentleman from Alaska [Mr. YOUNG], would then have his opportunity to make his challenge to the amendment.

Mr. VENTO. Would the amendment still be pending?

Mr. REGULA. No; it would not be pending if it was vacated. It would have to start from the beginning. It is still in order.

Mr. VENTO. Further reserving the right to object, I will yield to the gentleman in a moment, but has the gentleman from Massachusetts [Mr. ATKINS] been apprised of this?

Mr. REGULA. No; he has not. I have not seen him.

Mr. VENTO. He is not on the floor, and I would ask the gentleman to withdraw his request until the gentleman from Massachusetts [Mr. ATKINS] has had an opportunity to speak.

Mr. REGULA. The chairman of the subcommittee is here.

Mr. VENTO. I understand that, and if the chairman of the subcommittee can speak for the gentleman from Massachusetts, I would speak to him.

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

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

Mr. YATES. Mr. Speaker, I do not propose to speak for Mr. ATKINS. I do

know that what the gentleman from Ohio is saying is correct, and I think the gentlemen know that as well as I, that controversial matters were supposed to be put over until this morning, and that as soon as the appearance of a rollcall came with the discussion of any of the amendments, then we were supposed to rise, and that is exactly what happened.

What happened was that last night a point of order was going to be made, but was made a little too late, and the gentleman is trying to protect the rights of the gentleman from Alaska in being able to make his point of order. And that is the reason for the request.

Mr. VENTO. Mr. Speaker, further reserving the right to object, what I am trying to do is to protect the rights of the gentleman from Massachusetts who in an orderly manner made his amendment, and there was not a point of order. I do not know if a point of order would lie against it, or if that would prevail, but the point is, I understand that this is a limitation on appropriations, and the fact is that in the RS2477 matter that is the substance of the disagreement between the gentleman from Alaska, myself, and the gentleman from Massachusetts, it was a measure that was included in the bill. That matter was the subject matter addressed in the bill. But for the fact of a point of order that I raised, it was removed.

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

Mr. VENTO. I am pleased to yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I wonder if my good friend, the gentleman from Ohio, would allow us to amend the unanimous-consent request to just void the proceedings until the gentleman from Massachusetts [Mr. ATKINS], and the gentleman from Alaska [Mr. YOUNG], get here and then, rather than vacate the proceedings, just postpone the proceedings until they get here, and then we can, maybe, work it out then?

Mr. VENTO. I would prefer that. I want the gentleman from Massachusetts to speak for himself in terms of this, and I would ask the gentleman to withdraw, and just ask him to postpone the action on the vote on this until discussion can be had with the gentleman from Massachusetts [Mr. ATKINS].

Mr. REGULA. Mr. Speaker, I withdraw my unanimous-consent request.

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

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

POSTPONING FURTHER CONSIDERATION OF ATKINS AMENDMENT TO H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. REGULA. Mr. Speaker, I ask unanimous consent that further consideration in the Committee of the Whole of the Atkins amendment to the Interior appropriations bill be postponed until a subsequent point during consideration of the bill, at the discretion of the Chairman of the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive five 1-minute requests from each side.

VICE PRESIDENT QUAYLE'S PRO-CHOICE RESPONSE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last night in response to a hypothetical question Vice President QUAYLE was asked if he would support his daughter if she became pregnant and wanted an abortion. He responded:

Obviously I would counsel her and talk to her and support her on whatever decision she'd make. I'd support my daughter. I hope she wouldn't make that decision.

Good for you, Mr. QUAYLE, and good for your daughter. Your daughter should make her own decision, and so should every daughter in America.

It is hard to understand how you can object to other women in America having the same choice you would give your own daughter. They are worthy of the same respect that you give your daughter.

Watching Vice President QUAYLE it was clear that his statement was painful, but the Vice President's statement was pro-choice.

CAMPAIGN LESSONS

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

Mr. GINGRICH. Mr. Speaker, I want to rise first of all to thank my many friends who inquired during the primary, and to thank the people of Georgia for giving me their votes and allowing me to win the nomination in what was a very, very difficult race. This morning's Washington Post illustrates why it was so difficult in terms of outside groups and in what was a very tough night for incumbents in Georgia.

Let me just say to my colleagues on both sides of the aisle I got two messages out of a very hard-fought campaign. One is that the American people really want positive messages this year. They want people who intend in a positive way to address real problems, and in some way we could argue that if past campaigns had been the years of the wedge, this was the year of the magnet for everybody. People want positive answers.

The second thing is that the baby boomers are now mature enough and sophisticated enough, and have been through enough of these campaigns that they do not just want slogans. They want a genuine action plan.

I would simply say, coming back here in a very narrow race and very hard-fought campaign, I would say to my friends on both sides of the aisle I think the American people want this Congress to take steps this summer that help improve the economy, that help reform education and health, that help replace the welfare state with workfare, and do something about drugs and violent crime.

□ 0910

I would hope that all of us would look at these very close election results, these anti-incumbent trends, and decide to work together to pass some positive real reforms and implement an action plan for America.

DEFICIT-REDUCTION ENFORCEMENT PACKAGE TO BE INTRODUCED

(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, whether a Member voted for or against the balanced budget amendment which came before the House a few weeks ago, I think it is fair to say that every one of us knew that no incantation of words, no magic formulas that might eventually have been attached to the Constitution would really balance the budget or really reduce the deficit.

In every one of our hearts we knew that it would take willpower, and a plan and a program.

I was, therefore, very happy to see that the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget, is moving forward with an enforcement package, a deficit-reduction enforcement package, that would, perhaps, incorporate some type of freeze on spending, and a freeze on tax indexation, some kind of formula in which there would be 1 dollar's worth of tax increases for every 4 dollar's worth of spending cuts in the event that we did not hit our budget target and a sequester is necessary.

Mr. Speaker, I think it is very essential that we come forward with such a

package this summer, because the American people are watching, and they are yearning to have something done with these terrible deficits. This enforcement package is a way to do it, better possible than the balanced-budget amendment which I suggested.

Let us move forward with it as soon as possible.

**MALAISE MOMENT IN HISTORY
NO. 1**

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

Mr. ARMEY. Mr. Speaker, Democrats like to complain about the last 12 years under Republican Presidents, but I am betting most Americans still remember how bad things really were the last time the Democrats controlled the White House and the Congress.

Thirteen years ago this month Jimmy Carter gave his famous malaise speech. It was not that long ago that we were living with 21-percent interest rates and double-digit inflation, the ayatollah and America held hostage, gas lines, stagflation, and the Soviet invasion of Afghanistan.

The American voter's memory is not as short as the Democrats might hope, and from time to time we will be happy to remind them of how much better off we have been over the past 12 years, especially when compared to the 4 that preceded them.

This "Malaise Moment in History"—the Jimmy Carter malaise speech—was brought to you by the National Democrat party 13 years ago this month, the last time they controlled Congress and the White House.

AMERICA'S NEW ENDANGERED SPECIES: LABORIS ECONOMIS MORTIS

(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, Congress keeps debating and keeps worrying about all those little creatures known as endangered species. There is a red-headed woodpecker, there is the delta smelt, there is the gnatcatcher, the snail darter, the spotted owl, the shoot-em-up chinook salmon, the rock pocket mussel, the kit fox, the maltese falcon, on and on and on, and in fact, you could see special after special on cable TV if you can still afford it.

But I say that Congress should start concerning themselves with a new endangered species known as America's laboris economis mortis. If you can understand my slang Latin, that is the American worker who is dying literally on the street.

In fact, in the State of California, they will not even accept their IOU paychecks.

Think about it.

TAXES NOT THE ANSWER

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

Mr. STEARNS. Mr. Speaker, we should learn about the effects of new taxes from our Governors around the country who have raised taxes.

We hear from the Democratic Presidential nominee that he is considering raising taxes. That is in his economic packages.

These taxes have negative consequences. For example, let us look at Connecticut. They have lost 20,000 jobs and have watched the rate of business bankruptcies soar to an all-time high since its Governor raised taxes. New Jersey's economic problems have been aggravated by its Governor's massive \$2.8 billion tax hike. Despite a huge tax increase, California revenues are falling, and it faces a projected deficit of \$11 billion this year.

Governor Clinton's economic plan fails to recognize that when high taxes reduce the reward for working, workers find something else to do with their time, typically something that does not produce Government revenues.

Mr. Speaker, our deficit problem does not exist from Americans being taxed too little. It exists because our Government spends too much.

DEMAND FOR DRUGS MUST BE REDUCED

(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, the tragic war on drugs continues. We have gotten the news yesterday that Colombia's Medellin drug cartel leader Pablo Escobar has escaped from prison.

It seems to me that while we have been trying desperately to put forward the best face on the increase in drug consumption, it is absolutely essential that we as a Congress realize that we have a degree of responsibility.

Latin American countries produce drugs because Americans buy them. We have to realize that it is essential for us to try to decrease the demand, and the way we do that is to try and bring about a major change in the types of policies which we have been putting forth from this Congress.

We need to play a role in increasing individual initiative and responsibility. Reducing the level of dependence on government could certainly help.

I believe the escape of Pablo Escobar reminds us of the need for us to strengthen our resolve.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 0917

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 22, 1992, pending was the amendment offered by the gentleman from Massachusetts [Mr. ATKINS]. Further consideration of the amendment has been postponed by order of the House until such time as the Chair in its discretion announces the pendency of the amendment.

Pursuant to the order of the House of Wednesday, July 22, further amendments to be offered to the bill, and any amendments thereto, will be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS: On page 19, line 21, after Illinois, insert the following: "Provided further, That of the amounts provided under this heading, \$2 million shall be available for the design of and to initiate construction of a pedestrian walkway and interpretative Park (A Walk on the Mountain) in cooperation with the city of Tacoma, Washington".

Mr. DICKS (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 Washington?

There was no objection.

Mr. DICKS. Mr. Chairman, this is an amendment that relates to a project in Tacoma, WA, which has been agreed to, I believe, by the chairman and by the ranking member.

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

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

Mr. YATES. Mr. Chairman, I am familiar with the gentleman's amendment, and I have no objection to it.

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

Mr. DICKS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. DICKS].

The amendment was agreed to.

□ 0920

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS of Wyoming: Page 26, line 8, strike "Provided further", and all that follows through "receipts of the Treasury:" on line 13.

Mr. THOMAS of Wyoming. Mr. Chairman, let me first describe the purpose of the amendment. The amendment is designed to strike that portion which requires that the funding for MMS, Minerals Management Service Agency, be funded out of State funds. The purpose of this amendment, No. 1, is to make the bill appropriately consistent with the law. As a matter of fact, a year ago when this same thing was in there, there was a point of order under clause 2 of rule XXI, because it is clearly making statutory law in an appropriations bill.

Second, it is to deal with the matter of fairness and equity. The amendment basically strikes that portion of the bill which would take out all of the cost of collection of Federal mineral royalties before the distribution is made. It is very simple, very clear.

The Minerals Management Group has a budget of about \$150 million that is required under this agency to collect those funds. Under this provision, half of that cost would be taken out of the share of the State which by law is prohibited.

First of all, let me say that there are several reasons I think for favorable consideration of this amendment. No. 1 is the inefficiency of the agency. The collection of royalties is not a brand new idea. It is done by all the States. It is done in the private sector. It is a relatively simple matter, and frankly, I have to tell you that \$155 million for on-shore royalties is an awful lot of dough.

As an example, in the studies that were done last year the State collects royalties at a cost of \$4.89 per \$1,000. It costs \$4.89 to collect 1,000 dollars' worth of royalties.

MMS, on the other hand, costs \$115 per \$1,000 to collect those royalties. It gives you some idea.

The collection per person that is employed, the collection in the State each person employed to collect taxes collects 6.5 million dollars' worth of royalties.

In MMS, on the other hand, each person collects 415,000 dollars' worth of royalties. It seems to me it is pretty clear that there is a great inefficiency here to do that.

Last year the Senate put into this bill a study to take a look at that and include the States. Unfortunately, the study came out pretty much as you would expect by the agency doing their own study. Self-analysis is seldom critical. It suggests they had to continue to do it, and indeed did not even let the States who were supposed to be a part of the study be a part of it in the end.

This is not just a Wyoming project. On the other hand, it affects 34 different States that have some mineral collections and 7 in a pretty major way. This is major. This is big money for Wyoming and many of the other Western States.

We paid last year about \$15 million that we should not have paid at all. This year in this proposal it will be over \$30 million. These are dollars that are used in the States for schools, for transportation, for social services, and these are big bucks in a State like ours, a State where 50 percent of the land surface belongs to the Federal Government, but the Federal Government does not provide the Services for the people who live or work there. The State and local governments do, and that is where this money goes.

As far as the policy issue is concerned, certainly the Nation benefits from these resources, clean coal, whatever, not just the people of Wyoming, and these charged legitimately belong in the national sector.

Let me just make this point one more time. I think it is an important point, and that is that the mineral leasing law specifically indicates:

In determining the amount of payments to the States under this section, the amount of such payment shall not be reduced by any administration or other costs incurred by the United States.

That is the law.

So, Mr. Chairman, I urge in a matter of fairness, fan in a matter of equity, that this amendment be adopted.

Mr. CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

Mr. YATES. Mr. Chairman, it is strange to hear my good friend, the gentleman from Wyoming, say that in the interest of fairness, in the interest of equity, the Federal Government should be required to pay all the expenses in connection with the gathering and distribution of the moneys in connection with onshore mineral receipts. These are royalties that come from production on Federal lands.

Mr. Chairman, all this money is derived from Federal lands. None of it comes from State lands.

The gentleman from Wyoming says this is big money for Wyoming. It is big money for the Federal taxpayers, too. It seems to me that if the gentleman talks about fairness, it is the essence of fairness to have a distribution of the expenses between the partners before the net receipts are distributed. Every partnership that I know of looks to an equitable division of the expenses of the partnership before there is an allocation of the net profits. That is what is at stake here.

The gentleman is correct, the basic law does provide that the Federal Government should assume those costs, but like so many other laws that were passed years ago, when special preference and subsidies were given to the States at the expense of the Federal Government, this has to be changed. We saw what happened with respect to grazing fees last night. The House voted to increase the grazing fees, considering that there was an unfair subsidy in connection with the use of Federal lands.

The same is true here. The Federal Government owns those lands. The Federal Government is required to pay the States a certain portion of the receipts that it gets as a result of production on Federal properties.

It seems to me that in all fairness and equity, to use the phrase of my friend, that the expenses of this operation, this Federal operation, if you please, ought to be split between the States and Federal Government in order to achieve a goal of fairness.

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

Mr. YATES. I yield to my friend, the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the committee chairman has outlined it very well. I think it is a matter of fairness. The costs should come out before we have a distribution of the money. The administration essentially recommends this. They have supported requiring the States to share 75 percent of the costs of collection. Our bill proposes 100 percent cost sharing. Our bill is predicated on this amount coming into the Treasury. It seems to me it would only be fair that the expenses be shared.

I think the gentleman makes a good point, and it is something we ought to examine as to why the collection costs for the Federal collection of royalties is so much greater than that of the States. That is something that needs to be addressed.

But in any event, it still seems to me that it is equitable for both the Federal Government and the States if the costs are taken out prior to the distribution of the royalties.

I think for that reason, Mr. Chairman, the amendment should be rejected.

Mr. YATES. I urge defeat of the amendment, Mr. Chairman.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 1 minute to the gentleman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment offered by our colleague from Wyoming. While the impact of the Appropriations Committee's action is much less in my State of Nevada than the shortfall Wyoming would receive, it is nonetheless significant—about \$1.5 million I am told.

More important, though, this is another instance wherein the authorizing committee has been subverted. The Interior Committee has never marked up a bill to allow the Federal Government to fence off its costs to administer the Mineral Leasing Act before sharing the remainder with the producing States. Yet that is exactly what this bill would do.

Mr. Chairman, I would like to remind my colleagues that but 2 short months ago, in the course of the floor debate on the Energy bill this body adopted language from the chairman of the Merchant Marine and Fisheries Committee regarding coastal communities impact assistance. That measure would share more OCS leasing receipts with coastal States—and it lacks any mechanism for deducting Federal costs first. Why do we not act consistently and strike the cost-sharing burden that this appropriation bill contains?

I urge your support of the Craig Thomas amendment.

□ 0930

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has 1 minute remaining.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in opposition to this amendment. I think we can all understand the interest of our colleague from Wyoming trying to increase the State's receipts at the expense of the Federal budget. I do not think this is appropriate. I would hope that the House would defeat it.

Mr. Chairman, I also put into the RECORD my support for the RS 2477 provision that was pending in the House last night.

Mr. Chairman, I rise in strong support of the Atkins amendment, which was debated earlier, which is a funding limit that would in effect impose a moratorium on processing of claims based on section 2477 of the Revised Statutes, or RS 2477, for highway rights-of-way on Federal lands.

This is a very important issue relating to the management of Federal lands. The Federal Land Policy and Management Act of 1976—Public Law 94-579—repealed the 19th century law known as RS 2477, so that no new

rights-of-way could be established under its sweeping language. However, that act did not deal with claims for rights-of-way supposedly established prior to the repeal.

The BLM reauthorization bill—H.R. 1096—passed by the House last year includes provisions requiring parties claiming these rights-of-way to record their claims in a timely way, so their validity can be determined.

The Senate has not yet acted on the BLM reauthorization bill, although a hearing has been held on it.

Meanwhile, however, there is evidence of an increase in claims of such rights-of-way, apparently brought forward in a rush responding to the pending legislation. This has particularly been the case in Utah—where the claims seem intended to interfere with possible designation of wilderness areas—and in Alaska, where the Hickel administration has been outspoken in its desire to press claims for many rights-of-way, including those within national parks and other conservation areas.

While this appropriation bill was being considered by the Appropriations Committee, I joined other Members in urging exactly the kind of funding limitation now being proposed by the gentleman from Massachusetts. The purpose was to maintain the status quo while the Congress completes action on the BLM reauthorization bill.

Unfortunately, the Interior Appropriations bill reported from committee did not include such a funding limit. Instead, it had language that is effect directed the implementation of the substantive provisions related to RS 2477 that are in H.R. 1096, the BLM reauthorization bill.

Certainly, I strongly support those provisions as a matter of public land policy. However, including them in this bill—H.R. 5503—constituted legislating on an appropriations measure in a way contrary to the rules of the House of Representatives.

Therefore, I joined Chairman Miller in objecting to that part of the appropriations bill, and asking that it be made subject to the point of order that in fact has now been sustained.

In other words, while I had a problem with the way the bill dealt with this issue. I strongly support the intent. That intent would be furthered by this amendment, in a way consistent with the rules of the House, and so I strongly support the amendment and urge its adoption.

Mr. THOMAS of Wyoming. Mr. Chairman, if I have a few seconds left, I yield myself the balance of my time simply to say that the administration did not ask for the full cost as was suggested here. They have asked for some. This is beyond that. I ask for a vote.

Mr. OWENS of Utah. Mr. Chairman, I oppose the proposed doubling of the administrative fees charged to the States out of mineral

leasing royalties. This represents a very serious economic burden on the States, and if the legislation establishing the sharing of mineral royalties is to be amended, it should be done through the authorizing and not the appropriations process.

Obviously, we have a Federal budget crisis—but balancing our budget on the backs of the States is not the right solution. Utah alone would lose \$2.5 million of needed funds next year, as its fees are doubled to \$5 million per year. Utah would lose funds for higher education, community impact boards, the State board of education, the counties, and other purposes if this provision is allowed to stand.

I urge my colleagues to support this point of order.

The CHAIRMAN. All time has expired on the amendment.

The question is on the amendment offered by the gentleman from Wyoming [Mr. THOMAS].

The amendment was rejected.

AMENDMENT OFFERED BY MR. ATKINS

The CHAIRMAN. Pursuant to the order of the House of earlier today, pending is the amendment offered by the gentleman from Massachusetts [Mr. ATKINS].

The text of the amendment is as follows:

Amendment offered by Mr. ATKINS: Page 97, after line 3, insert the following new section:

SEC. 319. None of the funds made available in this Act may be used to record or process any claimed rights-of-way under section 2477 of the Revised Statutes (43 U.S.C. 932).

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] is recognized for 5 minutes in opposition to the amendment.

Mr. REGULA. Mr. Chairman, we accept the amendment on this side.

Mr. YATES. We accept the amendment on this side, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. ATKINS].

The amendment was agreed to.

REQUEST FOR TIME BY MEMBER

The CHAIRMAN. For what purpose does the gentleman from Oregon [Mr. AUCOIN] rise?

Mr. AUCOIN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. At this stage, under the time limit, the gentleman from Oregon will have to ask unanimous consent to get time to even strike the last word because under the unanimous-consent agreement, debate on amendments is all that is allowed.

Mr. AUCOIN. I thank the Chair.

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN: Page 97, after line 3, insert the following new section:

SEC. 319. Total appropriations made in this Act for the Bureau of Indian Affairs are hereby reduced by \$34,009,000.

Mr. DUNCAN (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 Tennessee?

There was no objection.

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Chairman, today I am offering an amendment that does one simple thing: It freezes the Bureau of Indian Affairs at the 1992 level. It does not cut the Bureau of Indian Affairs, it does not reduce the Bureau of Indian Affairs.

If my amendment is adopted, this will realize a savings of \$34 million, or a reduction of about 2.12 percent that they are receiving under the budget as proposed.

The BIA is notorious as one of the worst run, most mismanaged agencies in the Federal Government.

I have with me an article from the Denver Post, dated September 1990, in which Senator DANIEL INOUE, one of the most respected Members of the other body, calls for the abolition of the Bureau of Indian Affairs. Senator INOUE says the entire agency should be abolished.

The headline says, "Senator Says BIA Has Outlived Its Usefulness."

Mr. Chairman, that is most interesting because in this article Senator INOUE is described as the leading advocate for Indians in the entire Congress. In other words, the best friend the Indians have in the Congress has said that the Bureau of Indian Affairs should be abolished because it has outlived its usefulness.

Mr. Chairman, my amendment does not abolish the Bureau of Indian Affairs, it does not even reduce or cut the Bureau of Indian Affairs from their present funding.

In this fiscal year that we are talking about, fiscal year 1993, we will spend \$4.76 billion on Indian programs in all the various agencies. This is up from \$4.3 billion in 1990. These are very great increases. As we have all heard in recent months, this Nation is facing a national debt of \$4 trillion. It is like a chain around the neck of our economy. This country could be booming if we did not have this tremendous debt.

Even worse than that, if something could be worse than that, we are suffering the loss of over \$1 billion a day, adding to this debt at this time. It is clear to almost everyone that if we do not do something soon, we are going to face very severe problems economically. I think the American people believe the time has come that we should start cutting and reducing many of these agencies.

I will repeat once again, my amendment does not cut or reduce the Bureau of Indian Affairs from their present

funding. It is a simple freeze. The National Taxpayers Union reported in 1990 that the Bureau of Indian Affairs was so mismanaged over \$95 million was lost; not wasted, not misspent, but lost entirely.

In addition to that, there is a special distributions account in this particular appropriations bill which calls for \$20 million appropriation for special distributions. The administration requested zero for that account. That is a 60-percent increase over what was spent for that last year.

In addition, this amendment does not touch the funding for the Indian Health Service, which is receiving a \$175 million increase in funding.

Now I want to say that I have the greatest respect and admiration for the gentleman from Illinois, Chairman YATES, and the gentleman from Ohio [Mr. REGULA], the ranking member on the subcommittee. They are two of the most honorable, most respected men in this Congress, and I want to say this: That they have brought forth a bill that has lower increases than many of the bills that we have considered here in the last few weeks. But in spite of that, I do not think the Bureau of Indian Affairs deserves any type of increase.

I do not think we can afford it with our present financial condition of the Federal Government. We are presently spending over \$5,000 for every man, woman, and child on a reservation in this country.

The Senate Committee on Indian Affairs a couple of years ago held hearings, which I have here with me today, and they estimated that 88 cents of every dollar spent on Indian programs goes to the bureaucrats and the costs of administration, while only 12 cents of every \$1 goes to the Indians.

The Indians of this Nation would be better off if we did away with the Bureau of Indian Affairs and just gave them a direct subsidy, and we could save money in the process.

I will say once again that my amendment does not abolish or even cut the Bureau of Indian Affairs. All it does is freeze them at this year's level and does not give them an increase or a raise, which they do not deserve.

Mr. Chairman, I urge adoption of this amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes in opposition to the amendment.

Mr. YATES. Mr. Chairman, let me say that I have the greatest respect for my friend from Tennessee. I do rise in opposition to the amendment.

I would like to point out that this is not a cut of BIA; this is a cut of necessary programs for the Indian people. BIA is only an instrumentality. And when you think that you are cutting an administrative agency, what you are doing is cutting the people whom the administrative agency serves.

Mr. Chairman, I would agree with what Senator INOUE said about doing away with BIA. I was a member of the National Indian Policy Review Commission. I think it must have been over 10 years ago now. One of our recommendations was abolishing the BIA. We have argued for that in front of our Subcommittee on Appropriations, to do away with the BIA. But we cannot do it as an appropriations committee. It should be done, it should be reviewed by the authorizing committee.

But the fact that the BIA suffers from so many administrative faults does not mean that that same kind of attitude should be reflected on the operations of the Indian people.

I will tell the gentleman from Tennessee that there are a number of tribes in the Northwest that are now undergoing a pilot program that has been sponsored by our committee, looking toward making them independent, independent in their own right, and independent from BIA. The effect of his amendment would be to cut the Indian people, who have the worst standard of living of any group of people in this country, beyond the bounds of reason.

BIA was cut last night by \$12 million by the Dorgan amendment already. This will be a cut of another \$34 million.

What happens to the Indian schools when they are cut from the funding that they need to carry on their activities? What happens to the Indian trust management fund? What happens to hazardous waste removal?

Mr. Chairman, the Indian reservations all over the country are rife with hazardous waste dumps.

□ 0940

For all these reasons, Mr. Chairman, I think this amendment is very, very ill-considered. It brings back the times, oh, 100 years ago, when the Indians were subjected to the breaches of their treaties and allocations to their reservations, brings back the Trail of Tears from North Carolina, through Tennessee and on its way to Oklahoma. It brings back all the pain and barbarism the Indian people had to endure.

I hope this amendment does not prevail.

Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I yield to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise today in opposition to the amendment offered by my colleague, the gentleman from Tennessee [Mr. DUNCAN]. This amendment, which would reduce funding across the board for the Bureau of Indian Affairs by about \$34 million, would have a drastic impact on the ability of Haskell Indian Junior College to continue to meet its

mission of providing native Americans with a high quality education.

Haskell Indian Junior College has been meeting the educational needs of native American people for over 107 years. Haskell, a national intertribal college, has an average enrollment each semester of 830 students, who represent 139 tribes from 39 different States. Students select the program which will prepare them for transfer to an institution for a 4-year degree, or direct entry into employment.

The committee-approved bill would provide Haskell with a baseline level equal to last year's baseline level of funding. Further, H.R. 5503 provides \$165,000 for the development of a teacher education program at Haskell. There is a well-documented and serious shortage of qualified native American teachers in the United States, especially on the reservations. This level of funding will allow Haskell to move toward offering a 4-year baccalaureate degree program in elementary education—a move that is certain to increase the number of native American teachers.

Finally, the committee-approved bill provides \$3 million for phase 2 of the construction of a new 300-resident student dormitory. Each year, prospective students are unable to attend Haskell due to a shortage of on-campus housing. While current instructional space exists for 1,100 students, only 715 residential hall living spaces are available.

Mr. Chairman, I strongly support the committee-approved bill because I believe these funding initiatives are critical to the ability of Haskell Indian Junior College to continue to meet the educational needs of native American people.

While I believe it is important to reduce wasteful spending in Government programs, cuts in programs that provide education for native Americans are shortsighted. Educating our children, especially those who have been disadvantaged, such as native Americans, is an investment whose dividends will be returned to our Nation through highly skilled and productive members of society.

I urge my colleagues to oppose the Duncan amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in strong opposition to the Duncan amendment because it would cut essential services to Indian tribes, such as education and environmental protection.

The amendment may be well-intentioned. It purports to cut excess overhead in the Bureau of Indian Affairs [BIA]. I agree with that goal. However, the sponsor fails to recognize that such an amendment has already been adopted. The amendment which I offered with Representatives LAMAR SMITH and TIM PENNY reduced nonpersonnel administrative costs for the BIA by \$12.5 million. The amendment specified that the overhead cuts should come only

from expenses—for such nonpersonnel accounts as transportation of things, travel, office supplies and materials, communications, and utilities.

Unlike the Dorgan amendment, the Duncan amendment does not limit budget reductions to expenses in administrative accounts. It could, therefore, reduce program funds for education of Indian children, for the clean-up of toxic wastes, and other essential services instead of cutting excess overhead.

In a word, the House has already addressed the issue of administrative waste at the BIA. Further, the Duncan amendment does not directly tackle this problem and could have other adverse results. Consequently, I urge a "no" vote on the Duncan amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. DUNCAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DUNCAN. 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 266, not voting 33, as follows:

[Roll No. 301]

AYES—135

Allard	Gingrich	Penny
Allen	Goss	Petri
Andrews (TX)	Grandy	Pickle
Applegate	Guarini	Pursell
Archer	Gunderson	Quillen
Army	Hall (OH)	Ramstad
Bacchus	Hammerschmidt	Rinaldo
Baker	Hancock	Ritter
Ballenger	Hastert	Roberts
Barnard	Hefley	Roemer
Barton	Henry	Rogers
Bentley	Herger	Rohrabacher
Billrakis	Holloway	Roukema
Billiey	Hopkins	Rowland
Boehner	Hunter	Santorum
Bunning	Ireland	Sarpalius
Burton	James	Saxton
Byron	Johnson (CT)	Schaefer
Callahan	Johnson (TX)	Sensenbrenner
Campbell (CA)	Klug	Shays
Clement	Lagomarsino	Slisisky
Coble	Leach	Smith (NJ)
Coleman (MO)	Lent	Smith (TX)
Combest	Lewis (CA)	Solomon
Condit	Lewis (FL)	Spence
Cooper	Lightfoot	Stearns
Crane	Lloyd	Stenholm
Dannemeyer	Lowery (CA)	Stump
DeLay	Luken	Sundquist
Dickinson	McCollum	Swett
Doolittle	McCrery	Tanner
Dreier	McEwen	Taylor (MS)
Duncan	McMillan (NC)	Taylor (NC)
Edwards (OK)	McMillen (MD)	Thomas (CA)
Edwards (TX)	Miller (OH)	Torricelli
Emerson	Molinar	Upton
Ewing	Moorhead	Valentine
Fawell	Murphy	Vander Jagt
Fields	Nichols	Walker
Franks (CT)	Nussle	Walsh
Gallely	Oxley	Weldon
Gekas	Packard	Wolf
Geren	Parker	Young (FL)
Gibbons	Patterson	Zeliff
Gilman	Paxon	Zimmer

NOES—266

Abercrombie	Anderson	Andrews (NJ)
Ackerman	Andrews (ME)	Annunzio

Anthony	Hayes (IL)	Pallone
Aspin	Hayes (LA)	Panetta
Atkins	Hefner	Pastor
AuCoin	Hertel	Payne (NJ)
Barrett	Hoagland	Payne (VA)
Bateman	Hochbrueckner	Pease
Bellenson	Horn	Pelosi
Bennett	Horton	Perkins
Bereuter	Houghton	Peterson (MN)
Berman	Hoyer	Pickett
Bevill	Hubbard	Porter
Bilbray	Huckaby	Poshard
Boehler	Hughes	Price
Bonior	Hutto	Rahall
Borski	Inhofe	Rangel
Boucher	Jacobs	Ravenel
Boxer	Jefferson	Reed
Brewster	Jenkins	Regula
Brooks	Johnson (SD)	Rhodes
Broomfield	Johnston	Richardson
Browder	Jones (GA)	Ridge
Brown	Jones (NC)	Riggs
Bruce	Jontz	Roe
Bryant	Kanjorski	Ros-Lehtinen
Bustamante	Kaptar	Rose
Camp	Kasich	Rostenkowski
Campbell (CO)	Kennedy	Roth
Cardin	Kennelly	Roybal
Carr	Kildee	Russo
Chandler	Kolbe	Sabo
Clay	Kostmayer	Sanders
Clinger	Kyl	Sangmeister
Coleman (TX)	LaFalce	Savage
Collins (IL)	Lancaster	Sawyer
Collins (MI)	Lantos	Scheuer
Costello	LaRocco	Schiff
Cox (IL)	Laughlin	Schroeder
Coyne	Lehman (CA)	Schulze
Cramer	Lehman (FL)	Schumer
Darden	Levin (MI)	Serrano
Davis	Levine (CA)	Sharp
de la Garza	Lewis (GA)	Shaw
DeFazio	Lipinski	Sikorski
DeLauro	Livingston	Skaggs
Dellums	Long	Skeen
Derrick	Lowe (NY)	Skelton
Dicks	Machtley	Slatery
Dingell	Manton	Slaughter
Donnelly	Markey	Smith (FL)
Dooley	Martin	Smith (IA)
Dorgan (ND)	Martinez	Smith (OR)
Downey	Matsui	Snowe
Durbin	Mavroules	Solarz
Dwyer	Mazzoli	Spratt
Dymally	McCloskey	Staggers
Early	McCurdy	Stallings
Eckart	McDade	Stokes
Edwards (CA)	McDermott	Studds
Engel	McGrath	Swift
English	McHugh	Synar
English	McNulty	Tauzin
Erdreich	Meyers	Thomas (WY)
Espy	Miller (CA)	Thornton
Evans	Miller (WA)	Torres
Fascell	Mineta	Towns
Fazio	Mink	Torres
Fish	Moakley	Towns
Flake	Mollohan	Trafcant
Foglietta	Montgomery	Unsoeld
Ford (TN)	Moody	Vento
Frank (MA)	Moran	Visclosky
Frost	Morrison	Volkmmer
Gallo	Mrazek	Vucanovich
Gaydos	Murtha	Washington
Gejdenson	Myers	Waters
Gephardt	Natcher	Waxman
Gilchrest	Neal (MA)	Weber
Gillmor	Nowak	Weiss
Glickman	Oakar	Wheat
Gonzalez	Oberstar	Whitton
Goodling	Obey	Williams
Gordon	Olin	Wilson
Gradison	Olver	Wise
Green	Ortiz	Wolpe
Hall (TX)	Orton	Wyden
Harris	Owens (NY)	Wyllie
Hatcher	Owens (UT)	Yates
		Yatron

NOT VOTING—33

Alexander	Cox (CA)	Hansen
Blackwell	Cunningham	Hobson
Carper	Dixon	Hyde
Chapman	Dornan (CA)	Klecza
Conyers	Feighan	Kolter
Coughlin	Ford (MI)	Kopetski

Marlenee	Nagle	Stark
McCandless	Neal (NC)	Tallon
Mfume	Peterson (FL)	Thomas (GA)
Michel	Ray	Traxler
Morella	Shuster	Young (AK)

□ 1006

The Clerk announced the following pair:

On this vote:

Mr. Hansen for, with Mrs. Morella against. Messrs. MOODY, RIGGS, and SHAW changed their vote from "aye" to "no." Messrs. OXLEY, ROWLAND, and THOMAS of California changed their vote from "no" to "aye."

So the amendment was rejected. The result of the vote was announced as above recorded.

Mr. AuCOIN. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AuCOIN. Mr. Chairman, I wish to direct an inquiry to the manager of the bill, the gentleman from Illinois [Mr. YATES].

Mr. Chairman, under "Soil, Water and Air Management" within the national programs of the Forest Service, in fiscal 1992 some \$400,000 to \$500,000 were included to continue water quality monitoring in the Bull Run Watershed, Mount Hood National Forest, to be undertaken cooperatively with the city of Portland.

Is it the committee's understanding that this same amount is built into the fiscal 1993 budget, and is it the intention of the committee that this vital activity continue at the current level, which adds no new money to the budget but merely continues an ongoing function between the Forest Service and the city of Portland?

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

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

Mr. YATES. That is my understanding.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 51, line 14, strike out "\$1,320,937,000" and insert in lieu thereof "\$1,304,047,500".

Mr. JONTZ. Mr. Chairman, I want to thank the gentleman from Illinois [Mr. YATES] and the appropriations subcommittee for bringing us a good bill. In many ways I believe this amendment makes the bill a little bit better by reducing funding for timber sales which lose money for the Federal Government.

The Forest Service itself admits that two-thirds of the forests at the present time lose funds. These below cost sales have lost an average of \$300 million a year for each year during the 1980s.

This must end, not only because of the impact on the Treasury, but also

the impact of these below cost sales on the environment. Sales which are in remote, fragile, high elevation, steep areas tend to lose money, and also tend to be very damaging from the standpoint of the impact of clear-cutting on wildlife and fishery resources.

□ 1010

By reducing the number of below cost timber sales, we can save the taxpayers money. And we can use the savings for fisheries restoration or other projects which help the environment, not hurt it.

Mr. Chairman, you will hear the argument that the timber sales program has already been cut, but let me set forth the facts. This bill provides for a 7.5 billion board-foot timber sale program. In 1991, we had a 6.2 billion board-foot program, and I doubt we will sell very much more timber than that this year.

Mr. Chairman, just a few weeks ago the chief of the Forest Service announced that agency's plan to take a more ecological approach, which I commend the chief for. And the chief estimated that the consequence of that would be about a 10-percent reduction in their sales program for this coming year.

That is exactly what this amendment provides for. It is a way of saving some money which is needed. It is a way of reducing the damage of timber sales, and it is a responsible way to see that the money which we appropriate through this legislation is used for the Nation's good.

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

The CHAIRMAN. Is there a Member opposed to this amendment?

Mr. VOLKMER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, I yield myself 1 minute.

This amendment does not cut below cost sales. It does not resolve the below-cost sale problem. All this amendment of the gentleman from Indiana does is cut sale preparation money. And as a result, it will cost the Treasury approximately, net cost to the Treasury of \$10 million.

It will devastate all of our National Forests because it does not distinguish between those forests that are in the Northwest or the Northeast or in central United States. It cuts all across-the-board. It is like taking a meat-axe to a problem.

We have worked on this problem in our subcommittee, the Subcommittee on Forests, Family Farms and Energy. The Forest Service has proposed regulations on below-cost sales.

One of the persons who has worked the hardest on this for over a year has been the gentleman from Virginia [Mr.

OLIN] who I will recognize in a minute, for 1 minute, because it is his efforts that have brought this subcommittee to the point where we are trying to resolve this problem in a sensible way, not a nonsensible way, as this amendment would do.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I thank the chairman of the Subcommittee on Forests, Family Farms, and Energy for yielding time to me.

Mr. Chairman, it is true that we ought to do something about below-cost timber sales. This meat-ax approach, taking money out of the total appropriations, is not going to get it done. It will certainly take some money out; the Forest Service is going to have more trouble operating. There is no guarantee that their actions are going to reduce the below-cost sales in any way whatsoever.

This Subcommittee on Forests, Family Farms, and Energy has been working on this subject for about 2 years. We put together a bill which would, for the 65 forests that have some below-cost sales, we have come up with an approach that would help them to raise the revenue for the sales that they do make, cut out the scrubby timber that they have been cutting, and move ahead.

Mr. JONTZ. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, I hope that my colleagues would support the Jontz amendment.

We have an obligation, again, just as we saw in grazing fees, to stop the flow of taxpayer moneys to these below-cost sales. Let us understand what a below-cost sale is. That is essentially where the taxpayers pay people to harvest Federal resources; in this case, timber.

We can no longer sustain that effort with a \$400 billion deficit. The administration has asked for reform in this program. The Taxpayers Union has asked for reform. The environmental community has asked for reform.

The Jontz amendment offers us that opportunity.

Mr. VOLKMER. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I urge my colleagues to reject this amendment. It is an anticonsumer amendment because while we talk about below-cost sales, it addresses the whole problem of timber preparation. Prices for lumber have already gone up 15 percent because of actions by this body. That adds to the cost of housing, and that means young people that want to buy a house, get that first home, are going to be faced with \$2,000 to \$3,000 in additional costs. And we certainly do not want to exacerbate the problem. That is what this amendment does.

Mr. JONTZ. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I would like to respond directly to the comments made by my colleague from Ohio just a moment ago. Only 20 percent of the Nation's lumber supply comes from the national forests. This has nothing to do with consumers. This has to do with whether or not we are going to continue selling our natural resources below the cost of doing so and costing the taxpayers millions of dollars; in fact, \$257 million in 1990, at the same time that we unnecessarily do environmental destruction to the publicly owned lands.

I urge my colleagues to vote for the Jontz amendment. Take it seriously. This is a genuine effort to save money and to protect our environment at the same time.

Mr. JONTZ. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has 1½ minutes remaining, and the gentleman from Missouri [Mr. VOLKMER] has 2½ minutes remaining.

Mr. VOLKMER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, there is so much misinformation floating about on this issue of below-cost sales. First of all, we have to put this issue in the total context of what a national forest is and who it serves, recreation needs as well as forestry and the communities adjacent to and whose livelihoods are dependent upon the forests.

Taken in context, there is a net gain and a net benefit for the national economy out of the national forests, and a net benefit to the local economy.

Second, I want my colleagues east of the Mississippi, those in the Great Lakes States, to understand that this amendment would be devastating to those forests because these are forests in transition; 25, 30 years ago we were told, stop cutting the long-lived species, stop cutting the black spruce and balsam and jack pine and red pine, move to other varieties, like deciduous species. We have done that.

We have worked hard to move timber harvesting on these forests into new short-fiber species, thanks to research in wood chemistry that is showing ways we can use those species, even in papermaking, and now the critics say, "You are below cost." Baloney.

What is below cost is the understanding of this issue. Vote against the Jontz amendment. It will be devastating to the forests east of the Mississippi.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has the right to close this debate since the gentleman from Missouri [Mr. VOLKMER] is not on the committee.

The gentleman from Indiana [Mr. JONTZ] has 1½ minutes remaining, and the gentleman from Missouri [Mr. VOLKMER] has 1½ minutes remaining.

Mr. JONTZ. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in support of the Jontz amendment. This amendment will reduce funding for Federal timber sales by 10 percent, thereby saving the U.S. Government close to \$17 million.

For too long the Forest Service has been selling timber from American forests at too low a price. Lumber from our nation's forest is sold at 35 percent below market value, costing U.S. taxpayers billions of dollars. In 1991 alone the Forest Service lost more than \$500 million.

Reasonable people will differ about to what extent we should allow logging in our national forests, but if we are going to allow logging, we ought to get a fair price for our timber.

Paying people to come in and contribute to the degradation of our public lands is absurd. We should not subsidize the cutting down of our national forests.

The Jontz amendment will put an end to this absurd practice and ensure that we get fair market value for our timber. This amendment will protect our forests and help reduce the budget deficit.

Environmentalists and the National Taxpayers Union probably don't agree on many issues, but they agree that we should not subsidize the destruction of our national forests. Support the Jontz amendment.

□ 1020

Mr. VOLKMER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this amendment, which further reduces timber sales from the national forests. Just last week, it was announced that two more sawmills in my northern California district will close because of lack of timber supply, bringing the statewide mill closure total to 25 in the last 2½ years. The author of this amendment claims it will reduce Federal spending, but in fact it will decrease Federal revenues and add to the deficit. It would reduce Federal timber sale revenues by an estimated \$27 million, income tax revenues by \$41 million, and payments to counties by \$6.6 million. The unemployment benefits for the 5,400 additional workers who would lose their jobs would cost \$14 million. By attempting to save \$16.8 million, this amendment actually would cost taxpayers an additional \$82 million—I urge my colleagues to defeat it.

Mr. VOLKMER. Mr. Chairman, I yield myself 30 seconds.

I would advise the committee that the gentleman from Washington [Mr.

DICKS] will be offering a substitute which will only apply to timber harvest administration and will not apply the money to sale preparation, which does the damage under the gentleman from Indiana's amendment, and therefore would put that aside and would reduce timber harvest administration. We will be supporting the amendment of the gentleman from Washington.

Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I rise in strong opposition to the Jontz amendment. It would devastate Idaho's timber communities.

Mr. Chairman, I rise to speak in opposition to the Jontz amendment which would cut \$16.8 million, or 10 percent, from the Forest Service timber sale program.

This amendment will only cloud the existence of many rural, timber dependent communities of my State. And, if the impacts on these communities aren't enough, the amendment will further stall our efforts to ensure the health of Idaho forests.

If approved, the Jontz amendment would further slash the timber sale program which has already seen a major cutback. Both the administration and the House Appropriations Committee have reduced timber sale program funding by \$30 million, and timber related forest road construction by \$39 million.

These cuts will result in a 24-percent reduction in timber sale volume levels from the fiscal year 1992 levels. An additional 10-percent cut in funding would jeopardize jobs and decrease Federal revenues without justification. Even in these difficult fiscal times, the Jontz amendment goes beyond all reasonable standards of frugality.

For my own State of Idaho, we have already closed several mills in the past few years. These closures cost nearly 300 industry jobs and hundreds more throughout many local communities. The proposed cuts will mean the loss of 1,800 more jobs. In addition, the cuts will cost us another \$3.3 million in Federal payments for local schools and counties.

Mr. Jontz has tried to link this cut in the timber sale program to the issue of below-cost timber sales on national forests. Report language already accompanying H.R. 5503 already directs the Forest Service to implement its below-cost sales policy. This directive is in step with the recent recommendation of the House Agriculture Committee which has conducted extensive hearings on this issue in the past year.

The Federal timber sale program provides thousands of jobs in every region of the country and affordable wood products for all Americans. The program further returns tens of millions of dollars to the Federal treasury in timber sale revenues and income taxes every year.

The Jontz amendment is an unjustified assault on a program whose belt has already been tightened. Again, I urge my colleagues to oppose this amendment.

Mr. VOLKMER. Mr. Chairman, I yield 30 seconds to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON. Mr. Chairman, I thank our subcommittee chairman for

yielding me the time. I rise in opposition to the Jontz amendment and in support of the substitute that will be offered by our colleague, the gentleman from Washington [Mr. DICKS].

The important thing is that, as the subcommittee attempts to find an answer in dealing with below-cost sales that, in fact, we do not short circuit that process by dealing with, attempting to deal with, this on the floor in an arbitrary manner.

So I will support the gentleman from Washington [Mr. DICKS], in his substitute and oppose the gentleman from Indiana [Mr. JONTZ].

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DICKS. Mr. Chairman, do I offer my substitute now or when the gentleman from Indiana completes his 1 minute?

The CHAIRMAN. The gentleman may offer it at either time, now, or reserve until the gentleman from Indiana has completed his time.

Mr. JONTZ. Mr. Chairman, I yield my remaining minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, this Interior appropriation bill marks a landmark in terms of stopping the public subsidy for large corporations and wealthy individuals to destroy our natural resources. It makes a number of important steps, and this amendment improves that legislation.

Since 1975 there has been \$5.3 billion lost to the Treasury in Federal subsidies for the destruction of our national forests. This amendment would help stop that destruction.

This amendment would cut \$16.8 million from the Forest Service's timber sales preparation budget, which would simply stop the number of forests where we are going in and paying timber operators to come in and cut the forests. It will not affect the cost of timber. It affects only 1.5 percent of all of the timber that is sold in the United States.

I would hope the amendment is adopted.

Mr. DOOLITTLE. Mr. Chairman, I strongly oppose this amendment. While it is masquerading behind the noble cloak of cost cutting, specifically reducing a Federal subsidy, in reality it will create economic havoc.

The timber sale program has already been drastically reduced by \$30 million, and timber related forest road construction by another \$39 million. These cuts result in a 24-percent reduction in timber sale volume levels over fiscal year 1992. More than 26,000 timber-related jobs are already threatened across the Nation and literally hundreds of mills already have closed.

An additional cut of 10 percent as this amendment proposes will jeopardize more jobs and slash revenues, all for no reason. It is estimated that timber sale revenues would

drop by \$27 million, Federal income taxes by another \$41.4 million and payments to States by \$6.6 million. In other words, we will be saving \$16.8 million at a cost of \$75 million. That makes no sense.

Proponents contend that this amendment addresses the problem of below-cost timber sales. In reality, report language already directs the Forest Service to address this problem.

The Federal timber sales program provides thousands of jobs and assures affordable wood products. It returns impressive revenues to the Treasury through timber sale and income tax revenues as well. I am all for responsible and fiscally prudent budget cutting wherever possible. However, this amendment does not qualify. I urge its defeat.

The CHAIRMAN. All time has expired.

AMENDMENT OFFERED BY MR. DICKS TO THE AMENDMENT OFFERED BY MR. JONTZ

Mr. DICKS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS to the amendment offered by Mr. JONTZ: In lieu of the number named in said amendment, insert \$1,312,937,000.

POINT OF ORDER

Mr. JONTZ. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. JONTZ. Mr. Chairman, that is a substitute, not an amendment.

The CHAIRMAN. It is drafted as an amendment to the amendment. It has just changed the figure being inserted by the amendment offered by the gentleman from Indiana and it is drafted as an amendment.

Mr. DICKS. Mr. Chairman, let me say right up front what this amendment does. This amendment would reduce \$8 million out of harvest administration and would not cut sales, timber sales preparation, which the Jontz amendment does.

Our committee has already reduced timber sales preparation by \$12 million this year, below the administration request, and taken \$3 million out of harvest administration. This additional cut would take that up to a \$11 million cut and a \$23 million cut in those two accounts.

Because of the injunction in Washington, Oregon, and in northern California, we can take some money out of harvest administration without doing any damage. But if we take it out of sales preparation, then we are losing the opportunity to prepare sales for the future when those injunctions are lifted.

So I am prepared to go halfway with the gentleman from Indiana, but I am not prepared to take these very much larger cuts, and a cut in an account that would really do serious damage to the timber program all over this country.

I want Members to know we have cut back on timber roads, we have cut back

on timber sales preparation, we have cut back on harvest administration.

Mr. Chairman, I yield to the gentleman from Oregon [Mr. AUCOIN], who would like to comment on this and who is a cosponsor of this amendment along with the gentleman from Missouri [Mr. VOLKMER], chairman of the Agriculture Subcommittee.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding. I think he has made a very important statement, and I am happy to join him in this amendment. I hope my colleagues are listening.

Under the Dicks-Volkmer-AuCoin amendment the funding for harvest administration is actually a deeper cut than the Jontz amendment provides. But what it does not do is to cut into that critical timber sales preparation work which is the work that is necessary for future timber sales in out-years, not just current years, but in out-years. You need to prepare now in order to have a harvest sale level in the future.

We in the Northwest who are living under these court injunctions which have tied up harvest levels are living under a great deal of economic pain. We recognize that because of those injunctions we are not going to produce a harvest this year, and it is possible to make cuts in the harvest administration account. And the gentleman does that. But please, do not cut the pipeline. Do not cut the important work to prepare future sales at a responsible level for the out-years, or you will consign us to a permanent state of poverty in the Northwest when it comes to the timber communities.

Mr. DICKS. I appreciate the gentleman's comments.

Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me the time for a question. The gentleman's amendment would not affect supply, am I correct?

Mr. DICKS. That is exactly right.

Mr. REGULA. Whereas the Jontz amendment would affect the supply to the marketplace?

Mr. DICKS. This would in fact bring down some ability to sell, but we think there is excess of money in this account because of the court injunctions this year.

What we are worried about is he is going after sales preparation, which is absolutely crucial to the future.

Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me the time. I oppose the Jontz amendment.

Mr. Chairman, I rise in opposition to this amendment. The amendment clearly adds insult to the major uncertainty already faced by the citizens in rural timber dependent communities.

While endless lawsuits, endangered species recovery plans, forest plans, and most recently reduced funding levels from the administration and the Appropriations Committee have stalled the Forest Service timber sale program, this amendment rubs salt in the already sore wound of widespread unemployment and uncertainty.

Sponsors of this amendment allege a \$500 million loss from the Forest Service timber sale program in fiscal year 1991. Yet the Forest Service and General Accounting Office accounting system reports that in fiscal year 1991, the program generated revenues of \$1.1 billion, a profit after expenses of \$472 million. This program paid \$302 million in to States, and returned \$171 million to the Federal Treasury.

So it's not a loss, but a \$472 million profit. A close analysis of the critic's accounting points out the errors in their approach. To claim massive losses, critics must creatively inflate costs and creatively slash revenues.

A chronic timber supply crisis faces forest industry workers and the forest products industry. In my own district, lodgepole pine prices have risen 140 percent, and ponderosa pine prices by 46 percent in the same period. As a result local lumber yards, and the American consumer, are paying record high prices for lumber and other building materials.

For fiscal year 1993, the administration requested a timber sale level of 7.56 billion board feet. Final reductions approved by the Appropriations Committee this year further reduced the sale level to 6.3 billion board feet.

The 6.3 billion board foot goal represents a nearly 40-percent reduction in timber sale volume from the fiscal year 1987 level of 11.4 billion board feet. This program has been almost cut in half in just 5 years.

Four years ago, Forest Service timber supported 132,000 jobs. In 1991, that number had fallen to 103,000. With the cuts proposed for fiscal year 1993, this number will fall by 26,500 jobs. Now the gentleman from Indiana wants to further attack the timber sale program. Is 26,500 jobs not enough!

I turn and ask my colleagues, at what point do we recognize the residents in rural communities dependent on Federal timber for their livelihoods? We have scaled back the timber sale program to accommodate owls, woodpeckers, salmon, and many other endangered species.

But further reductions also chip away at our timber dependent communities. I urge my colleagues to reject this amendment.

Mr. DICKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON. Mr. Chairman, I rise in support of the Dicks amendatory language.

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

The CHAIRMAN. The gentleman from Washington [Mr. Dicks] has 30 seconds remaining.

Does any Member seek recognition in opposition?

Mr. JONTZ. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

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

Mr. Chairman, I would like to inquire of the gentleman from Washington, why should we be spending any money at all to prepare below-cost timber sales?

□ 1030

Mr. DICKS. Mr. Chairman, if the gentleman will yield, we are not doing that, and I would say to the gentleman, he is on the committee that has jurisdiction over this issue, this is not an issue that can be addressed in the Committee on Appropriations or is not supposed to be. So what the gentleman needs to do is sit down with the members of the Committee on Agriculture and deal with this issue.

Mr. JONTZ. Reclaiming my time, why would we want to spend a dime of taxpayers' money to prepare a timber sale that loses money? Why would we want to do that? Why would the gentleman, as a member of the Committee on Appropriations, want to spend 1 dime of taxpayers' money for preparing a timber sale which will lose more money? Why would we want to do that?

Mr. DICKS. You have to remember I do not stand here in the well of the House defending below-cost timber sales, but I will say this: There are communities out there in the country that have workers who are dependent on that Federal timber sale to keep those jobs alive, and we have put a lot of burdens on the execution of these sales, with the Endangered Species Act and all the other legislation.

Mr. JONTZ. Reclaiming my time, the gentleman digresses. The gentleman from Washington quickly digresses from the point, because, in fact, there is no justification to spend one dollar to prepare a timber sale in this country which loses money, and I can assure you this is according to the accounting of the Forest Service itself.

Mr. DICKS. The gentleman's amendment has nothing to do with below-cost sales.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has the time, and if he does not wish to yield, he is not required to do so.

Mr. JONTZ. Mr. Chairman, reclaiming my time, two-thirds of the forests in this country habitually lose money on their timber sales. All we are doing is cutting 10 percent of the total appropriation for timber sales preparation.

Now, the Forest Service is quite able through their own analysis to identify 10 percent of the total sales which they would otherwise prepare and cut them, because they lose money. If they need any help identifying which forests to go to, we can go through and point out, for instance, the Beaverhead Forest in Montana which lost \$2 million last year, according to the Forest Service's own accounting, or the Klamath Forest in California which lost \$7 million, ac-

ording to the accounting of the Forest Service itself, and there is no reason that we cannot cut this small sum of 10 percent of money that is going to go to prepare timber sales which lose money.

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

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has 2½ minutes remaining.

The Chair would state that the gentleman from Washington [Mr. DICKS], a member of the committee, has the right to close. The gentleman from Washington [Mr. DICKS] has 1 minute remaining, and the gentleman from Indiana [Mr. JONTZ] has 2½ minutes remaining, and he must use his time now.

Mr. JONTZ. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I hope this amendment to the amendment is not accepted.

What this amendment to the amendment does is it cuts in half the original cut. Proposers of this amendment are accepting the below-cost Federal subsidy for below-cost timber sales which cannot be justified. What they are trying to do is to reduce the amount of savings that would occur from the Jontz amendment.

The fact of the matter is that we are subsidizing enormous amounts of money for people to go in, and the Government pays them for the privilege of their cutting down our national forests. That makes no sense. It is an outrage. It is going to wealthy timber operators, destroying our national forests, and it is time to end this process.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has 1½ minutes remaining.

Mr. JONTZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, let us understand that this amendment does no harm to the timber industry in this country. It simply indicates that some people who are receiving privileges that can no longer be justified in an era of \$400 billion deficits.

We sit here and we tell our constituents all the time that somehow the Congress will not make the tough choices, that you will not make the tough choices. Well, here is an easy choice.

All we are saying to people is that if you get the privilege of harvesting the people's resources, pay the people the cost of preparing the sale. You can then have the trees, you can have the timber, you can have the lumber, but why should we subsidize that activity of preparing those sales so you can then take the timber. That is perfectly fair. It is equitable. It is fair to the taxpayer.

This is not one of the tough choices that you do not want to make about

Social Security or entitlements. This is an easy one. We can no longer justify the program.

Mr. JONTZ. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, this bill appropriates more than \$100 million for timber-sale preparation. About two-thirds of that will be used to prepare sales which lose money for the Federal Treasury.

All we are seeking to do is cut 10 percent. We are not talking about eliminating all below-cost sales. All we are talking about doing is cutting a small fraction of the timber sales which now lose money, about \$250 million a year which are lost, and so there will be plenty of money to prepare timber sales that make money. What we are doing is cutting the funds for those which lose money just a little bit.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. JONTZ] has expired.

The gentleman from Washington [Mr. DICKS] has 1 minute remaining.

Mr. DICKS. Mr. Chairman, I yield 15 seconds to the gentleman from Montana [Mr. WILLIAMS], who knows something about this subject.

Mr. WILLIAMS. Mr. Chairman, when the gentleman from Indiana [Mr. JONTZ] asks that rhetorical question, should all timber sale roads lose money, of course the answer is "no." But the question is really different than that. Should the Forest Service or the Department of Agriculture be in the business of making money or breaking even? Do we hold the Department of Defense to that? Do we hold the Department of Education to that?

Government is not in business to make money or break even.

The worst of the timber-sale roads, of course, should not be allowed. But government is not in the business of making profit. Its purpose rather is to provide service.

Mr. DICKS. I yield myself 15 seconds.

Mr. Chairman, there is nothing in this Jontz amendment that has anything to do with below-cost sales. He could not offer it, because a point of order would have been raised. What he does is cut sales preparation and harvest administration.

Those two accounts have already been cut.

Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

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

I rise in strong and unmitigated opposition to the Jontz amendment and would suggest that there is no such thing as a below-cost timber sale in the context of the multiple-use commitments of the Forest Service.

Mr. Chairman, I rise today in opposition to this amendment which represents certain economic chaos for the many rural towns and communities in the Nation that are dependent

upon the responsible management and harvest of our forest resources. There are three critical things to remember when casting a vote on this amendment: Education, jobs and economic development. Three concepts that go hand in hand with Federal timber sales.

For years national forestry receipts, generated from the very sales this amendment would eliminate, have supplemented the tax coffers of numerous rural governments. This year alone, Missouri taxpayers will see over \$1 million returned from the Federal Government to counties containing national forest acreage for local needs—specifically local roads and school districts. In this time of budgetary restraint, these are dollars that will not have to be taken from the pockets of local taxpayers.

Are we running out of forest land in this country? Take Missouri as an example. Federal forest inventories have shown a gain of over 4 million acres of Missouri forest land in the past two decades. Missouri forests now cover nearly 14 million acres or 31 percent of the entire State, further illustrating both public and private efforts to expand our forest resources—not destroy them. Most important, the timber industry in my home State of Missouri employs over 22,000 hard-working men and women and contributes more than \$2 billion in revenue annually to the Missouri economy.

Our Federal timber sale programs means revenues for regional tourism, better forest protection, improved local roads, outdoor recreation, and most importantly—our local schoolchildren. This is one success story that must continue and I urge my colleagues to soundly reject this amendment.

Mr. DICKS. Mr. Chairman, I yield the remainder of my time to the gentleman from Pennsylvania [Mr. CLINGER].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 10 seconds.

Mr. CLINGER. Mr. Chairman, as a representative of Eastern forests that will be grossly affected by the Jontz amendment, and it makes money, I rise in strong support of the Dicks substitute and against the Jontz amendment.

Mr. Chairman, I rise in very strong opposition to the Jontz amendment which will cut almost \$17 million from the appropriation to National Forest System. This amendment follows that old adage "If you can't come in the front door, then let's try the back door." Except the back door approach to this issue does not make any sense and will actually worsen the situation.

The stated purpose of the proposed cut is to eliminate below cost sales; however, the amendment would not do that at all. It would just provide another general reduction to the entire timber sales program. What this means is that there would be less funds for the Forest Service to administer, manage, and provide oversight of the timber sales program—impacting all timber sales.

What we need to be looking at is the other half of the picture and that is not being discussed here. High administrative costs skew the other side of the balance sheet. And why do we have high administrative costs? For one

reason, it is due to the skyrocketing number of administrative appeals. In the last 2 years, for the price of a postage stamp, more than 3,000 appeals have been filed resulting in costs exceeding \$100 million; in 1991 the agency spent over \$11 million to resolve appeals or about \$8,000 an appeal. Most of these appeals are not serious efforts, but are used merely as a delay tactic. Less than 6 percent of these appeals were upheld. And they cost taxpayers millions and reduce the net profits generated from the timber sales program.

Congress has directed the U.S. Forest Service to take a hard line on below cost sales, and I support implementing the policy. Legislating through an appropriations bill, however, does not make for sound public policy. This is the role of authorizing committees.

The funds for the timber program have already been cut substantially by the administration and the Interior Appropriations Committee. Both the administration and the Appropriations Committee have reduced the timber sale program by \$30 million—which is half the size of the program 3 years ago. It is now bare bones.

Like many Members, and unlike my colleague offering the amendment, I have a national forest in my district. The entire Allegheny Forest lies in my district and generates annual net profits of \$12 million in timber sales and close to 4,000 jobs. During a recent oversight hearing in the Government Operations Committee, we found that this is not an unusual situation. The overall picture is good. Although some forests do lose money, 76 percent of the timber harvested from the National Forest System comes from forests with profitable timber sales programs. The latest TSPIRS report, the Forest Service accounting report, shows a net profit of \$472 million for the Federal Government. Local communities received \$300 million.

We, in Congress, are faced with a U.S. economy in very poor shape and hear about hundreds of jobs being lost daily. This amendment will not achieve its intended purpose, but would only cripple the entire timber sale program and hurt everyone—communities, workers, and their families. Do we want to be held responsible for this? Let us not throw out the baby with the bath water. I urge a "no" vote on the Jontz amendment.

Mr. RIGGS. Mr. Chairman, before us today is a proposal to cut funds to the U.S. Forest Service for the purpose of limiting its ability to prepare tracts of public land for timber sales. Mr. JONTZ's proposal to cut \$16.8 million from the Forest Service has the effect of further undermining the economy's nascent recovery. It seems a peculiar paradox that on one hand this Congress can harp about creating more jobs, and on the other hand plunder an already decimated industry.

As we all know, protection of old-growth forests in the Pacific Northwest and northern California has taken on a new priority in this Congress, and this is another attempt to lock up more timberlands. The stated purpose is to address the perceived problem with below-cost timber sales, but the real result will be to hamstring the Forest Service when it prepares its timber sale programs, further exacerbating the timber supply situation. I agree that there needs to be some sort of reform, but we must

do this scientifically and not with blanket restrictions.

In my district, which includes the north coast of California, employment is very dependent on natural resources. As we are already experiencing double-digit unemployment in the area, it is inconceivable to me how any Member here could vote for this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Washington [Mr. DICKS] to the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JONTZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 206, not voting 16, as follows:

[Roll No. 302]

AYES—212

Alexander	Erdreich	McDade
Allard	Espy	McDermott
Allen	Fazio	McEwen
Andrews (NJ)	Fields	McGrath
Anthony	Ford (TN)	McMillan (NC)
Army	Frost	Michel
Aspin	Galleghy	Miller (OH)
AuCoin	Gallo	Miller (WA)
Baker	Gekas	Mineta
Ballenger	Gephardt	Mollohan
Barnard	Gillmor	Montgomery
Barrett	Gingrich	Moorhead
Bateman	Gonzalez	Morrison
Bentley	Gooding	Murphy
Bereuter	Gradison	Murtha
Bevill	Grandy	Myers
Bliley	Hall (OH)	Natcher
Boehner	Hall (TX)	Nichols
Bonior	Hammerschmidt	Oakar
Brewster	Hancock	Oberstar
Brooks	Harris	Obey
Browder	Hatcher	Olin
Bunning	Hayes (LA)	Ortiz
Burton	Hefley	Orton
Bustamante	Hefner	Oxley
Byron	Heger	Packard
Callahan	Hobson	Parker
Camp	Holloway	Pastor
Campbell (CO)	Hopkins	Patterson
Chandler	Houghton	Paxon
Chapman	Hoyer	Perkins
Clay	Hubbard	Peterson (MN)
Clinger	Huckaby	Pickett
Coble	Hunter	Pickle
Coleman (MO)	Inhofe	Quillen
Combest	Ireland	Rahall
Condit	Jefferson	Regula
Cooper	Jenkins	Rhodes
Cox (CA)	Johnson (CT)	Riggs
Crane	Johnson (SD)	Ritter
Cunningham	Johnson (TX)	Roberts
Dannemeyer	Jones (NC)	Roe
Darden	Kaptur	Roemer
Davis	Kildee	Rogers
de la Garza	Kolbe	Rose
DeFazio	Kyl	Roth
DeLay	Lagomarsino	Rowland
Derrick	LaRocco	Roybal
Dickinson	Laughlin	Sabo
Dicks	Lehman (CA)	Santorum
Dixon	Lent	Sarpalius
Dooley	Lewis (CA)	Savage
Doolittle	Lightfoot	Schaefer
Dorman (CA)	Livingston	Schiff
Dreier	Long	Schulze
Duncan	Lowery (CA)	Shuster
Edwards (OK)	Marlenee	Sisisky
Edwards (TX)	Martin	Skeen
Emerson	McCandless	Skelton
English	McCrary	Smith (IA)

Smith (OR)	Tanner	Volkmer
Smith (TX)	Tauzin	Vucanovich
Snowe	Taylor (MS)	Walker
Spratt	Taylor (NC)	Weber
Staggers	Thomas (CA)	Whitten
Stallings	Henry	Williams
Stearns	Thornton	Wilson
Stenholm	Traffant	Wolf
Stump	Unsold	Wyden
Sundquist	Vander Jagt	Young (AK)
Swift	Visclosky	

NOES—206

Abercrombie	Gunderson	Payne (VA)
Ackerman	Hamilton	Pease
Anderson	Hastert	Pelosi
Andrews (ME)	Hayes (IL)	Penny
Andrews (TX)	Henry	Petri
Annunzio	Hertel	Porter
Applegate	Hoagland	Poshard
Atkins	Hochbrueckner	Price
Bacchus	Horn	Pursell
Barton	Horton	Ramstad
Bellenson	Hughes	Rangel
Bennett	Hutto	Ravenel
Berman	Jacobs	Reed
Bilbray	James	Richardson
Bilirakis	Johnston	Ridge
Blackwell	Jones (GA)	Rinaldo
Boehlert	Jontz	Rohrabacher
Borski	Kanjorski	Ros-Lehtinen
Boucher	Kasich	Rostenkowski
Boxer	Kennedy	Roukema
Broomfield	Kennelly	Russo
Brown	Klug	Sanders
Bruce	Kolter	Sangmeister
Bryant	Kostmayer	Sawyer
Campbell (CA)	LaFalce	Saxton
Cardin	Lancaster	Scheuer
Carr	Lantos	Schroeder
Clement	Leach	Schumer
Coleman (TX)	Lehman (FL)	Sensenbrenner
Collins (IL)	Levin (MI)	Serrano
Collins (MI)	Levine (CA)	Sharp
Conyers	Lewis (FL)	Shaw
Costello	Lewis (GA)	Shays
Cox (IL)	Lipinski	Sikorski
Coyne	Lloyd	Skaggs
Cramer	Lowey (NY)	Slattery
DeLauro	Luken	Slaughter
Dellums	Machtley	Smith (FL)
Dingell	Manton	Smith (NJ)
Donnelly	Markey	Solarz
Dorgan (ND)	Martinez	Solomon
Downey	Matsui	Spence
Durbin	Mavroules	Stark
Dwyer	Mazzoli	Stokes
Dymally	McCloskey	Studds
Early	McCollum	Sweet
Eckart	McCurdy	Synar
Edwards (CA)	McHugh	Torres
Engel	McMillen (MD)	Torricelli
Evans	McNulty	Towns
Ewing	Upton	Upton
Fascell	Mfume	Valentine
Fawell	Miller (CA)	Vento
Fish	Mink	Walsh
Flake	Moakley	Washington
Foglietta	Molinari	Waters
Frank (MA)	Moody	Waxman
Franks (CT)	Moran	Weiss
Gaydos	Mrazek	Weldon
Gejdenson	Neal (MA)	Wheat
Geren	Neal (NC)	Wise
Gibbons	Nowak	Wolpe
Gilchrest	Nussle	Wyllie
Gilman	Olver	Yates
Glickman	Owens (NY)	Yatron
Gordon	Owens (UT)	Young (FL)
Goss	Pallone	Zeliff
Green	Panetta	Zimmer
Guarini	Payne (NJ)	

NOT VOTING—16

Archer	Hyde	Ray
Carper	Kieccka	Tallon
Coughlin	Kopetski	Thomas (GA)
Feighan	Morella	Traxler
Ford (MI)	Nagle	
Hansen	Peterson (FL)	

□ 1100

Messrs. BORSKI, NUSSLE, SHAYS, APPLEGATE, GUARINI, MARTINEZ,

and MRAZEK changed their vote from "aye" to "no."

Mrs. VUCANOVICH, Mrs. PATTERSON, and Messrs. BAKER, PAXON, COBLE, EDWARDS of Texas, MILLER of Ohio, WALKER, GOODLING, and ESPY changed their vote from "no" to "aye."

Mr. WISE changed his vote from "present" to "no."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 19, line 11, delete "\$237,806,000" and insert instead "\$232,248,000."

Mr. YOUNG of Alaska. Mr. Chairman, this is a very simple amendment, and, Mr. Chairman, in recognition of the chairman of the full committee, the gentleman from Illinois [Mr. YATES], I will not ask for a vote on this amendment.

Mr. Chairman, this is an amendment that deletes \$5,558,000 from a national park in Lowell, MA, that has absolutely no use at all for existing as an urban renewal project. I offer this amendment primarily to remind this House of one of the reasons we are looked upon as such a low body.

I say to my colleagues, "There is such a thing as honor in this House, honor and integrity, and we have to respect one another, and, when we lose that, we lose this House, and we're looked upon as those that are incompetent and those that lack the honor that they need to serve and represent the people they represent."

Mr. Chairman, last night we saw that transgression of honor. We sat here yesterday and tried to work with the gentleman from Illinois [Mr. YATES] on this bill, and we worked very well. We had good, legitimate debate. There was a contentious amendment that might have been offered, but it was agreed by this body that no controversial amendments would be offered, and in fact we were told that there would be no votes taken until later this morning, that in fact, if there was anything subject to a point of order, they would not be offered. And last night that word was broken.

So, Mr. Chairman, more than just to offer this amendment about Lowell, MA, I am bringing the honor to this floor. I say to my colleagues, "If you cannot work together, debate legitimately, then you should not be here because you lose the integrity that this House should be blessed with."

Now I am not suggesting that it was not legal. I am just suggesting that if my colleagues do not have the ability to communicate with one another, then this House is in sad shape, especially when it does not affect a district, a district of the amendment offerer, and it affects many, many other people.

So, Mr. Chairman, I am going to suggest to my colleagues, "Let's remember who we are, where we are, and who we represent," and I say that in good faith. I say it offering a hand. But if this continues, I do not care if it is the rest of this year, and it is going to get contentious because of the shortness of the session and a very, very controversial subject, we are going to have war on this floor. Maybe not physically—yes, maybe physically. But more than that, my colleagues, we are going to have a war, and nothing constructive can be achieved.

Now the amendment that was adopted later on this morning, on a voice vote, I am sure, will be taken from this bill. But again I go back to the concept of legitimate ways of conducting ourselves in this House.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I thank the gentleman from Alaska [Mr. YOUNG] for yielding to me. I can understand the gentleman's position. I think it comes about as a result of a failure of communication more than anything else.

The gentleman from Massachusetts [Mr. ATKINS], my good friend, I know would not have wanted to take advantage of the gentleman.

Mr. YOUNG of Alaska. I am not sure of that, but go ahead. I continue to yield to the gentleman.

Mr. YATES. I have served with the gentleman from Massachusetts [Mr. ATKINS] for 4, 5, 6 years now on my subcommittee, and I have always found him to be a man of his word. What happened last night, I think, is that we began to discuss an amendment that none of us really thought was controversial and which turned out to be controversial. When a point of order might have been made, the time had already gone by. It was subject to a point of order, as the gentleman well knows and as I well know. But I think it was a lack of understanding.

I wish the gentleman had been here, but I can understand perfectly well why he went home. I had given the assurance to the House that there would be no more rollcall votes after the one that had just been concluded, and I appreciate the gentleman's statement which I think is a superb statement respecting the relationships that we in the House have and ought to have with each other. There is a collegiality that should be here between us whether we

are Republicans or whether we are Democrats. We are living together in this House, and we should observe the amenities.

Mr. YOUNG of Alaska. Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Alaska [Mr. YOUNG] is withdrawn.

There was no objection.

Mr. ATKINS. Mr. Chairman, I ask unanimous consent to address the Committee for 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. ATKINS. Mr. Chairman, what the gentleman was referring to was an amendment which I offered last night, and amendment that has wide and broad support in this House that would prevent the use of an archaic Civil War era statute to allow people to build roads through roadless areas, to allow them to destroy some of the most pristine and beautiful areas of this country, not lands that belong to one Member's district, but lands that belong to all Americans. I offered that amendment last night. Because of a lack of communication, Mr. Chairman, the minority side did not offer a point of order which would have lamed.

□ 1110

This morning, when they raised that issue, I was quite happy to go with the rollcall vote to find another way, just simply to allow this House to go on record on this issue. I made the offer. They and the gentleman from Alaska who spoke previously decided they did not want a rollcall, knowing full well that the House would have voted overwhelmingly in favor of my amendment.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. ATKINS. I am happy to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, let me ask the gentleman, do you agree or do you not agree it was subject to a point of order?

Mr. ATKINS. It was subject to a point of order.

Mr. YOUNG of Alaska. Did you or did you not know it was subject to a point of order? You waited until the late hours to offer it when we had gone home, knowing full good and well that we were not here to object to it.

Mr. ATKINS. There was no agreement.

Mr. YOUNG of Alaska. There may not have been agreement, but there is honor, and you know it.

Mr. ATKINS. Mr. Chairman, reclaiming my time, the gentleman is fully aware that I offered the amendment to the Republican side. The minority side was fully aware that the amendment was pending, and due to a mixup they did not offer a point of order. I offered

to allow them to have a vote; they decided not to have a vote.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 63, line 21, strike "\$412,597,000" and insert in lieu thereof "\$386,892,000".

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Chairman, this is an amendment to try to bring a couple of accounts which are within this bill into the same range as what we had in the authorization bill that passed here in the national energy strategy.

There are two accounts in this bill, which overall does a pretty job of sticking with the authorization, which are well over. There are two accounts which are of concern to the administration. The Secretary of Energy has written a letter indicating that this coal liquefaction account and the fuel cell account are both of concern to the administration.

These are areas where we now have mature technologies, where we could have a cost share with private industry. At least that is the judgment of the authorizing committee.

So what I am seeking to do here is to simply bring these accounts back where they were as authorized in the energy strategy bill.

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

Mr. WALKER. I am happy to yield to the gentleman from Michigan, who is a cosponsor of this amendment.

Mr. WOLPE. Mr. Chairman, I rise in support of the amendment offered by our colleague from Pennsylvania [Mr. WALKER]. It would trim \$26 million from the fossil energy research and development budget by reducing the coal liquefaction and fuel cell programs. This amendment makes sense in terms of both fiscal policy and energy policy.

With regard to fiscal policy, this amendment is an example of the kind of common sense discipline that we must exercise if we are to get Federal spending under control. But I would emphasize that this is a reasonable amendment; it does not seek to gut programs. This amendment would only reduce these programs to the level authorized in the comprehensive energy bill passed by this body in May. We are never going to get a handle on Federal spending if we casually pass appropriations bills that exceed the spending limits included in authorization bills. We will be sending the wrong message to the American people if we cannot abide by a spending cap that we passed just 2 months ago.

With regard to energy policy, I would like to focus my remarks on the coal liquefaction program. In my view, this is a very low priority program that simply does not justify the funding

level provided by the Appropriations Committee. I reached this conclusion after witnessing the Synthetic Fuels Corporation's futile attempts to develop this technology. This conclusion has been verified by an internal Department of Energy analysis of where, on the merits, we should be investing our limited energy research and development dollars.

In the spring of 1991, as part of the formulation of the fiscal 1993 DOE budget, the policy office of the Department of Energy launched an effort to determine which energy investments would be best on the merits without regard to political sensitivities. To implement this effort, the DOE policy office rank ordered in terms of their potential contribution to the achievement of the goals of the administration's national energy strategy.

The goal of interest to us today is the reduction of our vulnerability to an oil supply disruption. Programs relevant to this goal or "portfolio," to use the Department's term, were competed against each other on the basis of the following criteria: First, contribution to energy needs; second, contribution to economic growth; third, environmental impact; fourth, technical risk; and fifth, market risk. This process resulted in a score for each program that was used to establish an overall rank order.

The results of this ranking process are instructive. The oil vulnerability portfolio contains groups of programs. The five highest ranking groups of programs are all within the Office of Conservation and Renewable Energy. But the group entitled "Coal Liquids"—which includes the coal liquefaction program—ranked 15th out of 16 in the oil vulnerability portfolio.

The conclusions of this process are inescapable. If we want to reduce our vulnerability to an oil supply disruption, encourage economic growth, and protect the environment, we should be targeting our resources into the Department's energy efficiency programs. The Interior Subcommittee is to be commended for the funding level provided for these programs in this severe budget environment.

But, on the other hand, it is impossible to justify the funding provided for the coal liquefaction program, which—on the merits—ranked 15th out of 16 in the Department of Energy's internal analysis.

Interestingly, the priorities that emerge from the internal DOE analysis based on the merits also reflect the priorities of the American people. A recent poll indicates that 62 percent of the American people believe that energy efficiency renewable energy should be the Federal Government's highest funding priorities for meeting our Nation's energy needs. By contrast, only 3 percent of the American people cited coal as our highest priority.

But, unfortunately, funding decisions are not always based on the merits. All too often, energy spending decisions are determined by what is known as the iron triangle. Parochial interests in Congress, bureaucratic interests in the Department of Energy, and the special interests of large energy corporations join together in support of a program that cannot compete on the merits with other technologies.

But this kind of special interest spending has two major costs. First, if the Federal government continues to ignore both public opinion and the kind of analysis performed for the internal DOE study, the American public will only become increasingly cynical about the Federal Government's ability to establish public policy that is in the public interest.

The second major cost of such special interest spending is its impact upon our nation's energy future. As we all know, we face serious budget problems. Every dollar that is spent on a low priority program diverts scarce resources away from energy investments that will promote energy security economic growth, and environmental protection. And the coal liquefaction program is clearly a low priority program.

In conclusion, Mr. Chairman, this amendment makes sense in terms of both fiscal policy and energy policy. I encourage my colleagues to give it their support.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Michigan [Mr. WOLPE].

Mr. Chairman, I do want to commend the Subcommittee on the Interior of the Appropriations Committee on the work they did on this bill to try to stick with the authorization accounts in most instances. It does, though, strike to the heart of much of the work we do here in the accountability to the numbers of the authorizing committees. Especially when these numbers have been voted on and approved by this House, it seems to me it makes the whole process irrelevant if we do not take those numbers as a guide.

Many of the programs included in this bill are close to commercialization, and it is time now for private industry to start picking up close to 90 percent of the cost of the program, not just have the Federal Government pay for it. Decreasing the appropriation levels to those authorized by the committee of jurisdiction is good House policy and, in my judgment, good fiscal policy, and as the gentleman from Michigan points out, there are studies that show that it is also very good energy policy.

Mr. Chairman, I ask my colleagues to support this amendment with the authorizing committee in mind, so that our numbers should make sense within the process and also to save a little bit of money within the bill.

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

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. YATES] for 5 minutes in opposition to the amendment.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment, and I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

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

Mr. Chairman, let me make this clear. There is no authorization bill. We passed the bill in the House, and it is pending in conference but it is not the law of the land.

Point No. 2, the authorization bill that passed the House was \$418 million. What we have in this bill is \$409 million. We are \$9 million below the authorization bill. So we are concerned, and we stayed below the House-passed authorization.

The real question here is priority choices. Actually the amendment would not accomplish the stated objective. It simply changes the total amount of the appropriation; it reduces it rather than dealing with the mix. In terms of the mix, we have increased natural gas 85 percent over last year's level, so we have tried to address the problem of natural gas.

The author of the amendment wants to do even more. He wants to cut coal liquefaction and fuel cells. Many Members here have projects in both areas. Let us face it, this is a coal nation in terms of our coal resources, and I do not think we want to cut money out of coal liquefaction because it has great potential. Certainly, as we deal with the Senate in conference, there will be a change again in the mix, but it seems to me it is a mistake to reduce the amount that we are putting into substitute, alternate fuels.

Most Members here have said that we need to develop alternate fuel sources. We are trying to do that, but now we come along with an amendment that cuts even below what the same authors had authorized in their bill. They authorized \$418 million, and we are at \$409 million because we are trying to be responsible, and because the mix does not suit them, they want to cut it even more.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me just add to what the gentleman from Ohio [Mr. REGULA] said. We are trying to follow the authorization as closely as we can. We have limited resources. We had less money available than we would have liked, and we were careful in our hearings this year. When Members came before the committee, they wanted more money for research.

We tried to fashion this bill in a manner that would make sure that we took care of the energy resources in the long term that would make a real difference

in this country. Obviously, there is a slight difference between the authorization and what we appropriated. We know we will have to make an adjustment, but we also know, because we have coal resources for 600 years, that fuel cells and using coal have got to be concentrated on. In Pennsylvania we have lost 12,000 coal miners in my district in the last few years. This is something I have promoted in order to burn clean coal, and if we cut back on the research, we will have no possibility of ever ending up with coal as the alternate fuel.

If we continue in this direction, we will just continue to put more money in and let the oil companies and the gas companies put their research in. We are trying to do that. We are trying to have the private companies put more money in.

So, Mr. Chairman, I oppose the amendment offered by my good friend, the gentleman from Pennsylvania, and I hope the Members will allow us to go to committee so we can adjust these things.

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

Mr. MURTHA. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I would point out and emphasize to the Members that our appropriation number is 7 percent below last year's. We are trying to be responsible, and yet we know that we need to develop these alternate fuel sources if we are to have energy independence.

Mr. WALKER. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] has 2 minutes remaining.

Mr. WALKER. Mr. Chairman, I yield myself the balance of my time for a wrapup, but first I yield for just a moment to the gentleman from Michigan [Mr. WOLPE].

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

There are three points that need to be understood clearly. First of all, the coal liquefaction number in the appropriation bill is \$15 million over the number in the authorization bill that passed the House.

□ 1120

Second, this is not the first attempt to throw dollars into a program that has little justification. We tried that in the Synthetic Fuels Corporation. This is one of the least potentially significant technologies available to us to reduce our oil vulnerability.

Third, the Office of Policy at the Department of Energy took a look at all of the alternative technologies on the basis of their contribution to our energy supply, their environmental impact, and their impact on the economic security and future of America. They

concluded that this was 15th out of the 16 programs in the portfolio concerned with our oil vulnerability. There is simply no justification for this kind of increase.

Mr. Chairman, I support the amendment of the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I would just make one other point. There is no \$418 million figure in the authorization bill. What you have in the authorization bill is a series of figures. Each account is authorized. What we are trying to do is get those accounts back in line with this particular amendment.

I would say to the gentleman from Pennsylvania [Mr. MURTHA], this bill is up \$110 million in clean coal. We are for clean coal in our committee.

What we are dealing with here is the coal liquefaction account which you are well over the authorization and well over what the administration wants.

Finally, the appropriators consistently complain that the House committees do not do their work. In this particular case we have done our work. We have outlined our priorities. You are right, there is a division between the two committees on what the priorities should be.

I will tell you, under House rules you are supposed to take our judgment, not your own, where those kinds of differences exist.

So what we are trying to do is say to you, fine, you have done a pretty good job along the way in a number of these accounts, but here is one where we think the authorizing committees' concerns ought to be addressed, and we are asking you in this particular amendment to address our concerns.

Mr. YATES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I respect the expertise of the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from Michigan [Mr. WOLPE]. They have studied the problems of our energy situation very carefully, and I respect their opinions.

The gentleman from Ohio [Mr. REGULA] and the gentleman from Pennsylvania [Mr. MURTHA] have already discussed the question of the reduction in coal liquefaction.

I cannot understand why in the world they want to cut research on fuel cells. We are engaged in a life and death struggle actually for superiority in this field with Japan and Germany. They are pouring vast sums of money into research on various kinds of fuel cells. It is a question as to whether or not we aim for the leadership in this field in our country.

Mr. Chairman, I urge Members to vote against this amendment.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the Walker amendment to lower the

coal funding by \$25.7 million. The coal budget in our bill as incorporated in H.R. 776, was decreased by 17 percent from fiscal year 1992 levels. In a time of severe budget constraints the coal program bore the brunt of lack of adequate funding to continue important research and development activities. I disagree with the gentleman's amendment to reduce coal funding even further.

The Appropriations Committee's fiscal year 1993 funding levels for the entire fossil fuel R&D budget, \$414 million, is below our authorized level of \$418 million. I believe this action represents a good faith effort on the Appropriations Committee's part to accommodate, as much as possible, our intentions. The fact that two items within a \$414 million funding package are above our levels is, in my opinion, not sufficient justification to further reduce funding for coal research and development activities.

I urge my colleagues to vote against the amendment.

The CHAIRMAN. All time has expired on this amendment. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 262, not voting 14, as follows:

[Roll No. 303]
AYES—158

Allard	Gilchrist	Morella
Archer	Gingrich	Morrison
Armey	Glickman	Neal (NC)
Aspin	Goodling	Nichols
Baker	Goss	Nussle
Ballenger	Grandy	Oxley
Barrett	Gunderson	Packard
Barton	Hancock	Pallone
Bellenson	Hefley	Panetta
Bennett	Henry	Parker
Bereuter	Herger	Pastor
Berman	Hoagland	Patterson
Billrakis	Bliley	Paxon
Boehlert	Boehner	Payne (NJ)
Broomfield	Burton	Penny
Camp	Carpenter	Petri
Carper	Chandler	Porter
Clinger	Coble	Ramstad
Combest	Condit	Ravenel
Conyers	Cooper	Rhodes
Cox (CA)	Crane	Richardson
Cunningham	Dannemeyer	Ridge
Dellums	Dooley	Riggs
Doolittle	Dornan (CA)	Ritter
Dreier	Duncan	Roberts
Ewing	Fawell	Roemer
Fields	Frank (MA)	Rohrabacher
Franks (CT)	Gekas	Ros-Lehtinen
		Roth
		Saxton
		Schaefer
		Scheuer
		Schiff
		Schulze
		Schumer
		Sensenbrenner
		Serrano
		Shaw
		Shays
		Stikorski
		Smith (NJ)
		Smith (OR)

Snowe	Taylor (NC)
Solarz	Thomas (CA)
Solomon	Towns
Spence	Upton
Stearns	Vander Jagt
Stenholm	Vento
Studds	Walker
Stump	Walsh
Swett	Waters
Synar	Waxman

NOES—262

Abercrombie	Frost	Mfume
Ackerman	Gallegly	Michel
Alexander	Gallo	Miller (OH)
Allen	Gaydos	Mineta
Anderson	Gejdenson	Moakley
Andrews (ME)	Gephardt	Mollohan
Andrews (NJ)	Geran	Montgomery
Andrews (TX)	Gibbons	Moran
Annuzio	Gillmor	Mrazek
Anthony	Gilman	Murphy
Applegate	Gonzalez	Murtha
Atkins	Gordon	Myers
AuCoin	Gradison	Nagle
Bacchus	Green	Natcher
Barnard	Guarini	Neal (MA)
Bateman	Hall (OH)	Nowak
Bentley	Hall (TX)	Oakar
Bevill	Hamilton	Oberstar
Bilbray	Harris	Obey
Blackwell	Hastert	Olin
Bonior	Hayes (IL)	Olver
Borski	Hayes (LA)	Ortiz
Boucher	Hefner	Orton
Boxer	Hertel	Owens (NY)
Brewster	Hobson	Owens (UT)
Brooks	Hochbrueckner	Payne (VA)
Browder	Hopkins	Pease
Brown	Horn	Pelosi
Bruce	Horton	Perkins
Bryant	Hoyer	Peterson (MN)
Bunning	Hubbard	Pickett
Bustamante	Huckaby	Pickie
Byron	Hughes	Poshard
Callahan	Jenkins	Price
Campbell (CA)	Johnson (CT)	Pursell
Campbell (CO)	Jones (GA)	Quillen
Cardin	Jones (NC)	Rahall
Carr	Jontz	Rangel
Chapman	Kanjorski	Reed
Clay	Kaptur	Regula
Clement	Kasich	Rinaldo
Coleman (MO)	Kennedy	Roe
Coleman (TX)	Kennelly	Rogers
Collins (IL)	Kildeer	Rose
Collins (MI)	Klecicka	Rostenkowski
Costello	Kolter	Roukema
Cox (IL)	Kostmayer	Rowland
Coyne	LaFalce	Roybal
Cramer	Lagomarsino	Russo
Darden	Lancaster	Sabo
Davis	Lantos	Sanders
de la Garza	LaRocco	Sangmeister
DeFazio	Laughlin	Santorum
DeLauro	Lehman (CA)	Sarpalius
DeLay	Lehman (FL)	Savage
Derrick	Lent	Sawyer
Dickinson	Levine (CA)	Schroeder
Dicks	Lewis (CA)	Sharp
Dingell	Lewis (GA)	Sisisky
Dixon	Lightfoot	Skaggs
Donnelly	Lipinski	Skeen
Dorgan (ND)	Livingston	Skelton
Downey	Lloyd	Slattery
Durbin	Long	Slaughter
Dwyer	Lowery (CA)	Smith (FL)
Early	Lowey (NY)	Smith (IA)
Eckart	Luken	Smith (TX)
Edwards (CA)	Manton	Spratt
Edwards (OK)	Marlenee	Staggers
Edwards (TX)	Martin	Stallings
Emerson	Martinez	Stark
Engel	Mavroules	Stokes
English	Mazzoli	Sundquist
Erdreich	McCloskey	Swift
Espy	McCollum	Tanner
Evans	McCurdy	Tauzin
Fascell	McDade	Taylor (MS)
Fazio	McEwen	Thomas (WY)
Fish	McGrath	Thornton
Flake	McHugh	Torres
Foglietta	McMillan (NC)	Torrice
Ford (MI)	McMillen (MD)	Trafficant
Ford (TN)	McNulty	Unsoeld

Valentine
Visclosky
Volkmer
Vucanovich
Weber

Wheat
Whitten
Williams
Wilson
Wise

Wyden
Yates
Young (AK)

NOT VOTING—14

Coughlin
Dymally
Feighan
Hansen
Hatcher

Hyde
Kopetski
Miller (WA)
Peterson (FL)
Ray

Tallon
Thomas (GA)
Traxler
Washington

□ 1142

Messrs. CLAY, MCCOLLUM, KASICH, and KENNEDY, Mrs. LOWEY of New York, and Ms. HORN changed their vote from "aye" to "no."

Messrs. HOUGHTON, SCHUMER, MILLER of California, SCHAEFER, RICHARDSON, DOOLEY, and MOORHEAD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. YATES. Mr. Chairman, I move to strike the last word.

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

Mr. YATES. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, as the gentleman from Illinois [Mr. YATES] knows, I withdraw an amendment that I was planning to offer because it was not necessary, but I would like to clarify the legislative record. I would ask the Chairman, it is my understanding that none of the funds appropriated or otherwise made available by this act may be used by the Secretary of the Interior for the approval, study, planning, or development either of access from the George Washington Parkway to Potomac Yards in the Commonwealth of Virginia or for the use of any land or other assets of the Federal Government which are contiguous to the Potomac Yards to support a football stadium and complex at Potomac Yards in the Commonwealth of Virginia. Is that correct, Mr. Chairman?

Mr. YATES. Mr. Chairman, the answer to the question is, to the best of my understanding, that the gentleman is correct.

Mr. MORAN. If the gentleman will continue to yield, I thank the gentleman, because it is the fear of the Park Service and people from throughout this region that a stadium complex of this size in an area which is so deficient in surface transportation would require some sort of access in the future to the George Washington Parkway. This access would ruin the scenic and historic nature of this Federal parkway, as well as overload a parkway not designed to handle such traffic volume.

AMENDMENT OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEARNS: Page 85, strike lines 3 through 26 and insert the following:

NATIONAL ENDOWMENT FOR THE ARTS
GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$145,839,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$30,116,000, to remain available until September 30, 1994, to the National Endowment for the Arts, of which \$13,300,000 shall be available for purposes of section 5(1): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devices of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

Mr. STEARNS (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 (Mr. OBERSTAR). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. STEARNS. Mr. Chairman, I rise to reduce the funding level for the National Endowment for the Arts to the fiscal year 1992 level. The committee has provided an increase of almost \$3 million to the NEA. With our deficit skyrocketing and with so many critical Federal programs taking tough budget cuts, I do not believe we can justify such an increase.

In the past several weeks we have cut housing and facilities for our Armed Forces, we have eliminated funding for the superconducting super collider, we have cut our legislative budgets—yet we are going to increase funding for the NEA?

As Representatives of the people, we have to explain our spending practices to our constituents. They will ask why the NEA received more funding than breast cancer research last year. They will ask why we are increasing its funding by almost \$3 million during a severe budget crisis. I don't know how to explain such inequity and lack of priorities to my constituent in central Florida.

This body has just defeated an amendment from the gentleman from Illinois that would have cut all funding for the NEA. I supported that amendment, but believe some very good points were made by the other side.

My amendment will not dismantle the NEA—it will not cripple it. What this amendment will do is keep spending at last year's funding level which was a generous \$176 million. Frankly, I

think that is too much, however, the majority of my colleagues have voted otherwise.

What my amendment does is provide a compromise. It provides the opportunity for both supporters and opponents of the NEA to vote for fiscal responsibility without devastating the organization.

Both the National Taxpayers Union and Citizens Against Government waste have expressed their strong support for this amendment. They think it is the least we can do given the enormity of our deficit.

When American businesses and families are cutting back across America, it is the duty of Congress to cut back as well. Our deficit is almost \$400 billion. We have to ask ourselves "Is an increase of almost \$3 million to the NEA absolutely necessary?"

Mr. Chairman, I thank my colleagues for their consideration.

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

The CHAIRMAN pro tempore. Is there a Member in opposition?

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

□ 1150

Mr. WILLIAMS. I thank the gentleman for yielding me the time.

Mr. Chairman, I agree with the gentleman from Florida, we have to explain our funding priorities, so let me explain what will likely be cut by this amendment.

When we authorized, in a tumultuous session, the National Endowment for the Arts in the previous Congress, this House asked for two significant changes: First, arts education, and second, an earmarking of 35 percent of the money for the coming year for the States. That is, each State arts council would decide how that arts money is to be spent.

If this \$3 million cut goes forward, the way it will trickle out is that your States, which now believe they are going to receive \$9 million in additional money, are going to be cut. Your States' arts councils are going to be cut if this amendment comes forward.

The other place that I anticipate this cut will come is in arts education. The way it works, the way Members voted for it to work 2 years ago, is every other dollar above \$175 million is earmarked for arts education in the schools in your districts. If this cut goes ahead, it is likely that \$1.5 million could be cut from arts education.

So do not let anybody tell you that this cut somehow has to do with all of that controversy that went on 2 years ago. This cut has to do with money for

your State arts councils and arts education that goes on your schools.

I could list, if time permitted, all of the arts education that has done wonderful things for kindergarten, first, second, third grade, junior high school students in each of your States. We are about to cut if this passes, at least in my judgment, \$1.5 million out of arts education for kindergarten kids, first-grade kids.

This is not money that goes directly to artists. This is money that your school children enjoy in your States.

Mr. STEARNS. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Texas [Mr. ARMEY].

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

Mr. Chairman, let me pay my respects to the gentleman from Florida [Mr. STEARNS] for bringing this amendment forward, and let me pay my respects to the distinguished chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], a person with whom we have contested over this issue for many years, and with whom the contest has always been very, very enjoyable. But the previous speaker, the gentleman from Montana [Mr. WILLIAMS] basically gave us a false predicate.

The predicate is that our education for our Nation's youngsters will be somehow diminished if we do not have this additional funding for the NEA. This has been a fundamental problem with the whole question of the NEA throughout all of the controversy we have ever had.

It is an affront to the esthetic tastes and the esthetic preferences and the esthetic pursuits that come natural to the people and to especially the children of this Nation for us to argue that there would not be such esthetic pursuit without this Federal funding. The fact is people love art, and they will pursue art, and they will most likely do it more enthusiastically, with less confusion if they are left to do it on their own, and if we do not have a Federal agency of the U.S. Government determining for the people of this country what is and what is not preferred artistic pursuit for those people.

This agency's existence is an affront to the concept of freedom of expression in the arts. This is a Federal agency that exists for the purpose of determining what is or is not art to be pursued by the American people.

Let me just say finally the gentleman from Florida's focus is more correct. His point is in this Nation of \$400 billion deficits where we have to make so many difficult cuts, can we afford to increase spending on what is needed least and what is desired even less, an unnecessary intrusive agency of the Federal Government?

Mr. YATES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I just want to tell the very distinguished Republican, the gentleman from Texas [Mr. ARMEY] what another distinguished Republican thinks about the NEA. I am referring to Mr. Winton Blount, the former Postmaster General from Alabama. Listen to his words in testimony during our hearings:

An NEA investment of \$36,000 in the Alabama Shakespeare Festival this year is helping create new southern artistry, provide professional theater for hundreds of thousands, generate \$10 million in tourism and educate 50,000 students. Where else do so few Federal dollars have such a large multiplier effect and enormous ultimate value? Any businessman would be happy with a fraction of such returns on their investments. I therefore trust that you will continue to invest precious Federal resources where such a high and valuable return is achieved.

That is from Postmaster Winton Blount.

Mr. STEARNS. Mr. Chairman, I yield myself 15 seconds to say that giving in the United States of America by private funding of the arts has reached \$7.89 billion last year. This is just a pittance.

We will still have art education. Neither Mark Twain nor Ernest Hemingway received funding from the Government. Many of our greatest artists have contributed to the cultural development of our society without the support of Federal funds.

Mr. Chairman, I yield the balance of my time to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, just very quickly, we are going into debt, this House is putting the Nation into debt \$1,093,000,000 today, tomorrow, Sunday, every religious holiday right through this fiscal year. We just cannot afford not to cut something out of this.

I rise in support of the Stearns amendment. Madonna signed a contract for \$60 million, Mike Jackson for another \$60 million. That is more than two-thirds of this budget. These people are not going to pay storage on their money. Let the artists making these incredible, astronomical incomes, let them help and pick up a little slack. We cannot afford it.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, 30 years ago John Kennedy said that one of the ways in which we measure the strength of our society is not only by measuring the strength of our military, but by measuring our commitment to the arts, to dance, to literature, to sculpture, to poetry, to painting, to music. By that measurement, this country does not have a very deep commitment to the arts. This amount the gentleman from Florida seeks to cut is about 7 hours of Pentagon spending. This is one of the finest programs in the Federal Govern-

ment. It sustains some of the very best impulses of people, young people especially, all across the country. We ought to be doing more to promote this program, to promote the concerns of people who care about literature, dance, painting, sculpture, poetry, and all the arts.

This is a modest commitment to sustain such programs in small towns, big cities, and schools across the country. Surely the Congress can sustain and support the arts. I urge rejection of the amendment.

Mr. REGULA. Mr. Chairman, I just want to point out to my colleagues, the highest rated public broadcasting show was the Fourth of July concert on the Mall, and hundreds of thousands of people were there. It was a great program, and it was funded in part by the National Endowment for the Arts.

Mr. YATES. Mr. Chairman, I thank the gentleman from Ohio.

Mr. Chairman, I yield myself the balance of my time.

In conclusion, I merely want to reiterate what the distinguished gentleman from Montana [Mr. WILLIAMS] pointed out, and he should know what he is talking about because he wrote the authorizing legislation for the National Endowment for the Arts. As he pointed out, any amount of money made available above \$175 million goes for two purposes. First, it goes for arts education for our children in this country, which is important at this time when so many of the local schools are cutting back on their arts and music programs. Second, the balance of the funding will go to sustain the programs of the arts commissions in the States.

So I hope that the Stearns amendment is voted down.

Mr. WEISS. Mr. Chairman, I want to express my opposition to the Stearns amendment. This amendment does not signal fiscal prudence but an attempt to straddle an agency that is given the mission of funding every type of artistic group throughout the Nation and promoting American creativity and culture.

The NEA's work in promoting the arts is not frivolous. The arts form the fiber of our national identity and soul. On a purely pragmatic level, they are also our greatest export, an important means to local economic development, and one of the greatest educational tools for our children.

NEA funds comprise one one-hundredth of 1 percent of the current budget. For this tiny sum, the NEA funds generate 10 times that amount in private funds. For instance, for fiscal year 1991, NEA Program grants totaling \$140 million generated \$1.13 billion in non-Federal funds. These funds are enormously catalytic. More so, they play a real and vital role in community vitalization and, thanks to the ingenuity of NEA initiatives and the committed work of those in the arts, they affect at-risk students, the elderly, the physically challenged, and every aspect of the community.

The argument is made that we cannot afford the arts in these times. I would assert that the arts are more important than ever. At a time

of racial and class division in our cities, the arts are one of the most effective ways of achieving greater understanding.

The \$3 million which Mr. STEARNS seeks to cut is an increase that will, on the whole, go to arts in education programs. Is that the gentleman's intent, to do away with a small increase for funds for arts programs for our children?

If that is not the intent, then this amendment is a false gesture, one which will affect the quality of life of our citizens and hamper an agency given the task of reaching arts organization in every corner of this country and developing and preserving our national culture.

I urge the defeat of the Stearns amendment.

□ 1200

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. STEARNS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 171, not voting 12, as follows:

[Roll No. 304]

AYES—251

Allard	Davis	Hopkins
Allen	DeLay	Horn
Andrews (TX)	Derrick	Hubbard
Applegate	Dickinson	Huckaby
Archer	Dooley	Hughes
Armey	Doolittle	Hunter
Aspin	Dorgan (ND)	Hutto
Bacchus	Dornan (CA)	Inhofe
Baker	Dreier	Ireland
Ballenger	Duncan	Jacobs
Barnard	Eckart	James
Barrett	Edwards (OK)	Jenkins
Barton	Edwards (TX)	Johnson (CT)
Bateman	Emerson	Johnson (TX)
Bennett	English	Johnston
Bentley	Erdreich	Kasich
Bereuter	Ewing	Klug
Bevill	Fawell	Kolbe
Bilbray	Fields	Kyl
Bilbrakis	Fish	Lagomarsino
Bliley	Franks (CT)	Lancaster
Boehner	Frost	LaRocco
Borski	Gallely	Laughlin
Brewster	Gallo	Lehman (CA)
Broomfield	Gekas	Lent
Browder	Geren	Lewis (CA)
Bruce	Gibbons	Lewis (FL)
Bunning	Gilchrest	Lightfoot
Burton	Gillmor	Lipinski
Byron	Gingrich	Livingston
Callahan	Glickman	Lloyd
Camp	Goodling	Long
Campbell (CA)	Gordon	Luken
Carper	Goss	Manton
Chandler	Gradison	Marlenee
Chapman	Grandy	Martin
Clement	Gunderson	Martinez
Clinger	Hall (TX)	McCandless
Coble	Hamilton	McCloskey
Coleman (MO)	Hammerschmidt	McCollum
Combest	Hancock	McCrery
Condit	Harris	McCurdy
Cooper	Hastert	McDade
Costello	Hayes (LA)	McEwen
Cox (CA)	Hefley	McGrath
Cramer	Hefner	McMillan (NC)
Crane	Henry	McMillan (MD)
Cunningham	Herger	Meyers
Dannemeyer	Hobson	Michel
Darden	Holloway	Miller (OH)

Miller (WA)	Rinaldo	Stallings
Molinari	Ritter	Stearns
Montgomery	Roberts	Stenholm
Moorhead	Roemer	Stump
Morrison	Rogers	Sundquist
Murphy	Rohrabacher	Swett
Myers	Ros-Lehtinen	Tanner
Neal (NC)	Rostenkowski	Tauzin
Nichols	Roth	Taylor (MS)
Nussle	Roukema	Taylor (NC)
Ortiz	Rowland	Thomas (CA)
Orton	Santorum	Thomas (WY)
Owens (UT)	Sarpallus	Thornton
Oxley	Saxton	Torricelli
Packard	Schaefer	Upton
Parker	Schiff	Valentine
Patterson	Schulze	Vander Jagt
Paxon	Sensenbrenner	Volkmer
Payne (VA)	Sharp	Vucanovich
Penny	Shaw	Walker
Petri	Shays	Walsh
Pickett	Shuster	Weber
Porter	Sisisky	Weldon
Poshard	Skeen	Whitton
Price	Skelton	Wilson
Pursell	Slattery	Wise
Quillen	Smith (NJ)	Wolf
Ramstad	Smith (OR)	Wyllie
Ravenel	Smith (TX)	Yatron
Reed	Snowe	Young (AK)
Regula	Solomon	Young (FL)
Rhodes	Spence	Zeliff
Ridge	Spratt	Zimmer
Riggs	Staggers	

NOES—171

Abercromble	Gilman	Oakar
Ackerman	Gonzalez	Oberstar
Alexander	Green	Obey
Anderson	Guarini	Olin
Andrews (ME)	Hall (OH)	Olver
Andrews (NJ)	Hayes (IL)	Owens (NY)
Anthony	Hertel	Pallone
Atkins	Hoagland	Panetta
AuCoin	Hochbrueckner	Pastor
Beilenson	Horton	Payne (NJ)
Berman	Houghton	Pease
Blackwell	Hoyer	Pelosi
Boehler	Jefferson	Perkins
Bonior	Johnson (SD)	Peterson (MN)
Boucher	Jones (GA)	Pickle
Boxer	Jones (NC)	Rahall
Brooks	Jontz	Rangel
Brown	Kanjorski	Richardson
Bryant	Kaptur	Roe
Bustamante	Kennedy	Rose
Campbell (CO)	Kennelly	Roybal
Cardin	Kildee	Russo
Carr	Kiecicka	Sabo
Clay	Kolter	Sanders
Coleman (TX)	Kostmayer	Sangmeister
Collins (IL)	LaFalce	Savage
Collins (MI)	Lantos	Sawyer
Conyers	Leach	Scheuer
Cox (IL)	Lehman (FL)	Schroeder
Coyne	Levin (MI)	Schumer
de la Garza	Levin (CA)	Serrano
DeFazio	Lewis (GA)	Sikorski
Lewis (CA)	Lewis (CA)	Skaggs
Lowery (CA)	Lowery (CA)	Slaughter
Lowey (NY)	Lowey (NY)	Smith (FL)
Maclintey	Maclintey	Smith (IA)
Markey	Markey	Solarz
Matsui	Matsui	Stark
Mavroules	Mavroules	Stokes
Mazzoli	Mazzoli	Studds
McDermott	McDermott	Swift
McHugh	McHugh	Synar
McNulty	McNulty	Torres
Mfume	Mfume	Towns
Miller (CA)	Miller (CA)	Trafficant
Mineta	Mineta	Unsoeld
Mink	Mink	Vento
Moakley	Moakley	Visclosky
Mollohan	Mollohan	Washington
Moody	Moody	Waters
Moran	Moran	Waxman
Morella	Morella	Weiss
Mrazek	Mrazek	Wheat
Ford (MI)	Ford (MI)	Williams
Ford (TN)	Ford (TN)	Wolpe
Frank (MA)	Frank (MA)	Wyden
Gaydos	Gaydos	Yates
Gejdenson	Gejdenson	
Gephardt	Gephardt	

NOT VOTING—12

Annunzio	Hatcher	Ray
Coughlin	Hyde	Tallon
Feighan	Kopetski	Thomas (GA)
Hansen	Peterson (FL)	Traxler

□ 1218

Mr. VENTO changed his vote from "aye" to "no."

Mrs. LLOYD, and Messrs. ANDREWS of Texas, YOUNG of Alaska, OWENS of Utah, BEVILL, WISE, and HEFNER 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. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 97, after line 3, insert the following new section:

SEC. 319. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1.46 percent.

□ 1220

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Chairman, I want to congratulate the previous speaker for getting an amendment passed that reduced spending to last year's level. It was not that hard, I think, for us to vote for that spending cut, to live within the budget that we passed last year, the spending limits of last year.

Every single appropriation bill that we have passed this year so far, in total, has been higher than last year. Agriculture is \$6.5 billion above last year; District of Columbia bill is \$58 million above last year; Treasury, Postal Service, \$2.9 billion above last year; and this bill is going to be close to \$185 million above last year.

Now, what my amendment does is cut the spending in this bill back to last year's spending levels, as the previous amendment did for the National Endowment for the Arts.

The reason I think this is important is because of the statistical information on the two charts I am going to show you. There is a book that I have been talking about called "The Coming Economic Earthquake," by a man named Burkett, that I have been asking all of the Members to read. If any of you want a copy of it, I have them in my office and I would be glad to give you a copy.

Mr. Chairman, in that book it shows a chart put out by the Federal Reserve Board showing the progression of the national debt. This was the national debt in 1980, we are at \$4.077 trillion in debt right now. This is where we are going to be conservatively, conservatively, by the year 2000, or 7.5 years from now.

Now, what this means simply is—take a good look at that, \$13.5 trillion—it means that the interest alone on the national debt is going to be \$1.2 trillion, which is almost the total cash revenues we are bringing into the Treasury today. Very simply, it means we are not going to bring in enough taxes just to pay the interest on the debt, let alone take care of Medicaid, Medicare, social security, and all of the other problems facing this country.

So we have to get control of our appetite for spending. A good place to start is to freeze spending at last year's spending levels. In addition to that, I have said it before and I will say it again and again and again, we have to address the problem of entitlements. I know that is a dangerous thing to say, politically, but the fact of the matter is if we do not slow the growth in entitlements, the people on fixed incomes, on Social Security, welfare and so on, 7½ years from now will be paying \$25 or \$35 for a loaf of bread.

Now, why do I say that? I say that because the Federal Reserve Board has the right to monetize the debt. And if we cannot get enough tax revenues to pay the interest on the debt, they are going to have to pay off part of the debt, a large part of it, and they will monetize maybe \$6 trillion or \$8 trillion in debt.

When they print that much money, we are going to have hyperinflation and the people that we really want to help in this country, people on welfare, people fixed incomes, are going to be the hardest hit.

So we have to pinch a little bit now so we do not face hyperinflation later, which will cause economic chaos later in this country.

I will say it one more time: All I am asking for is a reduction in this bill to last year's spending levels, to try to get control of spending now and in the future so we will not face hyperinflation down the road.

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

Mr. BURTON of Indiana. I yield to my colleague, the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I just want to, for the record, point out that we have already cut \$59 million out of budget authority by the amendments which have been adopted. So, in effect, the gentleman's amendment would taken us below last year's level because we were at \$185 million over last year on the BA, with \$59 million we have cut on thus far by amendment action and in reality—I do not know if the gentleman would want to modify his amendment—but it does in fact take us \$59 million below last year's level.

Mr. BURTON of Indiana. I would be very happy, in accordance with my colleague, to modify my amendment to

take it down to last year's spending level, and I would so move, Mr. Chairman.

The CHAIRMAN. Does the gentleman ask unanimous consent to modify his amendment? And if so, he would modify his amendment in what way?

Mr. BURTON of Indiana. Just to take it down to last year's levels, not below last year but to last year's spending level.

The CHAIRMAN. The Chair would ask the gentleman to specify a change in the actual percentage level in the bill.

Mr. YATES. Mr. Chairman, reserving the right to object, we would like to have specific numbers.

Mr. BURTON of Indiana. It would take it from 1.46 percent down to a 1-percent reduction in spending on this bill.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Chairman, the chairman of our Conference is here, and he and I were just looking at these charts. I would hope that the chairman of the Democratic conference, Mr. SAWYER, would do what I know Mr. LEWIS is going to do, and get smaller versions of these, laminated or otherwise, for our wallets or purses, because you want to blame this on George Bush, but I am willing to accept the blame as a 16-14-year Member of this Chamber. This is our doing here. This is a disgrace. Of course, I am going to support the amendment. These charts are nightmares. I have eight grandkids, too, who are supposed to deal with this and pay for this. This is a disgrace.

The CHAIRMAN. The Chair would say that pending is a unanimous-consent request by the gentleman from Indiana [Mr. BURTON] to modify his own amendment.

Mr. DORNAN of California. I am sorry, Mr. Chairman. I did not know that.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. BURTON of Indiana: Strike the figure, "1.46 percent," and insert in its place "1.00 percent."

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. BURTON of Indiana: Page 97, after line 3, insert the following new section:

SEC. 319. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1.00 percent.

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

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. YATES] for 5 minutes.

Mr. YATES. Mr. Chairman, the committee bill that we brought to the floor is a responsible bill. Many speakers who have taken the floor have acknowledged that fact. The bill was below the 602(b) allocation for budget authority by \$918 million.

With floor action, another \$56 million has been cut plus the \$3 million that was just cut on the Arts amendment.

We have not been irresponsible in our attitudes. We have not been irresponsible in the amounts that we approved for our appropriations. The Department of the Interior agencies have been asked to absorb some \$45 million in pay costs. This absorption will likely come in the same areas that this amendment targets.

Agencies in this bill slated for reduction by this amendment do not have that much money. Most of the money that we have put in over the President's budget was for the health of the Indian people. The amount of \$613 million was also included for fire fighting, \$95 million more than the current level, a vast amount which takes away the opportunity for discretion.

I suggest, Mr. Chairman, that many of the accounts are already below the 1992 appropriation. The committee has already reduced the National Park Service by almost \$40 million below the President's budget.

I would recommend we vote against the amendment of the gentleman from Indiana [Mr. BURTON].

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] has 1 minute remaining.

Mr. BURTON of Indiana. Mr. Chairman, do I have the right to close?

The CHAIRMAN. No, the gentleman from Illinois [Mr. YATES] has the right to close.

Mr. BURTON of Indiana. Mr. Chairman, let me say, in conclusion, to my colleagues that every time I come to the floor to try to cut some spending, there are always 9,000 reasons why we should not do it. Everybody always says that we are always doing a great job.

Mr. Chairman, these are the figures. We are going to be \$13.5 trillion in debt, and the interest alone is going to exceed the tax revenues in 7½ years.

We are not going to be able to take care of Social Security, Medicare, Medicaid, or whatever the health plan is that we have in this country, let alone the infrastructure and the defense needs of this country.

We have to get control of spending. I do not see what is wrong with starting by saying that we are freezing at last year's spending levels.

The future generations of this country—and I have said this before, and I say it again, to the gentleman from Illinois [Mr. YATES], I know he folds his

arms when I say this—they are going to curse us for not getting control of this spending now. We can pinch toes a little bit now and still survive and deal with this problem. But if we wait, we are going to have hyperinflation, the kids are not going to have the job opportunities, the economic opportunities, and senior citizens and people on fixed incomes are going to be paying everything they have just to survive in the way of sustenance.

The CHAIRMAN. All time has expired.

The question is on the amendment, as modified, offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 218, not voting 19, as follows:

[Roll No. 305]

AYES—197

Allard	Franks (CT)	McMillan (NC)
Allen	Galegley	Michel
Andrews (TX)	Gekas	Miller (OH)
Archer	Geren	Miller (WA)
Armey	Gibbons	Molinar
Aspin	Gilchrest	Montgomery
Bacchus	Gillmor	Moody
Baker	Gilman	Moorhead
Balleger	Gingrich	Myers
Barnard	Goodling	Neal (NC)
Barrett	Goss	Nichols
Barton	Gradison	Nussle
Bateman	Grandy	Orton
Bennett	Gunderson	Oxley
Bentley	Hall (TX)	Packard
Bereuter	Hamilton	Patterson
Billirakis	Hammerschmidt	Paxon
Bliley	Hancock	Payne (VA)
Boehlert	Hastert	Penny
Boehner	Hefley	Petri
Brewster	Henry	Porter
Broomfield	Henger	Pursell
Bunning	Hobson	Ramstad
Burton	Holloway	Ravenel
Callahan	Hopkins	Rhodes
Camp	Hubbard	Ridge
Campbell (CA)	Huckaby	Riggs
Carper	Hughes	Rinaldo
Chandler	Hunter	Ritter
Clement	Hutto	Roberts
Coble	Inhofe	Roemer
Coleman (MO)	Jacobs	Rohrabacher
Combest	James	Ros-Lehtinen
Condit	Jenkins	Roth
Cooper	Johnson (TX)	Roukema
Cox (CA)	Jontz	Russo
Crane	Kasich	Santorum
Cunningham	Klug	Sarpalius
Dannemeyer	Kolbe	Saxton
DeLay	Kyl	Schaefer
Dickinson	Lagomarsino	Schiff
Dooley	Leach	Schroeder
Doolittle	Lent	Schulze
Dorgan (ND)	Lewis (FL)	Sensenbrenner
Dorman (CA)	Lightfoot	Sharp
Dreier	Lipinski	Shaw
Duncan	Lloyd	Shays
Edwards (OK)	Long	Shuster
Edwards (TX)	Luken	Sikorski
Emerson	Marlenee	Skelton
English	Martin	Smith (NJ)
Erdreich	McCandless	Smith (OR)
Ewing	McCollum	Smith (TX)
Fawell	McCrery	Snowe
Fields	McCurdy	Solomon
Fish	McEwen	Spence
Ford (TN)	McGrath	Stearns

Stenholm	Thomas (WY)
Stump	Torricelli
Sundquist	Upton
Swett	Valentine
Tanner	Vander Jagt
Tauzin	Volkmer
Taylor (MS)	Vucanovich
Taylor (NC)	Walker
Thomas (CA)	Walsh

NOES—218

Abercrombie	Green	Olin
Ackerman	Guarini	Olver
Alexander	Hall (OH)	Ortiz
Anderson	Harris	Owens (NY)
Andrews (NJ)	Hayes (IL)	Owens (UT)
Annunzio	Hayes (LA)	Pallone
Applegate	Hefner	Panetta
Atkins	Hertel	Parker
AuCoin	Hoagland	Pastor
Bellenson	Hochbrueckner	Payne (NJ)
Berman	Horn	Pease
Bevill	Horton	Pelosi
Bilbray	Houghton	Perkins
Blackwell	Hoyer	Peterson (MN)
Bonior	Jefferson	Pickett
Borski	Johnson (CT)	Pickle
Boucher	Johnson (SD)	Poshard
Boxer	Johnston	Price
Brooks	Jones (GA)	Quillen
Browder	Jones (NC)	Rahall
Brown	Kanjorski	Rangel
Bruce	Kaptur	Reed
Bryant	Kennedy	Regula
Bustamante	Kennelly	Richardson
Byron	Kildee	Roe
Campbell (CO)	Kleccka	Rogers
Cardin	Kostmayer	Rose
Carr	LaFalce	Rostenkowski
Chapman	Lancaster	Rowland
Clay	Lantos	Roybal
Clinger	LaRocco	Sabo
Coleman (TX)	Laughlin	Sanders
Collins (IL)	Lehman (CA)	Sangmeister
Collins (MI)	Lehman (FL)	Sawyer
Conyers	Levin (MI)	Scheuer
Costello	Levine (CA)	Schumer
Cox (IL)	Lewis (CA)	Serrano
Coyne	Lewis (GA)	Sisisky
Cramer	Livingston	Skaggs
Darden	Lowey (NY)	Skeen
Davis	Machtley	Slattery
de la Garza	Manton	Slaughter
DeFazio	Markey	Smith (FL)
DeLauro	Martinez	Smith (IA)
Dellums	Matsui	Solarz
Derrick	Mavroules	Spratt
Dicks	Mazzoli	Staggers
Dingell	McCloskey	Stallings
Dixon	McDade	Stark
Donnelly	McDermott	Stokes
Downey	McHugh	Studds
Durbin	McMillen (MD)	Swift
Dwyer	McNulty	Synar
Dymally	Meyers	Thornton
Early	Mfume	Torres
Eckart	Miller (CA)	Trafiacant
Edwards (CA)	Mineta	Unsoeld
Engel	Mink	Vento
Espy	Moakley	Visclosky
Evans	Mollohan	Washington
Fascell	Moran	Waters
Fazio	Morella	Waxman
Flake	Morrison	Weiss
Foglietta	Mrazek	Wheat
Ford (MI)	Murphy	Whitten
Frank (MA)	Murtha	Williams
Gallo	Nagle	Wilson
Gaydos	Natcher	Wise
Gejdenson	Neal (MA)	Wolpe
Gephardt	Nowak	Wyden
Glickman	Oakar	Yates
Gonzalez	Oberstar	Yatron
Gordon	Obey	

NOT VOTING—19

Andrews (ME)	Hyde	Savage
Anthony	Ireland	Tallon
Coughlin	Kolter	Thomas (GA)
Feighan	Kopetski	Towns
Frost	Lowery (CA)	Traxler
Hansen	Peterson (FL)	
Hatcher	Ray	

□ 1249

Mr. SPRATT changed his vote from "aye" to "no."

Mr. GOODLING and Mr. JOHNSON of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1250

Mr. RIGGS. Mr. Chairman, I move to strike the last word, and to enter into a brief colloquy with the ranking member.

Mr. Chairman, I would like to take this opportunity to enter into a colloquy with my colleague, the gentleman from Ohio [Mr. REGULA], the ranking member of the subcommittee, concerning the Headwaters Forest in my district. This area is one of the very few remaining stands of old growth, uncut redwoods left in private ownership. Eleven million dollars was requested in the President's budget to preserve this significant redwood stand for future generations.

First of all, I would like to ask the ranking member, is there an authorization to provide funding for the Headwaters Forest acquisition?

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

Mr. RIGGS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, there is no authorization.

Mr. RIGGS. Furthermore, I would like to ask the ranking member, what is the committee's sentiment on the President's request for \$11 million for the acquisition of the Headwaters Forest in Humboldt County, CA?

Mr. REGULA. Mr. Chairman, if the gentleman will continue to yield, the committee agrees with the administration that the Headwaters Forest is a unique and important ecological asset that must be preserved. Unfortunately, due to the tight allocation afforded this bill, the committee was not able to approve the administration's request.

Mr. RIGGS. Mr. Chairman, I thank the gentleman.

I would also like to ask the gentleman, what is the committee's feeling on the future of Headwaters Forest acquisition?

Mr. REGULA. Mr. Chairman, if the gentleman will continue to yield, the committee is concerned about the ultimate cost of the acquisition and directed the Forest Service to develop an acquisition plan with the State of California that gives priority to the use of land exchanges.

Mr. RIGGS. Mr. Chairman, I ask the gentleman, does the committee have any information on the future Federal funding requests that may be made for the complete purchase of the Headwaters Forest?

Mr. REGULA. Mr. Chairman, the Forest Service is in the process of

doing an appraisal and will not have accurate figures until such time as the appraisal is completed.

Mr. RIGGS. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Clerk will read the last 2 lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1993".

The CHAIRMAN. Are there other amendments not precluded by clause 2(a) or 2(c) of rule XXI?

Mr. YATES. Mr. Chairman, before I move that the Committee rise, I want to thank and commend the Chairman for his parliamentary ability, his courtesy, and his efficiency in the way in which he handled the House.

Mr. COLEMAN of Missouri. Mr. Chairman, I rise today in support of the Interior appropriations for fiscal year 1993. Within the fiscal year 1993 budget for the U.S. Geological Survey, the committee made \$100,000 available for preliminary studies of the properties of coal located in the Forest City basin of Missouri, Iowa, Kansas, and Nebraska in cooperation with the State geological surveys. The USGS is then required to report their findings to the committee, and make recommendations on further activity. I wanted to take this opportunity to thank Mr. REGULA and Mr. MCDADE, and their staffs, Barbara Wainman and Debbie Weatherly, for their efforts to direct the USGS to begin this important work.

Mr. Chairman, in Missouri, Kansas, Iowa and Nebraska, there is currently an effort to explore the potential for coalbed methane production. The Forest City basin, which lies within these four States, has similar geological structure to that of the Black Warrior basin in Alabama, where commercial production of coalbed methane has been extremely successful. Records from Missouri, Kansas, Iowa, and Nebraska, show that methane is present in the deep coal beds of the Forest City basin. However, the amount is unknown at present and requires further research to obtain geologic data.

The coalbed methane industry in the Forest City basin has the potential to generate significant amounts of new revenue for local economies in primarily rural, underdeveloped areas in the region encompassing northwest Missouri, southwest Iowa, northeast Nebraska, and southeast Iowa. In addition, we will foster continued development of high quality, domestic energy resources by providing funding for the exploration of coalbed methane resources in the basin.

I believe that this investment could do much toward promoting the further development of an important energy resource, and at the same time encourage growth of a new industry in the rural communities. Again, let me express my appreciation to the committee for their recognition of the significance of this research effort.

Ms. MOLINARI. Mr. Chairman, I rise today in support of the bill H.R. 5503 and commend the chairman and the ranking member for their work on this appropriations bill.

Specifically, I want to thank the committee for their inclusion of a desperately needed

project in my district. A project that the National Park Service made their No. 2 construction priority nationwide. I am speaking of the Great Kills Bathhouse at the Great Kills unit of Gate Way National Park, a facility that has literally been washed out to sea.

The Great Kills Bathhouse was built in 1951 on reclaimed land. The facility is now in imminent danger of collapse because the soft coastal ground has been seriously undermined by erosion. Nearly half the bathhouse stands on 20 feet of exposed pilings.

The term bathhouse is misleading. Until OSHA closed the building earlier this year, the bathhouse contained the park police substation, maintenance shop and garage, food concession facilities, public restrooms, visitor center, environmental education classrooms, and other essential services. Some of these services have moved to makeshift structures, others have been curtailed altogether.

The \$7.9 million included in the committee bill will help the Park Service complete design and start construction of replacement facilities. For the more than 1.2 million yearly visitors to Great Kills, this project is essential. Without these new facilities, the potential of this national treasure in our urban setting cannot be realized.

I appreciate all the committee has done to provide for the Great Kills facility, and I again commend you for your work on this legislation.

Mr. AUCCOIN. Mr. Chairman, we have debated Forest Service and BLM forest funding in this bill today at a time when many national forests in the Northwest are in a state of ecological collapse. In some of the forests in eastern Oregon and Washington, 70 percent of the standing timber is dead or dying. Fuel loads on the forest floor are several feet deep in many places.

It is my belief that the public and elected officials must reflect on the multiple errors of judgment that have led to this crisis in forest management and act immediately to solve it. It took years to get into the mess; we will not get out overnight. But we must begin.

That's why this bill contains funds I recommended to carry out a forest health initiative, calling on the Forest Service to take into account the latest scientific knowledge and apply it to the job at hand.

I did this because I am convinced we must move to a new kind of forest management for our national forest system in the forests of the West. The new science we support requires new forestry. The revelations about the ecological collapse in the Blue Mountains of my State, and large scale declines in forest health and species everywhere demonstrate that we must change the way we do business in the woods.

Both Mother Nature and Forest Service scientists are telling us that, while we still must make use of standard forestry techniques as fire suppression, insect and disease control, and thinning—we must do it in a manner consistent with the requirements of the forest itself, or we will simply lose them.

Gifford Pinchot is rightly known and revered as the founder of scientific forestry in this country; a confidant of Theodore Roosevelt, it was his genius that persuaded Roosevelt to create the U.S. Forest Service, not to mention a large part of the present forest system itself.

Pinchot came from Switzerland where there had been no primeval, natural forests for centuries, and where several generations of foresters, fearing timber, famine, had begun to apply the principles of intensive agriculture—monoculture plantations, thinning, pest and fire control—in an effort to make the central European countries more sufficient in wood. These are the basic techniques and principles, based upon the best knowledge of the time, that Pinchot brought over here. Due to the force of his powerful personality, they were applied nearly universally as governing tenets of scientific forestry, as the Forest Service practiced it.

For a long time these techniques seemed to work. The Forest Service, responding to the disastrous fires in the early part of the century, became the best fire suppression agency in the world; generations of silviculturalists came out of forestry school, knowing with certainty that trees could be made to grow like crops of corn, if only we would suppress their natural pests. Weeding, thinning, large scale monoculture, plantations—all these agricultural techniques, as derived from European forestry, were applied in most situations in our national forests. Forests of big old trees which had taken centuries to grow and evolve were clearcut, and replanted with more commercially desirable species. Communities next to the forest developed healthy industries designed to process these centuries-old trees, and several generations of workers in the wood products industry derive their livelihoods from this, confident in the assurances of the agencies that the agricultural "scientific forestry" techniques would produce continuing crops for their children, and their children beyond them, forever. Because the clearcutting produced more "edge" which was desired by some species such as elk and deer, game actually seemed more abundant; no one noticed, or cared much, about the decline of species which depended on large unbroken tracts of old growth forest, such as the spotted owl.

But what we did not know until recently is that Mother Nature has her own ways of dealing with fires and insects, and that the forests in our country have evolved over the ages; a natural forest is there precisely because it is adaptable to conditions of pests, disease, and fire. The scientists have told us in just the last few years that dead trees are not just fit to be salvaged and that is the only use for them; they also play a crucial function in the health of the forest ecosystem. And fire has a purpose too; in a mature forest, a catastrophic fire that kills all trees is very rare—the much more common situation is the one that the pioneers along the Oregon Trail saw—vast open parklike stands of giant old trees, with almost no underbrush, because that had been burned off in periodic fires. This was Mother Nature's way of dealing with forests, and it produced the largest, healthiest, and most magnificent stands of forests in the world.

The first pioneers who came here gave rapturous reports of the richness and beauty of these forests, their abundant fisheries, the game everywhere, and wood for the asking.

Now the situation is very different. For the best of reasons, and in spite of the best intentions to produce crops of wood for the benefit of communities and the public forever, many forest ecosystems are collapsing—and with

them, the communities which depended upon them for sources of timber. Eight decades of fire suppression have created a layer of underbrush and second growth of such proportions that these fuel ladders now pose the risk of a true wildfire conflagration which will literally kill all the remaining trees. Equally long decades of logging the biggest and healthiest trees have left severely weakened gene pools, which should be available to ensure future generations of the best trees: for wildlife, for fisheries, for forest health, and for timber.

Everywhere in the Northwest, the salmon fishing industry—a billion-dollar industry which provides 60,000 jobs in the Pacific Northwest—is in decline; some runs of salmon, steelhead, and bull trout are near extinction. It is not just the well-known spotted owl which has acted as a canary in the coal mine to warn us of forest collapse, Mr. Chairman, other species of birds, animals, and fish are also in catastrophic decline. They are telling us that we have to be much more careful in the future about how we manage forests, and that we have to listen to nature more carefully.

Yes, we could go along in the old ways for a little bit longer; we could put everything we have into a massive salvage program which basically took out all of the trees, healthy and unhealthy, converting essentially all the forest to monoculture plantations, all with the stated aim of restoring forest health. But it will not work; such a raid on the last of our forests would be the death knell of not only the forest, but all the communities that surround it. It would provide a few more jobs for now—and then none at all later—perhaps none for many lifetimes.

I will not countenance such a raid on our forests, Mr. President. This kind of approach to forest management would have the same effect as the raids on our capital system perpetrated by Miliken and Boesky and other corporate raiders 10 years ago at the height of the Reagan era; sure, they got rich, but millions of other little people were hurt, and our economy has not recovered yet.

There is a better way, and it is what the scientists tell us to do, it is in this appropriations bill, and I intend to see that it gets carried out the way we expect. We have money in the bill for fire suppression and for insect control just like we always have; but this time it is our intent and my intent that it be carried out in the most ecologically sound manner possible, consistent with the new findings of the scientists—and in such a way that it will not only provide wood to dependent communities, but also start us back on the long road to restoring the health of the whole forest.

What does this new ecological forestry mean, and how will our bill today help carry it out? It involves several basic principles, for example:

Reduced cutting of ecologically significant areas where the forest is healthy; the giant old trees there are the healthiest because they are in fact ancient, and have survived for so long. They have the best genes to be passed onto the new forest that we are going to rebuild; they provide the most shade for the streams where the fish thrive; they hold the soils together and prevent erosion, and supply us with our best water.

Address the most troubled areas first. This is generally areas that have been overgrazed

or overcut, where basically all the forest cover has been removed, little is coming back properly, and there are no snags or forest structures remaining for the restoration of the wildlife to keep the pests down.

Continue to suppress fires where it is crucial for the protection of the forest, or human health and property. But this time we are going to do it in a much more ecologically sensitive way. It will require manual removal of some of the most massive accumulations of underbrush and other fuel ladders; and eventually, in many places, it will require a sensitive and careful reintroduction of fire, once the dangers of great conflagrations are removed.

It will require salvage and removal of the millions of trees that are dying or are dead because of the unnatural practices of the past. But it is my intent and the intent of this bill that such salvage only be performed where necessary to restore the health of the forest, and make it once again a productive and functioning ecosystem. We will not have salvage in roadless areas where generally the largest and healthiest live trees still remain; we will not salvage live trees. There is a tremendous volume out there of trees needing to be salvaged in the other categories, where such removals will actually help the forest, rather than further damage it.

I want to emphasize that this is just the beginning of a long process. It took us 80 years of application of the Gifford Pinchot principles on our native and natural forests to learn that all European forestry techniques will not necessarily work here in North America. We are fortunate that we still have healthy gene pools of natural forests remaining as the basic elements upon which to build and rebuild our native forests, and restore them to the vigor and splendor that the first pioneers saw when they came here. And once we do this, we will have even more fish and even more wildlife than before; and we will at last have a healthy and productive human ecosystem, too—a network of vibrant and thriving small communities who depend upon all the products of the forest and make economic use of it to sustain themselves and their children, this time forever.

This bill takes us a first step on this long road; at last we have learned that a healthy and biologically rich and diverse forest means a healthy and rich human society next to it. I am proud to have been a part of all this.

Mr. SLATTERY. Mr. Chairman, first of all, I want to thank Chairman YATES and his staff for the excellent work they have done on this bill. This bill represents a difficult task and I want to personally commend Chairman YATES and the committee for their efforts.

I specifically would like to speak in support of the funding in this bill which recognizes the importance of native American higher education.

Haskell Indian Junior College, which is one of the only two national colleges for native Americans in the country and which is located in Lawrence, KS, has an important mission for native Americans across the country.

In the past Haskell has survived severe budgetary setbacks and has provided quality education to native Americans across the country in spite of efforts by the previous administration to shut it down.

I am pleased the Appropriations Committee, under Chairman YATES' leadership, realized the importance of adequately funding Haskell, and I am especially pleased the committee agreed to restore \$977,000 to Haskell's budget that President Bush had requested be cut.

This funding will bring Haskell's fiscal year 1993 instructional budget to the same level as the 1992 budget. More importantly, it will allow the popular and successful Summer School and Natural Resources Programs to continue next year.

Both the Summer School and Natural Resources Programs are proven and effective. Cutting these programs, as proposed by the Bush administration, would have been a tragic mistake and posed a severe setback for Haskell.

The sum \$165,000 was approved for necessary program development at Haskell. This funding will help Haskell implement its "Vision 2000" plan, a comprehensive blueprint for improving the teacher training program at Haskell so that it will be possible for the school to achieve its goal of offering baccalaureate degrees in elementary education.

The ability to offer teaching degrees is critically important to the native American community given the well-documented shortage of native American teachers, particularly on the reservations.

I would like to commend the committee for including an additional \$3 million which would allow Haskell to finance the construction of much needed on-campus housing. Housing is a top priority for Haskell as overcrowding has become a serious problem. Haskell has been attempting to deal with a serious housing shortage for several years.

Finally, I would like to thank the committee for rejecting the Bush administration's proposal instituting tuition charges for students at Haskell. The fact of the matter is that nearly 100 percent of the Haskell student body would currently qualify for student aid since most of these students come from disadvantaged and low-income families.

If self-determination and independence from government are to remain the benchmark of Federal efforts toward native Americans, then we must do all we can to see that this population has access to quality education. Haskell Indian Junior College provides the tools for such an endeavor.

I am grateful to my colleagues on the Appropriations Committee for recognizing that it would be a tragic mistake to jeopardize the quality of education at the single most important institution of higher learning in the native American community.

I urge my colleagues to support H.R. 5503. Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 5503, the Interior and related agencies appropriations bill for fiscal year 1993.

I would like to take this opportunity to thank the honorable chairman of the Subcommittee on the Interior, Representative SIDNEY YATES and my colleague from Ohio the Honorable RALPH REGULA, and all the members of the subcommittee for bringing to the House floor, a very fair, bipartisan appropriations measure.

Mr. Chairman, it is my intent to address the section of the bill regarding our federally funded arts and humanities programs.

Of the many investments the Federal Government makes in America, the National En-

dowment for the Arts, the National Endowment for the Humanities and the Institute for Museum Services provided the greatest return to Americans at all levels of income, age and education.

For more than a quarter of a century, the NEA has celebrated the Nation's rich and diverse cultural heritage and made the arts more accessible to millions of Americans who might otherwise not have enjoyed them. For considerably less than \$1 per citizen, it has supported the cultural life of America in all its forms. America's investment in the arts is far smaller than that of other industrial democracies. Moreover, NEA grants leverage funds from other private and public sources. Few Government agencies have a record of cost effectiveness that can match that of the NEA.

The number of performing arts groups has risen dramatically in this country, as has public attendance at cultural events. Even through the NEA does not have the financial capacity to provide funding for everyone, it does award approximately 5,000 grants annually to artists and nonprofit groups around the country.

In my hometown of greater Cleveland, my constituents are fortunate to be enriched by the arts. We take great pride in our orchestra, ballet, playhouses, and countless nonprofit dance and repertory theater companies, that are supported by our national endowments. Just last year, the Ohio Chamber Orchestra was awarded a \$10,000 grant which provided programming for new audiences which mainly came from minority and low-income segments of the community. The Cleveland Musical Arts Association received an award to support educational concerts for students and daytime concerts at reduced prices. A grant was awarded to the Fairmount Theatre for the Deaf to support production costs. Mr. Chairman, these are just a few examples of the benefits the National Endowment for the Arts offers to my district.

Our federally funded arts programs are so important to the cultural wealth of this Nation. We must continue to let the National Endowment for the Arts do its fine work. I urge my colleagues to support H.R. 5503.

Mr. HOAGLAND. Mr. Chairman, I want to lend my support to the amendment offered by the gentleman from Indiana [Mr. JONTZ] yesterday. This amendment would have reduced the subsidy in the bill for below-cost timber sales on our National Forest System lands that fail to show a net return to the Treasury. Unfortunately, Mr. JONTZ' amendment was rendered ineffective when the House adopted the DICKS' amendment. Therefore, Mr. JONTZ and I voted against the Jontz amendment as amended.

Our national forests are among the most important natural lands in the country. They contain some of the richest and most diverse ecosystems of any land management system in the country. In addition, the U.S. Forest Service is one of the premier suppliers of outdoor recreation in the world, recording over 226 million visitors in 1989 alone. Of course, our national forest are also a significant supplier of timber, but they generally tend to be less productive than private forest lands. The timber cut from these lands is often of lower value than private land timber and more difficult and costly to access due to mountainous terrain and thin soil.

In other words, while most have high recreational and wildlife values, many are economically poor producers of timber. Even so, timber production has dominated the U.S. Forest Service agenda for decades even if it meant that the Forest Service sold it at a loss to the American taxpayer. In fact, for years, our National Forest timber sale program has been operating at a loss and 36 of our national forests have never produced timber at a profit to the taxpayer.

According to a recent GAO audit report, 60 percent of all forest timber sales lose money and in fiscal year 1990, the Forest Service lost over \$68 million on large timber sales. Since 1975, taxpayers have lost more than \$5.3 billion to below cost timber sales by the Forest Service. It is time for this practice to stop. We are not only wasting taxpayers' money, we are also losing ecologically valuable lands to cutting and road building.

Arguments have been made that this amendment will put domestic mill operations out of business by reducing wood supplies. In fact, a primary reason our domestic mills are shutting down is because a large portion of logs from Federal forest lands are being shipped overseas for processing, much of it to Japan. Many others are reducing their work force because of technological improvements in milling. Furthermore, only 9 percent of total domestic timber production is provided by the below cost forests. The Jontz amendment would only result in a 10 percent reduction in below-cost timber volume and is so small it would not affect the availability of lumber or paper in the United States.

It is time to send a message to the U.S. Forest Service that first, if the Government is going to operate a timber production and sale program, it should stop wasting taxpayers' money and not be a money-losing proposition, and second, we must use sustainable forestry practices that protect our Nation's natural heritage. The Jontz amendment did that and I urge Members to support it.

Mr. YATES. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. GLICKMAN, 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. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore (Mr. GEPHARDT). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amend-

ment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mrs. MORELLA. Mr. Speaker, I was absent for two votes on amendments to the appropriations bill for the Department of the Interior and related agencies for fiscal year 1993. If I had been present, I would have voted as follows:

"No" on rollcall No. 301, the Duncan amendment to reduce funding for the Bureau of Indian Affairs.

"No" on rollcall No. 302, the Dicks amendment to the Jontz amendment.

COMMITTEE ON APPROPRIATIONS MARKUP OF THREE REMAINING APPROPRIATIONS BILLS

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

Mr. NATCHER. Mr. Speaker, I would like to announce to the membership of the Committee on Appropriations that beginning at 1:30 in our regular committee room we will mark up the three remaining appropriations bills: VA, HUD and independent agencies; Commerce, Justice, State, and judiciary; and Labor, Health and Human Services and Education.

Mr. Speaker, as my colleagues well know, we have 13 appropriation bills. Passage of this bill was number 10. There remain three bills. We mark them up this afternoon and with the gentleman's permission and the permission of the leadership, we will bring them to the House next week.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3007. An act to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.

The message also announced that, pursuant to Public Law 102-166, the Chair on behalf of the majority leader and the Republican leader, appoints Ms. MIKULSKI, as a member of the Glass Ceiling Commission.

The message also announced that, pursuant to Public Law 102-166, the Chair on behalf of the majority leader of the Senate and the Speaker of the House, appoints Marion O. Sandler of California, Maria Contreras Sweet of California, and Earl G. Graves, Sr., of New York, as members of the Glass Ceiling Commission.

The message also announced that, pursuant to Public Law 102-166, the

Chair on behalf of the majority leader, appoints Joanne D'Arcangelo of Maine, as a member of the Glass Ceiling Commission.

DEPARTMENT OF THE INTERIOR
AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 329, noes 94, not voting 11, as follows:

[Roll No. 306]

AYES—329

Abercrombie	Derrick	Houghton
Ackerman	Dickinson	Hoyer
Alexander	Dicks	Huckaby
Allard	Dingell	Hughes
Anderson	Dixon	Jefferson
Andrews (ME)	Donnelly	Jenkins
Andrews (NJ)	Dooley	Johnson (CT)
Andrews (TX)	Dorgan (ND)	Johnson (SD)
Annunzio	Downey	Johnston
Anthony	Durbin	Jones (GA)
Applegate	Dwyer	Jones (NC)
Aspin	Dymally	Jontz
Atkins	Early	Kanjorski
AuCoin	Eckart	Kaptur
Bacchus	Edwards (CA)	Kasich
Barnard	Edwards (TX)	Kennedy
Bateman	Emerson	Kennelly
Beilenson	Engel	Kildee
Bennett	Englsh	Kiecicka
Bentley	Erdreich	Kolbe
Bereuter	Espy	Kolter
Berman	Evans	Kopetski
Bevill	Fascell	Kostmayer
Bilbray	Fazio	LaFalce
Blackwell	Fish	Lagomarsino
Billey	Flake	Lancoaster
Boehliert	Foglietta	Lantos
Bonior	Ford (MI)	LaRocco
Borski	Ford (TN)	Laughlin
Boucher	Frank (MA)	Lehman (CA)
Boxer	Frost	Lehman (FL)
Brewster	Gallaghy	Lent
Brooks	Gallo	Levin (MI)
Browder	Gaydos	Levine (CA)
Brown	Gejdenson	Lewis (CA)
Bruce	Gephardt	Lewis (GA)
Bryant	Geran	Lightfoot
Bustamante	Gibbons	Lipinski
Byron	Gilchrest	Livingston
Callahan	Gillmor	Lloyd
Campbell (CO)	Gilman	Long
Cardin	Gingrich	Lowery (CA)
Carper	Glickman	Lowey (NY)
Carr	Gonzalez	Luken
Chandler	Goodling	Machtley
Chapman	Gordon	Manton
Clay	Gradison	Markey
Clement	Green	Martin
Clinger	Guarini	Matsui
Coleman (MO)	Gunderson	Mavroules
Coleman (TX)	Hall (OH)	Mazzoli
Collins (IL)	Hamilton	McCandless
Collins (MI)	Hammerschmidt	McCloskey
Conyers	Harris	McCrery
Cooper	Hatcher	McCurdy
Costello	Hayes (IL)	McDade
Cox (IL)	Hayes (LA)	McDermott
Coyne	Hefner	McGrath
Cramer	Hertel	McHugh
Darden	Hoagland	McMillan (NC)
Davis	Hobson	McMillen (MD)
de la Garza	Hochbrueckner	McNulty
DeFazio	Hopkins	Meyers
DeLauro	Horn	Mfume
Dellums	Horton	Michel

Miller (CA)	Quillen	Smith (IA)
Mineta	Rahall	Smith (NJ)
Mink	Rangel	Smith (TX)
Moakley	Ravenel	Snowe
Mollinari	Reed	Solarz
Mollohan	Regula	Spence
Montgomery	Rhodes	Spratt
Moody	Richardson	Staggers
Moran	Ridge	Stallings
Morella	Riggs	Stark
Morrison	Rinaldo	Stokes
Mrazek	Ritter	Studds
Murphy	Roe	Swett
Murtha	Roemer	Swift
Nagle	Rogers	Synar
Natcher	Ros-Lehtinen	Tanner
Neal (MA)	Rose	Taylor (NC)
Neal (NC)	Rostenkowski	Thornton
Nowak	Roth	Torres
Oakar	Roukema	Torricelli
Oberstar	Rowland	Trafcant
Obey	Roybal	Unsoeld
Olin	Russo	Valentine
Oliver	Sabo	Vander Jagt
Ortiz	Sanders	Vento
Owens (NY)	Sangmeister	Visclosky
Owens (UT)	Savage	Volkmmer
Oxley	Sawyer	Walsh
Pallone	Scheuer	Washington
Panetta	Schiff	Waters
Parker	Schroeder	Waxman
Pastor	Schulze	Weber
Paxon	Schumer	Weiss
Payne (NJ)	Serrano	Weldon
Payne (VA)	Sharp	Wheat
Pease	Shaw	Whitten
Pelosi	Shays	Williams
Penny	Shuster	Wilson
Perkins	Sikorski	Wolf
Peterson (MN)	Siskisky	Wolpe
Pickett	Skaggs	Wyden
Pickie	Skeen	Yates
Porter	Slattery	Yatron
Poshard	Slaughter	Young (FL)
Price	Smith (FL)	

NOES—94

Allen	Goss	Patterson
Archer	Grandy	Petri
Armey	Hall (TX)	Pursell
Baker	Hancock	Ramstad
Ballenger	Hastert	Roberts
Barrett	Hefley	Rohrabacher
Barton	Henry	Santorum
Billrakis	Herger	Sarpalius
Boehner	Holloway	Saxton
Broomfield	Hubbard	Schaefer
Bunning	Hunter	Sensenbrenner
Burton	Hutto	Skelton
Camp	Inhofe	Smith (OR)
Campbell (CA)	Ireland	Solomon
Coble	Jacobs	Stearns
Combest	James	Stenholm
Condit	Johnson (TX)	Stump
Cox (CA)	Klug	Sundquist
Crane	Kyl	Tauzin
Cunningham	Leach	Taylor (MS)
Dannemeyer	Lewis (FL)	Thomas (CA)
DeLay	Marlenee	Thomas (WY)
Doolittle	McCollum	Upton
Dornan (CA)	McEwen	Vucanovich
Dreier	Miller (OH)	Walker
Duncan	Miller (WA)	Wise
Edwards (OK)	Moorhead	Wyllie
Ewing	Myers	Young (AK)
Fawell	Nichols	Zeliff
Fields	Nussle	Zimmer
Franks (CT)	Orton	
Gekas	Packard	

NOT VOTING—11

Coughlin	Martinez	Thomas (GA)
Feighan	Peterson (FL)	Towns
Hansen	Ray	Traxler
Hyde	Tallon	

□ 1319

The Clerk announced the following pair:

On this vote:

Mr. Towns for, with Mr. Hansen against.

Mr. EWING changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1320

REMOVAL OF NAME OF MEMBER
AS COSPONSOR OF H.R. 1218

Mr. EDWARDS of Oklahoma. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 1218.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AUTHORIZING THE CLERK TO
MAKE CORRECTIONS IN EN-
GROSSMENT OF H.R. 5503, DE-
PARTMENT OF THE INTERIOR
AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5503, the Clerk shall be authorized to make any necessary technical corrections.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I just want to clarify that I do have a resolution of privilege that is available at the desk seeking once again to eliminate what we did yesterday in terms of trying to cover up the House post office investigation by not releasing the full transcripts of that investigation.

It would be my intention to bring that up at the earliest possible opportunity now that we are out of this.

The reason I mentioned this is because yesterday there was an immediate move to attempt to table my resolution rather than to allow it to be brought up. I do want the Members to be aware of what it is they will be voting on at the point my resolution comes before the House.

Mr. Speaker, with that, I withdraw my reservation of objection.

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

There was no objection.

PRIVILEGES OF THE HOUSE—DIRECTING COMMITTEE ON HOUSE ADMINISTRATION TO FORMALLY APOLOGIZE TO MEMBER AND TO CARRY OUT CERTAIN INVESTIGATIONS AND ACTIONS CONCERNING INVESTIGATION OF OPERATION AND MANAGEMENT OF OFFICE OF THE POSTMASTER OF THE HOUSE

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts [Mr. OLVER] rise?

Mr. WALKER. Mr. Speaker, I am seeking recognition.

The SPEAKER pro tempore. The Chair has the discretion to recognize in this case, to inquire the purpose for seeking recognition.

Mr. WALKER. I was seeking recognition. He was not.

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts rise?

Mr. WALKER. I am seeking recognition, and the gentleman from Massachusetts was not.

Mr. OLVER. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts rise?

Mr. OLVER. Mr. Speaker, I rise to a question of privileges of the House, and I send to the desk a privileged resolution (H. Res. 525) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 525

Whereas on July 22, 1992 the Republican Members and staff of the Committee on House Administration and the Committee's Task Force to Investigate the Operation and Management of the Office of the Postmaster disseminated to the media and the public a document which although entitled "Report of the Committee on House Administration Task Force to Investigate the Operation and Management of the Office of the Postmaster" was in fact not the report of the Task Force but rather a report of the Republican Members of the Task Force; and,

Whereas at page 52 of that document the Republican Members of the Task Force indicate that a post office box was retained at the Brentwood Post Office on behalf of Representative John Olver and that the retention of such a post office box might raise certain concerns; and,

Whereas in fact the post office box referred to in the Report of the Republican Members of the Task Force was retained not by or on behalf of Representative Olver, a Member of the Democratic Party but instead on behalf of Representative Olver's predecessor, a Member of the Republican Party; and,

Whereas the inclusion of this false, incorrect, and improper reference to Representative Olver, and the widespread dissemination of the false, incorrect and improper information has caused unwarranted injury to the reputation and good name of Representative Olver, it is therefore,

Resolved, That the Committee on House Administration is hereby directed to issue a formal apology to Representative Olver and such apology shall be personally signed by

all Members of the Task Force, and it is further,

Resolved, That any and all printing, distribution or other dissemination of the Republican Members Report shall cease and desist until such time as the text of the Republican Members Report is corrected to accurately reflect that Representative Olver did not have a post office box retained on his behalf, and it is further,

Resolved, That the Chairman of the Committee on House Administration is hereby directed to determine the cause of the incorrect attribution of a post office box retained on behalf of a Member of the Republican Party to a Member of the Democratic Party in the Report of the Republican Members of the Task Force, who was responsible for the publication and dissemination of this false information and whether further inquiry is warranted to determine whether the publication and dissemination of this falsehood constitute the violation of any Rule of the House or applicable legal standard.

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

The gentleman from Massachusetts [Mr. OLVER] is recognized for 1 hour.

Mr. THOMAS of California. Mr. Speaker, we do not have a copy of the resolution.

Mr. WALKER. Mr. Speaker, can we get a copy?

The SPEAKER pro tempore. The Clerk will make copies available.

Mr. THOMAS of California. We were not given the courtesy of seeing the resolution.

The SPEAKER pro tempore. The Clerk will make copies available.

The Chair recognizes the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, the whole of the resolution has been read, and it is available to the Members of the House.

Mr. Speaker, this morning I picked up the Washington Post and read a page one story entitled "Post Office Probers Disagree" and much to my surprise, I read that the distinguished Member from Kansas, the Republican chair of the task force, released a report that included my name as part of a longer list of Members, and according to the leaked press reports, the investigation covered the period until 1990.

Well, since I was not sworn in to this august body until June 1991, I did not even have a rented apartment here in DC., much less have a rented post office box or, for that matter, know that there was a post office box available or where it might be.

Now, this morning a minority staffer presented a copy of a task force press release which said, "Records appear to be in error in indicating that Representative John Olver held a post office box through the House post office. The House post office documents are dated July 20, 1990."

Now, that letter does not represent an acceptable apology. I had not even set foot in Washington at that time.

I do not have any idea what the intended motivation is in this release.

However, in the haste to gain some time advantage, some political advantage or whatever, the work of the task force on the minority side seems to me to be relatively shoddy and brings the good name of my predecessor into operation, and he is not even here to be able to defend himself.

Now, Mr. Speaker, the people of western Massachusetts sent me here to Washington to change business as usual, and I think this is a classic example of business as usual. If some of the energy that is used to throw political brickbats was instead focused on getting health care costs under control and a comprehensive health care program passed for this country, the country would be much better off today.

Where I come from you take responsibility for your actions; you do not blame mistakes on your staff or on someone else, and I believe that the ranking member of the task force, who released the minority task force report, ought to take responsibility for this total misinformation, and that I am owed an apology for the release of my name and the implications of that in the process of releasing that task force report.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California for the purposes of debate only.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

In examining now for the first time this resolution that was introduced, and I believe I have the original copy, because copies have not been made for other Members to look at, I noticed in the first "whereas" clause the gentleman from Massachusetts indicates that the report was not in fact the report of the task force.

Is the gentleman aware that there was an agreement on the part of the task force, all six members signing a cover letter, which covered both the Democrats' report and the Republicans' report? Since the task force was composed equally of Democrats and Republicans, there was no majority or minority report, and that the cover letter signed by all six members of the task force was agreed to and adopted by the committee unanimously, and that both reports went together.

To characterize one of the reports as, in fact, not the report of the task force, I believe, is factually incorrect.

I might also inform the gentleman from Massachusetts that in his third "whereas" when he indicates that the mistake was, in fact, assigning the current gentleman from Massachusetts to a post office box held by the former gentleman from Massachusetts, that information is also incorrect. There is no evidence to show that it was a Silvio Conte post office box.

□ 1330

There was an employee of Silvio Conte who held a post office box. It was in the name of that employee and not in Silvio Conte.

In the first resolved clause, the gentleman asks that a formal apology be signed by all members of the task force. As I indicated, a cover letter signed by all six members of the task force carried forward both of those reports, yet the gentleman denies that a cover letter in the first "Whereas" has the force the gentleman now desires in his first "Resolved."

In the second "Resolved" clause, the gentleman indicates that he wants a correction. I have to urge and explain to the gentleman from Massachusetts that we already formulated a change on the page in the Republican report, which is page 52. We offered it to counsel for the House administration, Mr. Howell. He said that perhaps it was too late to make that correction; yet after the committee voted, the Democrats added a relatively large appendix to their report which had not been seen at the time that we placed the cover letter on the reports.

We have attempted to change our document to reflect the correction. We have not been allowed to make that correction by the Democrat staff. We stand ready to make that correction, if the gentleman can convince the Democrat staff to accept the change.

In addition, the mistake was in there because we asked the post office to send us documents. The document that they sent under the signature of the acting postmaster described that employee as yours.

We early on urged the task force that when we had information about Members or staff, for those people to come before the task force so we could ascertain whether or not that information was correct.

Mr. Oldaker, chief counsel for the Democrats on the task force, said that was not an appropriate procedure. We were not able to interview or cross-examine those individuals. We would have loved to have been able to make sure that that information had been cross-checked. We were denied that opportunity. What we did is what we said we did. We took all the records that had been given to us and we placed them in the document.

There was an error by the post office. We have discovered that, as well as the gentleman has. We have made the change that corrects the error, but the staff of the House Administration Committee will not allow that change to be placed in the RECORD.

I would ask the gentleman if he would ask unanimous consent, we certainly can make that change right here and now, and I thank the gentleman for yielding to me.

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

Mr. OLVER. Certainly, I yield to the distinguished chairman of the committee.

Mr. ROSE. Mr. Speaker, the gentleman from California [Mr. THOMAS] makes it sound like I should apologize to him for this inaccuracy. Is that what the gentleman wants, I ask the gentleman from California [Mr. THOMAS]?

In your portion of our report, you put the names of Members of Congress without any evidence that they had committed any wrongdoing and you put the wrong name of this man in the report. You put his name in the report. It did not belong in the report, and you have the gall to sit here and tell this House that it is the responsibility of the post office to give you the accurate information. You make the daggone decision to put his name in the report and it was Silvio Conte's box.

You ought to have the decency to publicly apologize to him and to every Member of Congress whose name you put in this report and tell them you do not have one shred of evidence, one shred of evidence that they did anything wrong, except to have their names on documents that were located in the post office, and to gain political advantage you want their names spread upon the record.

That is a shabby way for us to conduct our business. The ghost of Silvio Conte is stalking the halls of Congress right now, ready to talk to his famous brothers in the Republican Party about this little slip-up on your part.

I think you ought to apologize, I say to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I appreciate the gentleman yielding to me.

Obviously, the performance by the chairman indicates the degree of which they feel the pressure in the way in which this task force carried out its activity.

If we had been able to work together to produce a single document, there would be a number of corrections in both the Democrats' version and the Republicans' version.

As I indicated before, in following up to correct the error we discovered that it was not Silvio Conte's box, as was indicated in the privileged resolution in front of us. So apparently there is an error on your side as well, because you have composed the resolution assuming that it was Silvio Conte.

Where in the world do you get off putting that kind of information in a privileged resolution when you have no evidence that that occurred?

Now, I could carry on histrionically exactly the way the gentleman from North Carolina [Mr. ROSE] has been

doing in trying to make a political point. But it is not helpful.

There was a factual error. The information supplied by the post office was wrong. We are making a correction.

I am more than willing to apologize to the gentleman from Massachusetts [Mr. OLVER] because we should have gone through and carried out an investigation in which those staff members and other members who were mentioned in documents were given an opportunity to testify.

Your staff refused to have that happen.

Yesterday on the floor we had two privilege resolutions up; one to provide the public with all the information, which was tabled. The second one after Members on your side of the aisle complained about leaks asked to send the question of the leaks to the Ethics Committee, to attempt to get to the bottom of the problem of people who make very good money and who signed an oath of confidentiality and who leaked. That motion was tabled as well.

Now, it seems to me that we can spend all afternoon attempting to make some kind of political hay. I am still waiting for the chairman or someone on the Democrat side to say that the corrected page could be placed in the document to correct the error and apologize to the gentleman from Massachusetts.

I would like to have the ability to correct the document.

We would also like the ability to add material to our report which the Democrats have added to theirs.

Now, if we can get on about our business, doing it in a professional way, then that is fine. Mistakes are made. Mistakes are corrected, but your side is not willing to make the correction.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. OLVER. Reclaiming my time, Mr. Speaker, the gentleman who has just spoken at an earlier point described the employee involved as one of mine. The simplest of investigations of the circumstances points out that the document from which that might be devised placed the dates before I was sworn into the Congress. The person involved is not nor ever was an employee of mine, and as a further answer to a whole series of points which he has made, I was not aware, I had no knowledge of the gentleman's suggestion that my name would be removed from this document that has been put out by the task force, which is of course my main interest in this. Having not been a Member at the time that these issues were raised, my interest is in making it perfectly clear that I who was sworn in on the 18th of June 1991, could not possibly have been in any way involved in the documents which the task force has released with dates in 1990.

So I am certainly interested in and accept the gentleman's apology for the

inclusion of the name, and from my interest making certain that my name is not included in any reports is of course my major interest and satisfies my needs in the matter.

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

Mr. OLVER. I am glad to yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, I thank the gentleman for yielding to me.

My chief counsel came to me just before we began this exercise and indicated that he had been given this sheet of paper from the minority with this correction in it. It, of course, is accepted. It is a part, it will be a part of the RECORD.

I want the RECORD to show how sensitive the gentleman from Massachusetts was not only that his name be cleared in this regard, but that nothing be said to disparage on the good name of the gentleman from Massachusetts, our former colleague, Silvio Conte. Not only was there no evidence that his employee or Mr. Conte did anything wrong to violate any rules of the House, there was certainly no evidence that the gentleman from Massachusetts [Mr. OLVER] did anything wrong, and the RECORD will so reflect.

□ 1340

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I appreciate the gentleman yielding to me.

Mr. Speaker, I do now thank the gentleman from Massachusetts [Mr. OLVER] for taking this privileged resolution because, frankly, we were unable to get that corrected page in prior to this, and so I thank the gentleman for assisting us in making the correction.

Mr. Speaker, the language on page 51 and page 52 said, "United States Post Office receipts and documents retained by the House post office, recorded post office boxes at * * *," and the information was transmitted forward.

Under the task force rules, we were denied even the ability to make a phone call to those mentioned to determine the accuracy of that information. That was the gag rule that we had to follow under the task force arrangement. And I would tell the gentleman from Massachusetts once again, and especially the gentleman from North Carolina [Mr. ROSE], no one on this side brought Silvio Conte's name up. It was brought up in the privileged resolution, and it was brought up by the gentleman from North Carolina. It was not brought up by this side, nor was it brought up in the report. So I do not know how Silvio Conte is now in the middle of the story. As he should not be.

I thank the gentleman for yielding to me.

Mr. OLVER. Reclaiming my time, Mr. Speaker, I point out the name of

my predecessor, who is revered by people on both sides of the aisle both here in Washington and back in my district, was not raised in the resolution whatsoever and that the name was raised by Members on the other side of the aisle, not on this side of the aisle.

But, Mr. Speaker, I hope that people will recognize that when you wake up in the morning and find your name brought into a list, in the major political paper of the area, and then in the Roll Call documents for today, where the name again is included in a list of persons being called to task by the task force report, the minority task force report, for whatever—we do not even really know, and at a time when I was not even a Member of the body, that my sensitivity perhaps is justified.

And I appreciate the apology on the part of the Member from California and appreciate the assurances that we will—that the page will be taken.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. OLIVER. I yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Speaker, if I am not mistaken, part of the privileged resolution was with reference to the fact that the titling of the task force report submitted by the Republican minority did not indicate that it was, in fact, a Republican minority task force report. And I would assume that Mr. THOMAS from California, who has always conducted himself in this House with some dignity, would want to correct that, because I have, unfortunately, somewhat of a similar story to that of Mr. OLVER, although for Mr. OLVER's sake, certainly not being here during the period of time over which the report was doing its investigation, makes it patently clear on its face that he could not have even been involved.

But on page 64 of the Republican minority task force report, item 10 indicates that express mail P300 account was used by some Members, staff, and officers of the House, and it ties it into nonofficial purposes with which—for which it was used by Postmaster Rota.

On page 65, my name is listed as having appeared 11 times as using the P300 account during the period of 1989 to 1990.

I had absolutely no knowledge of this, nor did I at any time receive a call or receive a communication from any member of the Republican task force.

Now, my understanding is that the only gag rule that was operating—and Mr. THOMAS may correct me if I am wrong—was on the staff of the task force, not on the members.

But, in any event, I received no call of any kind. I had no knowledge of any use of an account that was in the postmaster's office. My understanding is,

as well, that up until 1991 we did not have separate accounts for mail; everything was charged to the Postmaster's account.

Now, when I asked my staff about this, I was told that back in 1988-89 we were having problems with our orange bag deliveries to our district office. For those of you that were not here before 1991, the orange bag was used to transmit supplies, documents, et cetera, from here in Washington to your district office or offices.

Well, we were having orange bags sent out from here but not delivered. They did not show up. They were either lost, stolen, or misplaced.

When we asked for a trace on some of them, we were finally told that two of them were found in the Fort Lauderdale main post office, ripped open and pilfered of their contents.

My administrative assistant at that time went to Mr. Rota and said, "What can we do about this?" And I have been told subsequently that other Members had problems with their orange bag deliveries. He said, "Anything that you feel is valuable, just bring it to me and to my attention, and I will secure it," which is apparently what they did, according to the task force, minority task force report, 11 times.

Now, my staff never got a receipt, never got anything. They just brought it in and Mr. Rota apparently took care of it.

I will say that I, like a lot of Members, although we are responsible for what goes on in our office, do not ever look at the way in which we mail mail or other items between our Washington office and our local district office. I never got involved in that process.

The receipts which I have subsequently secured from the majority, which apparently are the ones that are being referenced here by the minority, all show that the account was used to send goods from my office here to my district office. And my staff has confirmed that year-end supplies and other items were mailed on that basis.

Now, I understand that my name appears and there are receipts. My office never got those receipts. Mr. Rota took the goods in, assured us they would be sent so they would be safe. We never asked him how he was going to do that. We were never told there was any charge for that. We did not know what he was doing or which account he was using.

We assumed it was being done in the normal course of business like any other Member would have assumed: that if you gave it to the postmaster and it was normal mail or any kind of normal supplies being delivered between this office in Washington and your district office.

Now, my name appears, and all I would like, if Mr. THOMAS is willing to engage in a short colloquy, is just to ask if the appearance of my name here

indicates anything improper or inappropriate. I have no idea what it is that I am claimed to have done, even though my name appears in the task force report.

I again say I would like to have been asked or just given a chance to, because when I say my name, I did not even know what this referred to and I had to talk to my staff.

So I would like an explanation if the gentleman from Massachusetts [Mr. OLVER] would yield to the gentleman from California [Mr. THOMAS] just to find out what it is, the purpose of putting my name in this report was for; that is all.

Mr. OLVER. Mr. Speaker, reclaiming my time, in regard to this resolution I have now had the apology from the gentleman from California, which I appreciate very much. I have also had assurance that the page that is part of the report that brings my name incorrectly into this issue and into the report will be issued by them and accepted.

And on that basis, that I think serves the purpose that I rose this morning for, to get my name out of an issue in which I had no possibility ever of having been a part.

Mr. ROSE. Mr. Speaker, before the gentleman makes that motion, would he yield briefly to me?

Mr. OLVER. I yield for a moment of debate to the gentleman from North Carolina.

Mr. ROSE. I thank the gentleman for yielding.

I would just like to give the gentleman from California [Mr. THOMAS] an opportunity—

Mr. THOMAS of California. I am going to seek unanimous consent.

If the gentleman from Massachusetts [Mr. OLVER] is satisfied with his resolution, we can close that matter, and I will ask unanimous consent to address the House.

Mr. OLVER. Mr. Speaker, I withdraw my resolution.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. OLVER] withdraws his resolution.

DISCUSSION RELATIVE TO INVESTIGATION OF OPERATION AND MANAGEMENT OF THE HOUSE POST OFFICE

Mr. THOMAS of California. Mr. Speaker, I ask unanimous consent that I be permitted to address the House on the subject of the investigation of the House post office.

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

There was no objection.

□ 1350

Mr. THOMAS of California. Mr. Speaker, I certainly would be more than willing to respond to my friend,

the gentleman from Florida [Mr. SMITH], and he needs to understand that on page 64 of the report there is a discussion of the P300 account. The P300 account is not the orange bag account. The P300 account is the U.S. Post Office express mail, and I am sure the gentleman mailed year-end supplies by orange bag mail to his district because there had been damage to other orange bag or prioritized mail.

But the gentleman's name appears on page 65 by virtue of the receipts that the U.S. Post Office and the postmaster retained as receipts for express mail, and it is addressed to Hon. LARRY SMITH, 4000 Hollywood Boulevard, No. 360, North Hollywood, FL, attention: Perle. The express mail has to be signed for when it is received, and so for each of these instances there was someone who signed a receipt to accept express mail.

Express mail is normally required to be paid for out of a Member's account. It is not orange bag mail, and I would tell the gentleman that had the staff been able to make a phone call, we would have clarified it.

And the gentleman is correct. The phone call ban applied only to staff. Members could have made phone calls. In fact Members did make phone calls. And perhaps the gentleman did not receive a phone call because he was a Member of the Democratic Party.

Democrats on the task force, Members on the task force, called Republican Members in an attempt to intimidate Members of the task force into changing our document, but apparently the Democrat Members were not called because it did not provide the political opportunity of intimidation.

I would tell the gentleman that his name is on page 65 because of the express mail signed-for receipts, which was the P300 account, in 11 instances from the records of the postmaster.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman from California [Mr. THOMAS] for yielding to me.

I understand perfectly that it was not the orange bag account. As I indicated, my staff, my administrative assistant at the time, went to Mr. Rota and said, "We're having problems with pilferage and loss. What can we do?"

He said, "When you have anything important, bring it to me."

As I indicated, Mr. Rota never gave or asked for a receipt here on this end, and I say to the gentleman, "Of course you're correct. It was signed for at the other end, and you correctly indicated that they were all sent to my district office, and they were all signed for by Perle, who happens to be Perle Siegel, my district office manager." So, all of these were normal commerce in the course of conducting our offices between here and my district office.

Had I ever been asked, I might tell the gentleman now, had I ever been asked to voucher it or pay for it out of my normal expense, I would have. I think the whole thing, although the photostats, if the gentleman would just allow me to finish, the photostats do not allow for perfect reading of all the dollar amounts. It amounts to about \$300 over the 2-year period of 1989 and 1990. I had surplus funds every one of those years. I turned back funds far in excess of that in my office account and would have been perfectly willing, had anybody from the post office said, "You should pay for it." Nobody ever did. Mr. Rota never asked us for it. We never asked him for any favors. All we did was bring these goods to him. He never told us how he was sending them out.

I understand this may not have been the orange bag account, but, as far as we are concerned, my office was not doing anything that Mr. Rota did not think was appropriate.

Mr. THOMAS of California. Reclaiming my time, perhaps the gentleman from Florida [Mr. SMITH] should find forgiveness from the gentleman from North Carolina who stood in the well and made the point quite eloquently that the Members were responsible, that their staff was not responsible, that the post office was not responsible, that the Member was responsible, and this Member accepted that, apologized to the gentleman from Massachusetts and attempted to substitute the page. But it was only when the gentleman from Massachusetts came and asked that the change be made that we were able to get that change in the document. We had been told we were not going to be able to make that change, it was too late, and I would tell the gentleman from Florida that the P300 account, which covered the cost of express mail, was not available to all Members, and if the postmaster went ahead and did something that the gentleman from Florida was not aware of, perhaps he would seek the gentleman from North Carolina's forgiveness because the gentleman from North Carolina pointed to the gentleman from California and said it was the Members' responsibility.

So I can only repeat what the gentleman from North Carolina said it wasn't the postmaster's fault that he mailed it for you. It wasn't your staff's fault that they signed it and you didn't know it.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Florida.

Mr. SMITH of Florida. As a Member, of course I am responsible for what goes on in my office, which is why I indicated that, had I been requested to voucher or in any other such fashion pay for this express mail privilege which I did not know my office was

getting from the Postmaster, I would have done so, and the use by the Postmaster for me of this particular account was unknown to me, or anyone in my office, at the time. So, on that basis it was inappropriate, and I certainly am sorry for that. However it was done without the knowledge of any of my staff or me.

Now one other thing: The gentleman indicated that he was unable to call me because for some reason the Democrats were calling Republicans but did not call Democrats. I say to the gentleman, "The problem there, Mr. THOMAS, is that this is the minority report. My name does not appear in the task force report. It only appears in your report, and the majority did not know that my name was going to be in that report. Therefore, they could not have called me."

Mr. THOMAS of California. Reclaiming my time, Mr. Speaker, that statement is simply not factual.

Mr. SMITH of Florida. Oh.

Mr. THOMAS of California. Let me tell the gentleman why.

We provided a draft copy of our report 10 days before the final report, and the names were in it. The majority did not provide us a copy of their report until the day we voted on it. That material was available to the Democratic staff, and they could have persued it.

I, finally, will tell the gentleman that there is no pejorative attached to the P300 statement, that in fact the Postmaster was denied the use of it in 1991, and once again we were simply including the records for people to understand. A decision about that behavior is to be made by other bodies, not by the task force.

PRIVILEGES OF THE HOUSE—RESOLUTION DIRECTING COMMITTEE ON HOUSE ADMINISTRATION TO MAKE PUBLIC TRANSCRIPTS OF TASK FORCE INVESTIGATION OF HOUSE POST OFFICE

Mr. WALKER. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 526) involving a question of the privileges of the House and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. GEPHARDT). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 526

Mr. WALKER of Pennsylvania offers the following resolution:

Whereas on July 22, 1992, the House of Representatives voted to transmit to the Committee on Standards of Official Conduct the Committee Report and all records obtained by the Task Force to Investigate the Operation and Management of the House Post Office;

Whereas the Majority has selectively included portions of the transcript of the proceedings of the Task Force in the Appendix to their Report; and

Whereas matters have been raised which impugn the integrity of the proceedings of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on House Administration is directed to make public complete transcripts of all proceedings of the Task Force, including depositions and statements of witnesses.

The SPEAKER pro tempore. The resolution constitutes a question of the privileges of the House.

The gentleman from Pennsylvania [Mr. WALKER] is recognized for 1 hour.

Mr. WALKER. Mr. Speaker, this is a resolution much the same as the resolution that was turned down yesterday by the House, but there is some additional information that has come forward since the House made that decision which I think makes it appropriate to bring it back, to have the issue revisited.

This is an attempt to make certain that there can be no allegation that the House of Representatives is covering up its investigation of the matters relating to the post office. In virtually every committee of the House of Representatives, when we hold hearings and when we do our business, those hearings, those depositions, those statements of witnesses, are made public. My Committee on Science, Space, and Technology does that. Virtually every other committee of the House does that.

Part of the understanding amongst the Members when we engaged in this task force proceeding, a bipartisan proceeding, was that we were going to have public proceedings. In fact, it was the impression of most of us, based upon what was said on the floor that day, that there would actually be public hearings held on these matters. As it turned out, there were no public hearings. This was all done behind closed doors. That is the way the task force decided to proceed.

This Member has no oar in that water. However it does seem to me that, given those particular understandings, that it does make sense that all proceedings of that task force now be made available, and I think we have just seen an example of why we ought to have those proceedings available. It would be helpful to have an understanding in complete context of what went on. It would be helpful to understand why these documents are brought forward. It would be very helpful to have all of the testimony, not just selected questions, raised.

The fact is that the majority report used selective information that was given to the task force. The fact is the minority report, the Democrat and Republican reports, both selectively used the information.

□ 1400

All this Member is suggesting is to put that in context it would be good to have all of the information available to

the Members, available to the public, and available to the press, so that they can discern where the real truth lies. It is very difficult to get to the truth when you are dealing with only partial pieces of information.

Now, the new information that I have, that is different from yesterday, which is disturbing to at least some of us, is the fact that when the appendix to yesterday's report was released, it now turns out that some of the transcript material is being released. However, it is selectively edited material that appears in the appendix. It was selectively edited by the majority to help make their point, I guess.

For example, I have here in exhibit 2 and exhibit 3 from the appendix of the majority report an interview with Mr. Kerrigan, the Chief of Police of the Capitol Police.

It turns out that it was not the whole transcript of what Mr. Kerrigan said, it is only selective portions of the transcript that happened to fit what the majority put in their report. The fact is that Mr. Kerrigan said some very disturbing things when he was testifying, and some of those disturbing things are not included in the presentation that was made in the appendix to the report.

For example, it is my understanding that Mr. Kerrigan indicated at one point that he had a threat posed on him that the retirement benefits and the pay raises of his police might be opposed by the leadership if they did not knuckle under and get off the post office investigation.

Now, if that is in fact the case, when we are using Chief Kerrigan's testimony as a part of the report maybe it would be good to have that in. Of course, that does not make it.

That kind of information does damage to one of the points being made by the majority, and so, therefore, it does not make it into the appendix.

We ought to have at the very least all of Chief Kerrigan's testimony, not just selectively edited portions of it. We ought to have all of it. But we do not even have that.

Now, I do not want to get into an argument. I do not know which portions we ought to pull out, whether or not it is his testimony only. I do not know whether that is the only thing that ought to appear in the report.

I simply suggest that all of the materials ought to be released, that all of this information can be made public. There is no reason why this committee or this task force, like all other committees of the Congress, cannot put before the public what the people said that appeared before the committee and what the committee said in return. Those interviews, all of those statements, can easily be made public, and let the public sift out where the truth is based upon either the Republicans' presentation of it or the Democrats'

presentation of it. It would be helpful to this Member to be able to discern it that way.

Yesterday, when we had a vote on this matter the vote was 207 to 200, with every Republican voting to make completely public the information and a number of Democrats joining us. I think there were almost 50 Democrats who joined us in saying it should be made public.

I think it would be a good idea maybe since we are selectively using some information, that now all the information be made public. That is what my resolution does.

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

Mr. WALKER. I will be happy to yield to the gentleman from Michigan [Mr. HENRY], and then I want to yield to the gentleman from North Carolina [Mr. ROSE].

Mr. HENRY. Mr. Speaker, I want to thank the gentleman from Pennsylvania [Mr. WALKER] for renewing a similar motion in some ways, although substantially changed, from the one we had before us yesterday.

Obviously, we have a situation in which there is a given body of data. Questions have now been raised because the Democrats in their report have chosen to interpret that data one way and the Republicans in their report have chosen to interpret the data in another.

Why not then simply have the courage to let the data be out there, to let the public be the judge, and to scrutinize and let the truth out?

That is the issue. What do we have to fear by letting the public then make that choice? Let them have access to the data. Let them read the Democrat report, let them read the Republican report, and let them make their choice.

We also have an additional reason for doing that. That was just revealed in the previous debate we had on the privileged resolution.

I feel genuinely sorry for the situation in which our colleague, the gentleman from Pennsylvania, was placed. But it became very apparent that the reason for that was because an attempt to correct that report was not allowed to the Republicans.

It becomes very clear that when the gentleman from California [Mr. THOMAS] and others asked to make that correction, they were not allowed to make the correction.

Further, we now find out that when the Democrats released their report, they changed the ground rules for themselves and gave selective information, pulled in such a way as to add substance to their interpretation of the total data without providing the total data. Now we have two interpretations of a common body of data.

This is a question where the integrity of this House is at risk, the integrity of each and every Member; the in-

tegrity not only of the Members whose names have arisen in conjunction with the report, but the integrity of each and every one of us in this body. Every one of us now has to go home and try to apologize for not simply letting the data out so the truth will out.

So I rise in strong support of the motion of the gentleman from Pennsylvania [Mr. WALKER]. I commend the gentleman. He is right. Anyone who opposes this motion is by implication really taking a stand which effectively says to the American people, no, we do not want you to judge which interpretation is the correct interpretation of this data. We will do it by some kind of raw political vote in which each party seeks to cover its own tail.

Mr. Speaker, that is the wrong way to approach it. The gentleman from Pennsylvania [Mr. WALKER] is absolutely correct. Let the data out. Then we can let the truth out.

Mr. ROSE. Mr. Speaker, will the gentleman from Pennsylvania [Mr. WALKER] yield us the customary 30 minutes?

Mr. WALKER. Mr. Speaker, we just had a motion before this, and the pattern was that the gentleman from Massachusetts [Mr. OLVER], who had the resolution on the floor, yielded the time. I am perfectly willing to yield time to allow Members on that side to speak, but we ought to use the same process that was used for the majority Member.

Mr. ROSE. Mr. Speaker, I did not have anything to do with the resolution of the gentleman from Massachusetts [Mr. OLVER]. Yesterday when I had a resolution, I yielded 30 minutes to the other side.

Mr. WALKER. Mr. Speaker, I will be happy to yield 30 minutes. I want this to be fair. I would hope then, having been fair, that what the gentleman will do is allow the resolution itself to come to a vote and will not move to table it.

Mr. ROSE. Mr. Speaker, I am not going to move to table it.

Mr. THOMAS of California. Mr. Speaker, are we talking about dividing the remaining time?

Mr. WALKER. I have used some of our time. I would be happy to yield the gentleman 30 minutes.

Mr. Speaker, could the Chair inform us how much time each side has remaining?

The SPEAKER pro tempore (Mr. DERRICK). The Chair would advise Members that the gentleman from Pennsylvania [Mr. WALKER] has 20 minutes remaining and the gentleman from North Carolina [Mr. ROSE] has 30 minutes remaining.

Mr. ROSE. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, before we vote on this I think it might be useful if we climb down off this very high horse on which we have mounted our-

selves and look at some very simple information with regard to the people, particularly the staff, at issue.

The material that this resolution would make public, all of it, is available to the Justice Department. All of it is available to the Committee on Standards of Official Conduct. So the idea that there is any coverup is ludicrous on its face.

Why then would we not want to make it public? Let me give a few reasons.

First of all, the material is raw. It is wholly unprocessed. Much of it is unsworn. Questions were asked such as, "Have you ever heard rumors about," and witnesses responded to questions like that.

Why were questions like that asked? Because there was never any belief that a resolution such as this, which I personally consider extraordinarily irresponsible, would be offered on the floor of the House, and because we had promised most of these witnesses confidentiality. A reason that this should not pass is that only some of the witnesses have even seen a transcript, and none have had an opportunity to make any corrections in the transcript.

Some, in fact, except for about the last 30 witnesses or so, there was no stenographer present. A little tape machine, I do not know whether somebody brought it from home or requisitioned it or what, was laid on the table.

Those have been transcribed. The firm that transcribed them called them unreliable because people's voices trailed off, and because, unlike with a normal stenographer, who was speaking was not identified in each instance and it was not readily identifiable from the voice. Other noises in the room covered up portions of the transcript.

□ 1410

So the people, the professionals who transcribed it, said the transcripts are unreliable.

All of this provided information which we, the members of the task force and our staffs who were present, could utilize effectively. But it was never produced in a form which would give to the public in general or to people who were not there the kind of specific kinds of information implied by this resolution. When you figure that we had talked to these people and we had said, "This will be kept confidential," and if this resolution passes, we will not be able to keep our word, ask yourself the question, what kind of a chill that will place any time in the future we would like to ask staff of this institution to cooperate in an investigation so that we can get to the bottom of things. If you were one of those staffers and you were, sometime in the future, offered confidentiality, "if you would only tell us what you know," what would you do?

I repeat again, everything we know, all of our records, all of the transcripts

are sent to the two agencies, the House Committee on Standards of Official Conduct in terms of any violation of the House rules and to the Justice Department in terms of any violation of law. They can take this raw material, recognize it for what it is and probably not rely on it but use it for followup, if they saw anything there that would indicate need for any further information.

But this resolution, which appears to simply be doing what committees do regularly around the House, we have hearings and transcripts are made, this is not the same situation at all. This was not a committee holding a public hearing of which a stenographer was present and a transcript was made and the results, after being corrected and reviewed by the participants, were made public. This is a wholly different situation in which we gave to these people the promise of confidentiality so that we could get information in a much more informal way than the resolution would be made to appear. So that we could make judgments. Those judgments have been made. Those reports, both the Democratic report and the Republican report, have been made. And the material is available to other responsible agencies, I use the term in its legal sense, who may have need for it.

But to do what this resolution purports to do and purports to be innocent, an innocent effort to simply get information to the public, in fact, and I am going to repeat, provides raw, unprocessed information, much of it unsworn, almost all of it given under a promise of confidentiality, information which has gone to other responsible agencies, information which was not technically or accurately transcribed in the first place; this is not information that should go public.

Why? Because there are many of us here in this body that are likely to suffer from it. I frankly think that that is not the case, but there are reputations of staff of this House who cooperated in good faith that we need to consider. There is word given by the members of the task force to the participants that needs to be considered.

The chairman says he is not going to ask to table the motion, but I really hope, as my colleagues come to vote on this issue, they will not be driven by the idea that somebody may, back home, accuse them of coverup. When we have given it all to the Justice Department, there cannot be a coverup.

But do keep in mind that the reputation of the House in terms of the word of one of its constituted committees to the people it talked to, that if "you will just share with us informally what you can tell us about this issue, it will be confidential," will be broken. And in that sense, the honor of the House is truly at issue on this vote.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, is the gentleman aware that in his report there are selected pages from a witness interview with former Chief Kerrigan?

Mr. SWIFT. Mr. Speaker, yes, I am.

Mr. THOMAS of California. Mr. Speaker, if the gentleman will continue to yield, is that raw, unprocessed testimony?

Mr. SWIFT. Mr. Speaker, the question is, do we not have a portion of the transcript in a report. Yes, it is a small section dealing with Kerrigan. It is essentially the same material the gentleman has in a footnote in his report.

Mr. THOMAS of California. But it is 6 pages out of 40 pages of testimony, confidential testimony under oath. How does this portion that the gentleman included in his report differ from the description that he just placed over all of the material that should not be released?

Mr. SWIFT. Mr. Speaker, Mr. Kerrigan has had an opportunity to review and correct his transcript.

Mr. THOMAS of California. And he agreed that the gentleman should only put 6 pages of the 40 in which made the gentleman's point?

Mr. SWIFT. Mr. Speaker, I misstated myself. Mr. Kerrigan did not have an opportunity to review or correct.

Each side, the gentleman's side and our side, had an opportunity to review that transcript.

Mr. THOMAS of California. Mr. Speaker, that was not the point. The gentleman from Washington needs to listen.

He went on at some length about the data being unprocessed.

Mr. SWIFT. Mr. Speaker, that is correct.

Mr. THOMAS of California. He went on at some length about the confidentiality of the materials and that they ought not to be released.

Mr. SWIFT. Mr. Speaker, that is correct.

Mr. THOMAS of California. Yet in his own document, the Democrats have selectively edited out portions of an extensive interview to, I assume, reinforce a point that they are trying to make. How does this process differ or how does it violate the gentleman's concern about unprocessed material or confidentiality?

Mr. SWIFT. Mr. Speaker, does the gentleman suggest that the provisions of the transcript, the portions of the transcript that are in our report, similar to portions that are reported in the footnote of his report, are inaccurate? Or as the gentleman suggested, they were selective. Do they in any way distort the meaning?

Mr. THOMAS of California. Mr. Speaker, I would tell the gentleman from Washington, at no time did I hear in his long statement about the need

not to release unprocessed or confidential material the question of inaccuracy. I am not talking about inaccuracy. I am talking about selective release of confidential information.

In addition to that, the gentleman has twice said that it is the same as the footnote in our document. Most people know that six pages of transcript do not equal a footnote.

Mr. SWIFT. Mr. Speaker, if the gentleman will check, it is a very long footnote.

Mr. THOMAS of California. Mr. Speaker, if the gentleman will continue to yield, there is selective material which corresponds to the Capitol Police report by a counsel on the Democrat side which the Department of Justice said were highly sensitive. They urged that they not be released and, coincidentally, that material, combined with this, pushes a point of view which may or may not have been substantiated if Chief Kerrigan's entire testimony had been placed in the gentleman's report.

So we get 6 of the 40 pages to make a point. That is exactly the point that the gentleman from Michigan made. Do not make decisions for people. We did not include any of the transcripts. If we are going to include any of the transcripts, we should include all of the transcripts.

Mr. SWIFT. Mr. Speaker, reclaiming my time, let me make my point again.

The point here is that all of the material we have gathered, all of it, this enormous body of transcripts are not transcripts as we normally think of them. The fact that there is some in the gentleman's report, the fact that there is some in our report does not in any way, in my judgment, change the fact that we are dealing, when we take this entire load and dump it on the street, does not in any way change the fact that it is unprocessed. It is raw. It is unsworn in many respects. There are, sometimes due to the nature of the fact that we did not anticipate that this was going to be made public in this fashion, there are leading questions to which witnesses were asked to respond. It does not deal with the fact that witnesses were promised that there would be confidentiality.

□ 1420

It does not deal with the fact that all of this information, all of this information, all of this information is made available to the U.S. Department of Justice and to the Committee on Standards of Official Conduct of the U.S. House of Representatives. I suggest that we are up on a rather high horse. I would suggest it is time to climb down from it. What we need is for this material to be examined by those agencies which have responsibility to deem if any wrongdoing was done. What we do not need is to simply make it available to a bunch of busy-bodies.

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

The SPEAKER pro tempore (Mr. DERRICK). The gentleman from Washington [Mr. SWIFT] has 17 minutes remaining.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, here are the six pages of the excerpted interview with former Chief Kerrigan. At no time was Chief Kerrigan informed that there was to be an agreement of confidentiality. Here are the more than 50 pages of the actual interview.

Mr. Speaker, at this time I ask unanimous consent that the entire interview of Frank Kerrigan be entered in the RECORD.

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

Mr. KLECZKA. I am sorry, Mr. Speaker, to what?

The SPEAKER pro tempore. Would the gentleman from California [Mr. THOMAS] please restate his request.

Mr. THOMAS of California. My request was that since six pages of the testimony of Chief Kerrigan have already been placed in the RECORD, and that Chief Kerrigan was at no time promised confidentiality in the interview, and the interview is more than 50 pages, I ask unanimous consent to place the interview of Frank Kerrigan in the RECORD.

Mr. KLECZKA. Mr. Speaker, I object.

Mr. SWIFT. Reserving the right to object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. THOMAS of California. Mr. Speaker, I think I might say now, we rest our case at this point, Judge.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. THOMAS] has expired.

Mr. SWIFT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to raise the issue again that the gentleman from Pennsylvania talked about earlier. I am puzzled over the procedures here. I heard an explanation of why my colleague, the gentleman from Massachusetts, had not been called before his name was erroneously put in the erroneously named minority task force report. The gentleman from Florida [Mr. SMITH] also asked.

I understood the explanation to be from the gentleman from California [Mr. THOMAS] that he and people on his side were not able to call the gentleman from Massachusetts to ascertain the truth of that report because Democratic Members had been calling Republican Members. I confess that I

was never able to keep up with Abbott and Costello with "Who's on first," and I will have to add that explanation to those which baffle me.

I do think we have a rather serious problem here. A gentleman, a Member of this House, shall find his name put in a report, wholly erroneously. Errors happen, but they happen even more when there is no effort to prevent them. I still am curious as to how that happened without his having been asked for an explanation.

I also think the gentleman from Florida, who gave a wholly plausible explanation showing that nothing had been done wrong, again the answer was, "We could not call because Democrats were calling Republicans."

I would very much like to know why Members on the minority side who prepared that task force report did not call or make any effort to ascertain the facts before putting them into the report.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I am glad to yield if anyone can explain that to me. I yield to the gentleman from California.

Mr. THOMAS of California. I thank the gentleman for yielding, Mr. Speaker, the task force entered into an agreement of operation which required all staff members to sign a statement of confidentiality. Members were not asked to sign a statement of confidentiality. When the staff attempted to seek to interview staff of Members who were named, they were told that that was not a course that they wanted to go down, so the staff members were not able to carry out the interviews.

Mr. FRANK of Massachusetts. I would ask the gentleman, told by whom?

Mr. THOMAS of California. If the gentleman will continue to yield, the Democratic counsel. If the gentleman wants names, we will give him names.

Mr. FRANK of Massachusetts. Yes.

Mr. THOMAS of California. If the gentleman will yield further, as far as the Members are concerned, the gentleman from Massachusetts [Mr. FRANK] needs to know that the point I made about the chairman of the committee calling Republican Members was not to seek information but to get them upset and disturbed so they would call us in an attempt to intimidate us into modifying the draft.

Mr. FRANK of Massachusetts. Mr. Speaker, I want to take back my time. That is not the question I asked. I apologize if I gave the gentleman that impression.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] has the time and has reclaimed his time.

Mr. FRANK of Massachusetts. Mr. Speaker, I must say, I would not have thought that the gentleman from

North Carolina would have to do anything to get Members on the other side upset. They seem to me to get upset quite spontaneously fairly frequently.

The point I was asking was why Members on the Republican side did not call the Members they were about to name. I still have not heard an explanation. I heard an explanation that the staff could not call staff, and that the chairman was calling other Members, but I do not understand why, if they were about to name someone in what was clearly going to be a somewhat negative context, there were not 100 people there, why would not Members have called the Members to say, "Is there some explanation?"

Frankly, that seems to me to show a lack of seriousness, and it resulted in some fairly irresponsible misnaming. Why did people not call?

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, perhaps the gentleman from Massachusetts [Mr. FRANK] did not hear me or he has not read the report in which we indicate that the information that is presented is from the U.S. Post Office or Postmaster records. Were we to call the gentleman from Florida, as he seemed so upset about—

Mr. FRANK of Massachusetts. Mr. Speaker, and I would add, the gentleman from Massachusetts, too.

Mr. THOMAS of California. If the gentleman will yield, no, the gentleman from Florida.

Mr. FRANK of Massachusetts. I would say to the gentleman, it is both.

Mr. THOMAS of California. Mr. Speaker, I would say that the gentleman from Florida, by his own admission on the floor a few minutes ago, knew nothing about anything, so he had no knowledge whatsoever, when we had receipts with his name on them. There is no dispute that the receipts that are in the record were sent to his office. The problem is he did not know.

Mr. FRANK of Massachusetts. Mr. Speaker, I will take back my time. The gentleman is simply not answering the question. I asked the gentleman why people were not called. He is simply reiterating the accusation that the gentleman did not know when he was first called. Had he been called, he would have gotten the information and given the explanation.

It is interesting, the gentleman from California [Mr. THOMAS] wants to avoid the question of the gentleman from Massachusetts. The fact is, if people's names are put in the report when they could have been called to get an explanation, they didn't do that, and in one case they would have left the name out altogether, and in another case they might have had an explanation. I think it shows a rush to judgment that is

rather peculiar for people who claim to simply be interested.

I still have not heard why, for instance, the gentleman from Massachusetts was not called by a Member and asked for an explanation.

Mr. THOMAS of California. Will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California. I have not heard an answer.

Mr. THOMAS of California. Mr. Speaker, I would ask, what would have been the answer from the gentleman from Florida. He has stated he did not know.

Mr. FRANK of Massachusetts. I asked about the gentleman from Massachusetts. What about the gentleman from Massachusetts? Why was he not called?

Mr. THOMAS of California. Mr. Speaker, if the gentleman will continue to yield, perhaps the gentleman was not here when we said that what we published was information that was given to us by the Postmaster. We did not know it was inaccurate.

Mr. FRANK of Massachusetts. Mr. Speaker, taking back my time, I would say to the gentleman that I was here. The gentleman is refusing to answer.

Mr. THOMAS of California. I am not refusing, the gentleman will not let me.

Mr. FRANK of Massachusetts. The question was why the Members did not call him. I still do not have the answer, because we just see the irresponsibility here.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank my friend, the gentleman from Pennsylvania, for yielding time to me.

Mr. Speaker, I do not care why people did not call certain people. I would certainly hate to see, in the case of the gentleman from Massachusetts [Mr. OLVER] and the gentleman from Florida [Mr. SMITH], things like that to happen. I think we all ask that we get a fair hearing and that all the records come out.

I think when the gentleman refused to submit the 50 pages that Chief Kerrigan testified to before, shows the exact intent of the other side. It is a coverup, and when the gentleman from Washington [Mr. SWIFT] from the other side said, "How can there be a coverup when all information is sent to the Justice Department," the gentleman has already stated that the information is inept because it is on a little tape recorder. I want to guarantee that I ran a lot of investigations as the head of a fighter squadron. Every time I had an investigation, I had someone there to report. If a process is set up where everything that is heard cannot be documented, that is inept in itself. It is a poor way to conduct an investigation.

Allegedly there was testimony by one of the employees that there was crimi-

nal wrongdoing. Two of the others in another hearing took the fifth amendment. There is something wrong and a coverup to where we need to get it out in the open.

This Member, just like in the House bank case, where there was an attempted coverup to try and prevent it from coming out, then it was finally exposed. That is all we are asking, is let us bring forth the correct records, like the 50 pages, like the rest of it, that we have coming, because I guarantee the gentleman that like in the post office, where the Gang of Seven was active, in the 103d Congress Members are going to see between 130 and 150 new Members who are going to make things like this happen.

□ 1430

We are tired of the coverup, of the majority abusing its privilege of numbers to override everything that we try and do that makes it correct. And this Member would like to see a correction, and would like to have a public hearing on it.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman from North Carolina [Mr. ROSE] has 12 minutes remaining.

Mr. ROSE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, it is very important I think to keep repeating, over and over again so it is not misunderstood, that every single thing we have is available to the Justice Department, every single thing we have will be transmitted to the House Ethics Committee. There is no way anybody in his right mind would do that and intend to cover up.

What there is in our mind is an attempt to be sure that we do not take raw material and dump it on the street. That is all, for all of the reasons that I listed before, which I am not going to list again, but it really involves protecting not Members of Congress but those employees that came forward, and under a promise of confidentiality shared with us information, much of it unsworn, much of it not pertaining to rules of evidence or any of those legalistic protections that are built into, for example, a grand jury system. We owe it to them, because those are the ground rules on which we came.

But everything, everything we have will be made available to those responsible agencies in charge of assuring that no rules of the House and no laws of the Nation have been broken. That is in no way a coverup.

Mr. WALKER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] has 17 minutes remaining.

Mr. WALKER. Mr. Speaker, I yield myself 3 minutes just to make a couple of statements here.

The gentleman from Washington [Mr. SWIFT] accused the resolution of being irresponsible a few minutes ago, and now has proceeded to talk about how they selectively took some of that unedited material and put their own spin on it, and put it in their report.

All we are suggesting is if it is responsible to take limited amounts of that material that he wants to guard so jealously and put it on the street, then it is just as responsible to take all of the material and put it on the street so that everybody can know what the truth is. So I really fail to understand the gentleman's point.

Second, I would point out that Congress does not cover itself under the Freedom of Information Act. That is very interesting, because if agencies are doing this kind of work, there are Members of Congress and committees here who go in and get raw data out of agencies based upon the Freedom of Information Act so that it can be used for political purposes on Capitol Hill. Congress chooses not to be covered under the Freedom of Information Act because we do not want that to happen to us. But in this particular case where we have a matter which is of vital concern to the public about whether or not there is corruption in the House or not, and where we thought that there were going to be public hearings, and it seems to me the gentleman from Washington has made a case for public hearings, but where we thought there were going to be public hearings, at the very least we think the information ought to be available and that is what we are asking to be done.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. THOMAS of California. Once again the gentleman from Washington has implored that we ought not to dump these data on everybody, that the information is being given to the Department of Justice. Ironically, some of the information that is being given to the Department of Justice is the Department of Justice's own information. Selectively drawn materials from reports of sensitive investigations of the Department of Justice have been placed in the Democrats' report. Selectively placed, alongside selectively edited interviews, to produce a slanted version that the public will read, because the Democrats' document is public.

The truth, all of the information is to be kept behind closed doors, sent to the Department of Justice when the Department of Justice did not want this material made public in the first place.

Mr. WALKER. I thank the gentleman for his point. I want to make one other point, and that is the gentleman from Washington has expressed concern about hearsay and rumors, and all of

these kinds of things that may be contained in this information. I remember when people like Anita Hill were brought to Capitol Hill to testify, that they were asked about hearsay, and rumors, and all of those kinds of things out in public.

Now, if it is fair to bring people onto Capitol Hill and subject them to that kind of scrutiny out in public, then why cannot the information that was done behind, and given behind, closed doors also be given to the public? It is a double standard that we run in the Congress when what we suggest is that what we do should not be public and what someone else does should be public.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Chairman, I would like to question the gentleman from Pennsylvania. He made comments that one of the concerns from the gentleman from Washington was that some of the transcripts were illegible or inaudible or there were problems, and that we are dumping raw data. In the gentleman's resolution, does it require immediate disclosure of all of this information so there is not an opportunity to edit any of it?

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

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

Mr. WALKER. I would respond to the gentleman that no, there is no such requirement. And in fact, I would be happy to enter into a colloquy with the gentleman from North Carolina to assure that these matters could be resolved, and that within a limited period of time, I do not want this to drag out for months, but within a limited period of time that the committee would report, having gone back to these witnesses and making certain that everything was accurate. So that could certainly be accommodated within this process.

I am not trying to do something here that would put inaccurate information on the street. But I think that the public does deserve the right to all of the accurate information, and it seems to me that what the real attempt here is, is to make certain that even the accurate information does not get out.

Mr. SANTORUM. Does that satisfy the gentleman from Washington's concern and the gentleman from North Carolina's concern, that that process be conducted?

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

Mr. SANTORUM. I am happy to yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, I would say to the gentleman that since I oppose this resolution I really think it would

be rather disingenuous on my part to make any arrangement for the data. I assure the gentleman that should his side win, I would be back in touch to see if we could reach such an agreement, and I am sure being men of great honor and gentlemanliness, if you did win you would be still willing to make the same arrangement.

Mr. SANTORUM. Having no control over that, I would certainly add my vote to that type of arrangement.

We were here almost a year ago now in September 1991, and we were having these discussions as to whether we should disclose or not disclose. It was a different time, and we had an opportunity to put this all behind us, as we have heard so often in the last couple of days. Almost a year ago we chose not to put this all behind us. We chose to put it out into the newspapers for speculation, and out among the American public to have this institution dragged through the mud.

Here is another opportunity to come clean and just get it behind us, get it out and let the American public decide. This all has a very familiar ring to me, to let the American public decide with the information available, accurate information available, to decide and make judgments on their own. Who are we to stand and pass judgment, and that is what we are doing here, and that is what both sides attempted to do. Let the information out.

This has to ring true with some people here, that this is the way that this House must proceed in the future. Let the American public decide. Give the House back to the people. These are all familiar tunes that Members are hearing back home. We should apply them here in this Chamber.

□ 1440

Mr. ROSE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, there is a quality here of a high school debate in which you get points for misdirecting. You get points for using lots of rhetorical tricks.

We must not lose sight of the basic points. I have made them, and I have made them before. Let me make a couple more.

Someone referred to the Ethics Committee. Let me tell you what the Ethics Committee does. Their committee records are only made public if charges are filed, and only such records as the committee authorizes. That is rule 10. The committee's policy has not been to release depositions and raw investigative details. This is consistent with House rule XI(k)(s) providing that testimony tending to defame shall be taken in executive session.

The task force, in fact, was functioning on a parallel course with what the Ethics Committee does, not like every other committee of the House as has been charged.

One last point, the gentleman over there raised the Justice Department investigation into this issue, and it just occurred to me, not being a lawyer, I did not think of it before, but I suspect that if we just take all of this stuff and dump it on the street, there is going to be something in there the Justice Department would like very much to not have made public. We could be jeopardizing the Justice Department's case by this rash action.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I find it amazing that the gentleman from Washington is now so sensitive at this point about the Department of Justice's concern about raw information when, once again, the Democrats' report contains investigative data that the Department of Justice asked not to be released.

I would ask the chairman of the committee, in your report, you have a portion of the Chief Kerrigan testimony which is stamped exhibit 2, and it starts on line 10, omitting the first 10 lines of testimony and in addition all of the pages have been whited out. Could the gentleman assist me and tell me what page exhibit 2 is on in the Kerrigan testimony, and what has been whited out in the first 10 lines? The second sheet is similar in that it has the last 18 through 25 lines whited out, and also the pages number whited out.

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

Mr. THOMAS of California. I yield to the gentleman from North Carolina.

Mr. ROSE. We will be happy to supply the actual pages for the gentleman if he does not know.

Mr. THOMAS of California. Could the gentleman explain to me why there was a need to white out the lines on the pages and white out the page numbers themselves?

Mr. ROSE. It was an editorial—
Mr. THOMAS of California. I thank the gentleman very much and reserve the balance of my time. It was an editorial decision.

Mr. ROSE. Just like the gentleman did in the body. You put your information from the transcript in the body of your report.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, as a member of the task force which brought forth the report yesterday, it was my hope that when we not only adopted the reports at the full committee, but also brought forth a privileged resolution sending the report and transcript to the Ethics Committee and also to making them available to the Justice Department, that we had put the issue behind us, and hopefully, it was my remarks yesterday, that we could move forward and do the business of the people.

But that is not the Republican agenda, my friends. The Republican agenda here today is to keep this issue alive day after day after day. Not only, as the gentleman from Washington has indicated, has the testimony been made available to Justice, but it also has been sent to the Ethics Committee.

The witnesses that came before us in that committee were told that their testimony would be confidential, and they came, and some talked and many did not talk. But what is the effect on the next investigation of some other portion of the activities of the House? Do you think any of our employees will come forward knowing that when the Walkerities of the House arise, all the confidentiality is thrown out the window? What a chilling effect. What a chilling effect that is.

And to say that the testimony was not used in the reports, clearly it has, in our report, although not verbatim. That is the testimony in different words. In the Republican report, that is the testimony, not verbatim, but put in different words.

But now to throw all of that out, open it up to the public who is waiting with bated breath, baloney. I think we have a right and responsibility to those people who came forward, the few that were very honest, and to violate that for some partisan baloney purpose, to violate that and hamper any further activity of the House for some pure partisan political purpose is not justified, my friends.

I ask you to stick with the committee and to vote "no." In fact, at the end of the debate, I will offer a motion to table. Mr. Speaker, vote to table this and put it behind us. This is getting ridiculous.

The gentleman from Massachusetts [Mr. FRANKS] asked the question, why did not the Republicans call the gentleman from Massachusetts [Mr. OLVER]; why did they not call the gentleman from Florida [Mr. SMITH], why did they not call them? Because they wanted to embarrass them. That is why they put their names in the report. And in the final hearings of the task force, we asked them, we cautioned them, No. 1, as far as post office boxes, we are told at least 25 Members had boxes, but we could not get the names, so Republicans put 6 or 7 Democrats in the report.

As far as the PL account, the PL-300, some \$800,000 was expended there, but we found a few Democrats, and Republicans put them in their report citing they used the account. Many, many more people did to the tune of some \$800,000 in a 10 to 12 month period. And we asked the Republicans not to put the names in the report, because, No. 1, they were not a complete list, and No. 2, it was not an accurate list as we hear today from the gentleman from Massachusetts [Mr. OLVER], our colleague who was blamed with having a post of-

fice box and not even being a Member of Congress.

The gentleman from Massachusetts [Mr. FRANK], that is why they did not call the Democrats, because they wanted to serve to embarrass them, even though they knew full well no rules of the House were ever broken or laws of this country were broken.

So the next time this body starts putting together a bipartisan task force, count me out. Those words do not exist, that animal is impossible to put together in this body, because even though we shared a responsibility and gave them the staff, made one of their members the vice chairman who ran the meetings, when it came to the final report, they would not permit their staff to meet with our staff to try to come up with a report.

On one Wednesday, I say to the gentleman from California [Mr. THOMAS], we had a heated meeting in the House Administration with the task force. We adjourned sometime around 3 o'clock, and the chairman, the gentleman from North Carolina [Mr. ROSE], said, "Between now and Friday, let us let the staffs get together and try to come out with a unified report." We met again on Friday. The staffs had not met. Our majority staff waited for the call, and it never came. Oh, they saw each other for 5 minutes and passed some report.

So there is no bipartisanship here. And motions like this will be made day after day after day in an effort to keep the postal thing alive.

My friends, it is dead. We issued the report. We ended the patronage. Let us let it go away now.

Read the reports. The issue has been cleaned up.

Mr. WALKER. Mr. Speaker, I yield myself 1 minute.

It is clear that whenever something happens in the House of Representatives that raises questions of corruption, the House does want it to go away, and I understand that. But I think that the public interest sometimes demands that the public be informed about what goes on here, and that is what we are attempting to do.

It was interesting to me to note that the gentleman who just spoke told us that the reports were adopted by the whole task force. We were told earlier today, I thought in a debate, that was not the case. You know, it has got to be one way or the other, folks.

We were also told about confidentiality here a minute ago. I am told when the witnesses appeared they were told that the confidentiality existed until the report was filed. The report has now been filed, as the gentleman so eloquently pointed out. We now have another question whether or not we want all of the data that went into that report to be made public.

That is what this gentleman is attempting to do. It seems to me if we do not want to be accused of coverup,

what we ought to do is vote for this resolution.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

I am reading from the agreement of confidentiality. It says in the middle of it, "or until such time as the task force has released its final report."

The final report has been released. There is no reason, no barrier to releasing this to the public.

□ 1450

The media are going to insist that all this come forth, just like the check bouncing scandal. You cannot cover this up. It is going to come out. It is better if you really want to get this behind us to make it public and get it behind us.

I know you are trying to protect some people in this place. This is understandable, because it is predominantly on your side of the aisle; but the fact of the matter is it is going to come out anyhow, and you might as well make a clean breast of it and let the American people know.

When we go back to our districts, as we have been going back, we know that the people are fed up with this place. They are fed up with this place for myriad reasons, not the least of which is they do not trust us. There is a double standard. This must come out.

Mr. ROSE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Speaker, first of all, we ought to put this all in perspective. What are we covering up? What corruption are we trying to cover up?

First of all, we are sending all documents and all transcripts to the Ethics Committee and the Justice Department, so there is no coverup.

Is there any allegation in either report about any Member violating the law? The answer is no. There are inferences, there are suggestions, there are words of art that would implicate Members in the Republican report, but they do not say that there is a violation or that there is any corruption.

So what is this discussion about corruption about here? There is none.

So when you make all the records available to the Justice Department and to the Ethics Committee, it is not enough. So we have to get partisan to try to put more pressure on.

Now, why are we doing that? Is there anything in any of these reports, or anything that has happened in the bank scandal or in the post office problem that hurts one life, killed anybody, put more people on drugs, has hurt the economy? None of it has.

We have an economy that is sick. We have high unemployment. We have crack babies born every day. We have an educational system that cannot sur-

vive. Nothing is being done about it. We have the AIDS epidemic. Everybody wants to sweep it under the table. We have all these huge enormous problems.

And what are the people on C-SPAN watching? Are they watching us solve these problems? No. You do not want to solve those problems. God forbid that we should ever take a tough vote in the House of Representatives on solving these economic problems. God forbid, so we have to delay. We have to stall. We have to show them that we are doing something, and that is what we are doing. That is why they are going to kick a lot of us out of here, because they do not see us addressing the problems that they face every day, day in and day out; children, 1 in every 5 are born in poverty. Should we not do something about it?

Let us get off this. There is no corruption here. The corruption is that we will not face the facts.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, let me just say to my good friend, the gentleman from Illinois, who just said that we are not making the tough decisions around here about the economic problems that the people of this country are concerned about. Every day, every week we are in the well trying to cut the wasteful spending and do something about the deficit that is going to cause a major economic earthquake in this country, and every single vote that comes up is voted down by that side of the aisle, and we have a deficit that is over \$4 trillion, heading toward \$13½ trillion.

The problem is we are addressing these issues, but the issue before us right now is whether or not the public has a right to know what went on with the post office scandal, and we believe they do; but the other issues we are trying to address, we cannot get the votes necessary on that side of the aisle to deal with.

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

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, the gentleman knows himself that on many of his cutting amendments that he proposed, I have voted with him.

What I have a difficult time understanding is that we are willing to cut peanuts on some issues, but when we have big major cuts for military defense nobody can find the time to cut 1 percent out of that budget.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, when we trash the public trust all over the lot, when we demean the people's right to know, we diminish our ability to get things done on the critical problems facing this body and this country.

I would submit to you, particularly the last gentleman who spoke, there is no more important mission that we have collectively than to restore the public confidence and trust in Government. This is *deja vu* all over again and we all know it; but let me draw the obvious analogy with the House bank situation.

First, the House Democratic leadership mismanaged the bank. In this instance, they mismanaged the post office.

Then they tried to thwart full disclosure. In fact, 131 Democrats, including the Speaker and the majority leader, voted to reject a lawfully issued subpoena.

The public does indeed have a right to know this information. We are not throwing political brickbats.

The busybodies that were referred to earlier are our constituents, and they have a right to know.

Personally, several months ago, I moved to investigate allegations of ghost employees, and while the vote was on the motion to table, a Member from this side of the aisle, a prominent Member of the Democrat leadership and the head of your campaign came over and threatened me on this floor for offering that motion.

I now read the minority report and there is evidence to substantiate allegations of ghost employees.

So I personally, talking about people who would like to protect their reputations here, would like that information shared with my colleagues.

Lastly, I believe that the chairman of the House Administration Committee owes an apology to Chief Kerrigan and to the Capitol Police for impugning their professional integrity and reputation.

I personally also believe that it is important that Chief Kerrigan's entire testimony see the light of day, and I am now puzzled by the gentleman who is now prepared to make a motion to table, puzzled why he would object to the disclosure of that testimony clarifying whether or not there was an effort to thwart the Capitol Police in their investigation.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman will state it.

Mr. WALKER. Mr. Speaker, do I have the right to close?

The SPEAKER pro tempore. The gentleman does have the right to close, and the gentleman has 5 minutes.

Mr. WALKER. And the gentleman from North Carolina has 1 minute?

The SPEAKER pro tempore. That is correct.

Mr. WALKER. I am the last speaker on my side.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania reserve his time?

Mr. WALKER. I reserve my time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. ROSE] is recognized.

Mr. ROSE. Mr. Speaker, this is the same vote we had yesterday. I have let this debate go forward so Members could hear in the light of what happened to our colleague, the gentleman from Massachusetts, what is very likely to happen if this motion is granted.

We have nothing to hide. Both of our reports point to no corruption by Members of Congress or coverup. We have given up all the justice to the Justice Department and the House Ethics Committee.

We will have a hard time in the future conducting such investigations if we break the confidence of those who testified before our committee.

I urge my colleagues not to grant the Walker resolution a favorable vote, but please continue with the vote that we had yesterday.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes to close the debate.

Mr. WALKER. Mr. Speaker, several points need to be made.

I am going to quote now from the transcript of the proceedings of the committee where the question came up of this whole business of confidentiality on which the majority has raised so much of their point. It is said in here at one point when this question of confidentiality came up, it says:

I can assure you that that is not the case—

This is one of the staff members—

Everyone in the room, all the staff members have signed an agreement of confidentiality to keep all, everything that is said in this room confidential. That is not to say that information that is relevant to the reporting of the operations of the post office back to Congress on May 30 will not become public at some point.

In other words, there was an understanding all the way along that what the committee was doing at some point could become public.

Now, the question is: Should it become public? It is not a question of confidentiality. It is a question of should it become public? This resolution says yes, it should. It should now be public.

The report has been filed. What we find in the report is that there are two rather different points of view about what the committee heard. The only way that we can sort that out is for the public to have access to the documentation.

We will try to do this in a way that works with the committee and assures that if they have some reason to believe that their material is inaccurate that they can get the accuracy that it deserves, but I would say that I am rather concerned about the argument that suggests because they are willing

to send it to the Ethics Committee and willing to send it to the Department of Justice they have somehow done away with any idea of coverup. That is just baloney.

First of all, when you send it to the Ethics Committee, everyone knows here that sends it behind closed doors again. The committee acted behind closed doors, and now they want to send it behind another set of closed doors.

□ 1500

You know, that does not, that does not get any public information about this. The Department of Justice, they conduct their investigations behind closed doors, so that is more closed doors. The public is not going to be able to discern where the information is.

So now we have a new standard developed by the majority and that whenever there is a hint of corruption in the House and whenever there is a hint of mismanagement in the House, what they do is send the information behind closed doors. The American public is saying to us at this point that they want us to open up to them. They want some idea of how it is we operate and they want to have some impact on the way we operate.

That is what this resolution is all about. It seems to me that it is the same kind of standard that the Members of the majority rightly hold the administration to. Time and time again, if some clerk fouls up in some agency, you can bet there is some subcommittee on Capitol Hill that will scream "corruption," will scream "mismanagement" and will paint it all over the newspapers and hold public hearings.

They will call the Secretary of that department up here and make a big issue of what is going on. Well, in this particular case, there is no doubt that there was mismanagement in the House post office. As a matter of fact, both sides agreed to that, that there were major problems there.

Today we heard people come to the floor and talk to us about things that were going on in the post office that they had no idea of. But it sounds a little funny to me. When they start talking about the fact that the orange bags were not going through and all of a sudden the postmaster is doing special favors for people by sending stuff express mail that should have gone orange bag, the Members did not know anything about it, but yet it was going on; that is not only mismanagement, that borders on really questionable.

And if there is in fact a series of questions of that type, we ought to know about them.

Now, we have also heard the case of Mr. OLVER out here today. The only way to make certain that we do not have additional cases rise is to put ev-

erything in context, to assure everybody knows everything, so that everything can be put in the appropriate context.

That is what the public is expecting of us, that is what they really want.

We ought not have selectively edited comments. That is the final point.

The gentleman from North Carolina revealed the problem that we have here a few minutes ago when he said that the reason why there are blank spots on these pages is because they were edited that way. Well, we do not think that the public ought to get edited information in this case. We think that there is a big enough problem that has been identified in the House of Representatives that the public ought to have access to the transcripts and what was before the committee.

That is all this resolution asks. It does not ask any more than that. It seems to me it is a resolution that can be adopted by the House in good conscience because at that point we will have said to the public, "Yes, we agree, you should know what went wrong and you should know how we intend to correct it."

With that, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DERRICK). For what purpose does the gentleman from Wisconsin [Mr. KLECZKA] rise?

MOTION OFFERED BY MR. KLECZKA

Mr. KLECZKA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. KLECZKA moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Wisconsin [Mr. KLECZKA].

The question was taken, and on a division—demanded by Mr. WALKER—there were—ayes 18, noes 17.

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—ayes 223, nays 196, not voting 15, as follows:

[Roll No. 307]

YEAS—223

Abercrombie	AuCoin	Boxer
Ackerman	Barnard	Brewster
Alexander	Bellenson	Brooks
Anderson	Bennett	Browder
Andrews (NJ)	Berman	Brown
Andrews (TX)	Bevill	Bryant
Annunzio	Bilbray	Bustamante
Anthony	Blackwell	Byron
Applegate	Bonior	Campbell (CO)
Aspin	Borski	Cardin
Atkins	Boucher	Carr

Chapman	Kanjorski	Peterson (MN)
Clay	Kaptur	Pickett
Clement	Kennedy	Pickle
Coleman (TX)	Kennelly	Price
Collins (IL)	Kildee	Rangel
Collins (MI)	Kleczka	Reed
Condit	Kopetski	Richardson
Conyers	Kostmayer	Roe
Cooper	LaFalce	Rose
Cox (IL)	Lantos	Rostenkowski
Coyne	LaRocco	Rowland
Cramer	Lehman (CA)	Roybal
Darden	Lehman (FL)	Russo
de la Garza	Levin (MI)	Sabo
DeFazio	Levine (CA)	Sanders
DeLauro	Lewis (GA)	Sangmeister
Dellums	Lipinski	Sarpallus
Derrick	Lloyd	Savage
Dicks	Long	Sawyer
Dingell	Lowey (NY)	Scheuer
Dixon	Luken	Schroeder
Donnelly	Manton	Schumer
Dooley	Markey	Serrano
Downey	Martinez	Sharp
Durbin	Matsul	Sikorski
Dwyer	Mavroules	Siskiy
Early	McCloskey	Skaggs
Eckart	McCurdy	Skelton
Edwards (CA)	McDermott	Slaughter
Edwards (TX)	McHugh	Smith (FL)
Engel	McNulty	Smith (IA)
Espy	Mfume	Spratt
Fascell	Miller (CA)	Stallings
Fazio	Mineta	Stark
Flake	Mink	Stenholm
Foglietta	Moakley	Stokes
Ford (MI)	Mollohan	Studds
Frank (MA)	Montgomery	Swift
Frost	Moran	Synar
Gaydos	Mrazek	Tanner
Gejdenson	Murtha	Tauzin
Gephardt	Nagle	Thornton
Geren	Natcher	Torres
Gonzalez	Neal (MA)	Torricelli
Gordon	Neal (NC)	Towns
Guarini	Nowak	Trafficant
Hall (OH)	Oakar	Unsoeld
Harris	Oberstar	Vento
Hayes (IL)	Obey	Visclosky
Hayes (LA)	Olin	Volkmer
Hefner	Olver	Washington
Hertel	Ortiz	Waters
Hoagland	Orton	Waxman
Hochbrueckner	Owens (NY)	Weiss
Horn	Owens (UT)	Wheat
Hoyer	Panetta	Whitten
Hutto	Parker	Wilson
Jefferson	Pastor	Wise
Jenkins	Patterson	Wolpe
Johnson (SD)	Payne (NJ)	Wyden
Johnston	Payne (VA)	Yates
Jones (GA)	Pease	Yatron
Jones (NC)	Pelosi	
Jontz	Perkins	

NAYS—196

Allard	Combest	Gilchrist
Allen	Costello	Gillmor
Andrews (ME)	Cox (CA)	Gilman
Archer	Crane	Gingrich
Armey	Cunningham	Glickman
Bacchus	Dannemeyer	Goss
Baker	Davis	Gradison
Ballenger	DeLay	Grandy
Barrett	Dickinson	Green
Barton	Doolittle	Gunderson
Bateman	Dorgan (ND)	Hall (TX)
Bentley	Dornan (CA)	Hamilton
Bereuter	Dreier	Hammerschmidt
Billrakis	Duncan	Hancock
Bliley	Edwards (OK)	Hastert
Boehert	Emerson	Hefley
Boehner	English	Henry
Broomfield	Erdreich	Herger
Bruce	Evans	Hobson
Bunning	Ewing	Holloway
Burton	Fawell	Hopkins
Callahan	Fields	Horton
Camp	Fish	Houghton
Campbell (CA)	Ford (TN)	Hubbard
Carper	Franks (CT)	Huckaby
Chandler	Gallegly	Hughes
Clinger	Gallo	Hunter
Coble	Gekas	Inhofe
Coleman (MO)	Gibbons	Ireland

Jacobs	Morrison	Shaw
James	Murphy	Shays
Johnson (CT)	Myers	Shuster
Johnson (TX)	Nichols	Skeen
Kasich	Nussle	Slattery
Klug	Oxley	Smith (NJ)
Kolbe	Packard	Smith (OR)
Kyl	Pallone	Smith (TX)
Lagomarsino	Paxon	Snowe
Lancaster	Penny	Solomon
Leach	Petri	Spence
Lent	Porter	Staggers
Lewis (CA)	Poshard	Stearns
Lewis (FL)	Pursell	Stump
Lightfoot	Quillen	Sundquist
Livingston	Rahall	Swett
Lowery (CA)	Ramstad	Taylor (MS)
Machtley	Ravenel	Taylor (NC)
Marlenee	Regula	Thomas (CA)
Martin	Rhodes	Thomas (WY)
Mazzoli	Ridge	Upton
McCandless	Riggs	Valentine
McCollum	Rinaldo	Vander Jagt
McCreery	Ritter	Vucanovich
McDade	Roberts	Walker
McEwen	Roemer	Walsh
McGrath	Rogers	Weber
McMillan (NC)	Rohrabacher	Weldon
McMillen (MD)	Ros-Lehtinen	Williams
Meyers	Roth	Wolf
Michel	Roukema	Wyllie
Miller (OH)	Santorum	Young (AK)
Miller (WA)	Saxton	Young (FL)
Molinaro	Schaefer	Zeliff
Moody	Schiff	Zimmer
Moorhead	Schulze	
Morella	Sensenbrenner	

NOT VOTING—15

Coughlin	Hatcher	Ray
Dymally	Hyde	Solarz
Feighan	Kolter	Tallon
Goodling	Laughlin	Thomas (GA)
Hansen	Peterson (FL)	Traxler

□ 1524

Mr. HEFLEY and Mr. SLATTERY changed their vote from "yea" to "nay."

Mr. SARPALIUS and Mr. JONES of North Carolina changed their vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret I was unavoidably detained with a constituent matter and missed voting on rollcall No. 307, a motion to table House Resolution 526, to make public direct transcripts of proceedings related to the House post office. Had I been present, I would have voted "no."

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, my parliamentary inquiry is, when is it in order to remove this matter that we have just now placed on the table from the table? When is it in order to remove from the table that which we have now placed on the table?

The SPEAKER pro tempore. The motion to take from the table is not a privileged motion.

Mr. DANNEMEYER. When is it in order to make that motion?

The SPEAKER pro tempore. It is not in order.

Mr. DANNEMEYER. Mr. Speaker, a further parliamentary inquiry: Would that kind of a motion be available in the 103d Congress?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 523 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 523

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. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except those made in order by section 2 of this resolution or the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order against the amendments printed in the report are hereby waived.

SEC. 2. It shall be in order at any time for the chairman of the Committee on Energy and Commerce, or his designee, to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Said amendments en bloc shall be considered as having been read, shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. Such amendments en bloc shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The original proponents of the amendments offered en bloc shall have permission to insert statements in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 3. At the conclusion of the consideration of the bill for amendment, the Com-

mittee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 4. After passage of H.R. 4850, it shall be in order to move to take from the Speaker's table the bill S. 12 and ask for its immediate consideration in the House. It shall then be in order to move to strike out all after the enacting clause of S. 12 and insert in lieu thereof the provisions of H.R. 4850 as passed by the House. It shall then be in order to move to insist on the House amendment to S. 12 and request a conference with the Senate thereon.

□ 1530

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the 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 the purpose of debate only.

Mr. Speaker, House Resolution 523 is the rule providing for consideration of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee. It makes in order the Energy and Commerce Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The rule makes in order only the amendments printed in section 2 of the resolution and amendments printed in the report of the Committee on Rules. These amendments will be considered in the order and manner specified in the report and for the time specified. The amendments will not be subject to amendment except as specified and all points of order against the amendments are waived.

The rule also permits the chairman of the Energy and Commerce Committee or his designee to offer amendments en bloc consisting of the text of amendments printed in the report, with germane amendments and modifications. The amendments en bloc are not amendable nor subject to a demand for a division and will be debatable for 20 minutes. All points of order against the amendments en bloc are waived. In addition, the original authors of the en bloc amendments have authority to insert statements in the CONGRESSIONAL RECORD.

The rule provides for one motion to recommit with or without instructions.

Finally, the rule facilitates the ability to go to conference with the Senate bill, S. 12. It provides that, upon adoption of the resolution, the House is considered to have taken S. 12 from the Speaker's table, stricken all after the enacting clause and inserted the provisions of H.R. 4850, as passed by the House.

Mr. Speaker, this rule will allow the House to consider the Cable Television Consumer Protection and Competition Act of 1992. This bill requires the FCC to establish a rate regulation system for the basic service tier, and authorizes the Commission to reduce rates beyond this tier if a cable operator is charging unreasonable rates. It also requires cable operators to carry local commercial and public television stations; requires the FCC to set standards for customer service; and includes provisions designed to spur competition to the cable business.

Mr. Speaker, H.R. 4850 protects consumers by preventing unreasonable rate hikes, by improving the cable industry's customer service practices, and by promoting the development of a competitive marketplace. House Resolution 523 is a carefully crafted rule that will expedite consideration of this important legislation. I urge my colleagues to support the rule and the bill.

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

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

Mr. Speaker, let me say to the membership that on this side of the aisle we do not intend to ask for a recorded vote on this rule.

Mr. Speaker, I rise in support of this rule for consideration of the Cable Television Consumer Act. House Resolution 523, while not a completely open rule, does not discriminate against any Republican Member. It does not gag any Republican Member who indicated the desire to offer germane amendments to this bill. Although we in the minority generally have concerns with preprinting requirements and rules that limit amendments, we do believe that such requirements should be undertaken in a fair manner. This rule is fair. Therefore, I urge Members on both sides of the aisle to support it.

I would like to thank the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], for dealing with a complex subject and reporting a rule that will permit the House to address the important issues and work its will through the amendment process. I would also like to commend the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], the distinguished ranking Republican, the gentleman from New York [Mr. LENT], and the chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY] and

the ranking member, the gentleman from New Jersey [Mr. RINALDO] from coming to the Committee on Rules and requesting a rule that would permit every germane amendment to be offered on this floor.

Mr. Speaker, I would like to take a moment to recognize the efforts of the ranking member on the committee, the gentleman from New York [Mr. LENT]. He has chosen to bring his distinguished career in the House to a close with this 102d Congress and return to Long Island. Needless to say, we are all going to miss him dearly. Our New York delegation will especially miss him.

Mr. Speaker, the chairman of the Committee on Rules has thoroughly explained this modified closed rule. It provides up to an hour of general debate. It makes 17 amendments in order for consideration in the Committee of the Whole, including all 7 amendments submitted by Republican Members. It also permits the minority to have one motion to recommit with instructions, our traditional right.

Mr. Speaker, the administration opposes the committee bill, and the President's advisers will recommend a veto, if the bill is allowed in this present form. That is why I am supporting the rule, because it does allow amendments to be offered that would correct the problems which the administration might have with the bill.

I would like to submit the administration's statement of policy for the RECORD.

Mr. Speaker, the House will have an opportunity to consider a number of amendments that will improve the bill, including a clarifying substitute by the gentleman from New York [Mr. LENT], which, again, I would point out would allow the President to sign this bill. If the substitute of the gentleman from New York [Mr. LENT] is successfully passed on the floor, the President will be prepared to sign this bill.

The substitute that will be offered by the gentleman from New York [Mr. LENT] provides, I think, the best opportunity to craft a bill that can be accepted by the President. His substitute is very similar to the Cable Television Consumer Protection and Competition Act, which was passed by the House on a voice vote earlier during the 101st Congress, just 2 years ago.

Mr. Speaker, I again commend the chairman of the Committee on Rules for reporting a rule that is fair, I think, to both sides of the aisle. It does not gag any Member who would have germane legislative amendments, and it permits the minority to offer the Lent substitute and a motion to recommit with instructions.

Therefore, I urge everybody to support this rule.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT
AND BUDGET,

Washington, DC, July 23, 1992.

STATEMENT OF ADMINISTRATION POLICY
H.R. 4850—CABLE TELEVISION CONSUMER
PROTECTION AND COMPETITION ACT OF 1992

The Administration strongly opposes sweeping reregulation of the cable television industry. If H.R. 4850, as reported by the House Energy and Commerce Committee, were presented to the President, his senior advisers would recommend a veto.

The Administration supports House passage of the amendment sponsored by Rep. Lent as an alternative to the reported version of H.R. 4850. The Lent amendment would eliminate or significantly modify many of the excessively regulatory provisions of H.R. 4850. It would also reduce one impediment to competition in the cable industry—the exclusive local franchise.

The Administration opposes the amendment to be offered by Rep. Tauzin concerning access to cable programs. It would restrict the discretion of cable programmers in distributing their product. Exclusive distribution arrangements are common in the entertainment industry and encourage the risk-taking needed to develop new programming. Requiring programming networks that are commonly owned with cable systems to make their product available to competing distributors could undermine the incentives of cable operators to invest in developing new programming. This would be to the long-term detriment of the American public. If competitive problems emerge in this area, they can and should be addressed under the existing antitrust laws.

The Administration opposes H.R. 4850 because:

It is anticonsumer. It would raise cable operating costs by \$760 million to \$1 billion annually. Rates would rise in many communities, and consumers additionally would be denied the benefits of improved service quality, new products and services, and expansion of cable to areas not now served.

It is reregulatory. It establishes a broad, intrusive regulatory structure that fails to provide incentives for cable systems to respond to consumer needs. The regulatory costs of the bill to Federal, State, and local governments would be \$22 million to \$60 million annually. These costs would be paid by taxpayers or consumers. The Administration believes that competition, rather than reregulation, creates the most substantial benefits for consumers and the greatest opportunities for American industry. Competition would drive down rates and improve service quality for consumers, while promoting industry development.

It would restrict foreign ownership of U.S. cable systems and other multichannel video delivery and programming-related services. Such a restriction invites retaliation by other countries and violates existing international obligations. It could stifle the growing investment of U.S. firms in foreign cable systems. It also threatens negotiations to: (1) eliminate the use of trade restrictions by other countries, and (2) open foreign government procurement to U.S. telecommunications products and services, an area in which the U.S. is in an increasingly strong position.

It would require cable operators and, perhaps, some direct broadcast satellite (DBS) operators to carry the signals of virtually all television stations. The signals would have to be carried regardless of whether those providers believe that the programming reflects the desires and tastes of their subscribers. The Administration believes that such "must carry" requirements would raise seri-

ous First Amendment questions by infringing upon the editorial discretion exercised by cable and DBS operators in their selection of programming.

It would interfere unnecessarily with business investment decisions made by cable operators. For example, the bill would apparently require the Federal Communications Commission (FCC) to adopt rules limiting the number of subscribers a multichannel video operator may serve nationwide. This would be done despite the lack of evidence of anticompetitive behavior by cable operators and the existence of antitrust laws to remedy such conduct should it occur. H.R. 4850 would also generally bar the sale of a cable system within three years after its purchase or construction. Such a provision would unnecessarily intrude into ordinary business decisions made by cable operators and prospective purchasers.

It would require that the FCC promulgate rules limiting the ability of multichannel video distributors to acquire ownership interests in video programming. Such vertical integration both increases the supply and quality of programming and permits operational efficiencies that ultimately benefit subscribers. If individual abuses occur, they can and should be dealt with under the antitrust laws.

The Administration is well aware of the widespread consumer concern about the structure and performance of the cable television industry. The task is to address these concerns in a way that benefits consumers and does not jeopardize the substantial benefits that the cable industry has produced for consumers since passage of the 1984 Cable Act. The Administration is convinced that this can best be accomplished by removing barriers to increased competition in the video services marketplace. The Administration, therefore, would support legislation to remove, subject to adequate safeguards, current prohibitions against telephone company provision of video programming and eliminate other barriers to competition in the video marketplace. The action of the FCC on July 16, 1992, in adopting a "video dialtone" framework for telephone company participation in video markets is an important step toward competition. Increased competition is the only way to ensure that cable legislation will benefit, rather than harm, American consumers.

Mr. Speaker, I include for the RECORD a copy of the statement of administration policy to which I referred.

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

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, first of all, I rise in support of the rule.

□ 1540

Second, two individuals deserve enormous credit, the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Michigan [Mr. DINGELL], both of whom have constructed a bill that deserves very, very strong attention from this House.

Mr. Speaker, there are a lot of industry squabbles that are involved in this bill, but nonetheless, they have made the consumer provisions the heart of the legislation: They are: rate protec-

tion for cable consumers, universal customer service standards, ensuring that local over-the-air broadcast stations are carried on cable systems, and finally protecting customers from egregious behavior on the part of a limited number of cable operators.

I think what we must do, Mr. Speaker, is pass a bill that will be signed into law. Let us pass a good, moderate bill that does the job, that provides a solution to four issues that I mentioned before. Let us not make just a political statement on a whole set of other issues. Three years have been put into this bill. Let it not go to waste.

The second point that I want to make is that while there are legitimate consumer measures that the gentleman from Massachusetts [Mr. MARKEY], the gentleman from Michigan [Mr. DINGELL], and the minority have put in and that should be preserved, this is not, as one consumer organization claims, the consumer issue of the decade. We need to put this bill in perspective. This is an important consumer issue. Our constituents do want us to deal with cable rates, but it is also a vehicle for three powerful industries, the cable industry, the broadcast industry, and the program production industry, to settle disputes that will favor one group over the other.

I hope the final version of the cable bill preserves a regulatory environment that allows the cable industry and emerging competitors like DBS operators to have the freedom and incentive to invest in new programming, services, and infrastructure. From my perspective, a cable bill does need to be passed. So if the question is: Does the cable industry need new rules? The answer is yes. But does it need to be over-regulated to death? The answer is no. Do they deserve to be regulated like a utility? The answer is no.

The 1984 Cable Act, for all of its shortcomings, was a success. Here is why. In 1984, 37 million Americans received cable. Now there are over 60 million Americans getting cable. And the average cable system in 1984 had 24 channels. Now the average system has 30 to 53 channels.

And the cable industry has produced an enormous amount of quality new programming: sports events, children shows, news, public affairs programming, entertainment, gavel-to-gavel coverage of the Congress, gavel-to-gavel coverage of the conventions, not by the broadcasting industry, but by cable.

We should build on the successes of the Cable Act and make changes that are fair, but not punitive.

Mr. Speaker, we have before us a good bill. There are a lot of amendments that are killer amendments and that would derail this legislation. I do believe that we have a compromise that can be signed. We need to move into conference with the Senate. This

is important legislation, maybe not the most important consumer bill in the last 10 years, but clearly a bill that should become law. The consumer wants action, and at the same time we must deal with three industries with billions of dollars in revenue. Let us not tilt the balance among these industries unfairly. Let us keep it balanced, and most importantly, let us make sure that we pass legislation that still allow for new investment and incentives for programming and ultimately the American consumer.

Mr. SOLOMON. Mr. Speaker, I yield 7 minutes to the gentleman from Texas [Mr. FIELDS], a member of the Committee on Energy and Commerce.

Mr. FIELDS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule on H.R. 4850, the Cable Television Consumer Protection and Competition Act. I say I oppose this rule with all due respect to the gentleman from Massachusetts [Mr. MOAKLEY], and the ranking member, the gentleman from New York [Mr. SOLOMON], because I understand all of the political dynamics that are at work on this particular piece of legislation.

However, it is important for people to know that this rule prohibits my colleague, the gentleman from Ohio [Mr. ECKART], and myself from offering an amendment which is a germane amendment to the cable bill that would give broadcasters the right to control their only product, their signal.

Mr. Speaker, I am astounded that we have been denied the right to argue an issue that is central to the cable debate, I would say central to the future of television communication policy in this country.

As we discuss the legislation before us today, many statements will be made about the monopoly status of cable and about the need to foster competition in the industry. Yet the gentleman from Ohio [Mr. ECKART] and myself have been denied the opportunity to offer an amendment which would strengthen the competitive relationship between the broadcasters and cable.

While Congress should not be in the business of picking winners or losers in this debate, we do have an obligation to assure that the playing field is level. The Eckart-Fields amendment, otherwise known as retransmission consent, would have given local TV stations the right to negotiate with cable operators over the terms and conditions of their carriage on cable.

Currently broadcasters have no rights in the video marketplace vis-a-vis the cable. Under current law a local cable operator can take a local broadcaster's signal, the only product of the broadcaster, without permission of the broadcaster, and for free. The cable operator then turns around and sells that signal to the cable consumer at a mo-

nopoly price, and uses the profit to create competing programming which cuts into the broadcaster's audience and his only source of revenue, the advertising market.

Cable systems routinely pay the Discovery Channel, Cable News Network, TNT, and others to carry their programming, so why should they not pay the local broadcaster to carry the local news as well?

I think it is important to remember that in 1927 in the Communications Act Congress gave the right to control that signal to the broadcaster, be it TV or radio. In 1959, the FCC gave a special exemption to a fledgling industry, the cable industry. Now we have a \$20 billion industry.

The amendment that the gentleman from Ohio [Mr. ECKART] and I want to offer would have restored the original congressional intent. However, in essence broadcasters are being forced to subsidize their chief competitor, which has evolved into a healthy \$20 billion giant. I would ask my colleagues here in the House, can anyone think of a single other business where one company uses its competitor's products for free and then competes with that competitor by using the profits from selling that product? The gentleman from Ohio [Mr. ECKART] and I cannot think of any such situation.

Retransmission consent would have addressed the existing competitive imbalance by resolving the issue fairly in the marketplace to negotiations between the local broadcaster and the local cable operator.

Mr. Speaker, retransmission consent language is already in the Senate cable bill. It was approved by the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce before being removed at the full committee level for jurisdictional reasons. If we had been allowed the opportunity to debate the issue today, I am convinced that retransmission consent would have overwhelmingly passed the House.

I am sorely disappointed that the Committee on Rules has denied the Members of this Chamber the opportunity to support an amendment that is so vital to the future of free over-the-air television. It is clear that an open discussion was refused in order to please certain special interests who oppose our proposal.

Mr. Speaker, this action sends a terrible signal that we are satisfying the interests of the wealthy and the powerful at the expense of the viewing public. The issue central to this amendment was proprietary rights: who controls the signal, who controls the developed product. The result could be loss of local news. The result could be the loss of local public interest programming.

The loss of this particular amendment could mean at some point there is no free over-the-air sports.

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

Mr. FIELDS. I am glad to yield to my friend, the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, my colleague's statement expresses more eloquently than I could the view about how and why this matter should have been considered, known as retransmission consent. There is no doubt in my mind that we would have in fact prevailed. It was in fact germane, and it went to the central question of whether or not local broadcasters, the Nation's electronic front porch, will still have the standing, the wherewithal, and the ability to tell us what is happening in our neighborhoods and backyards.

□ 1550

But I join my colleagues in the expression of frustration of having worked out in the gym for 6 months waiting for the championship fight, and now finding out that it had been canceled. But I express to my colleagues my sincere hope that we are going to get that title belt anyway, and I feel confident and hopeful as this bill progresses that we will recognize the wisdom of the Senate provision which was adopted overwhelmingly in the other body, and which hopefully now the conferees can ultimately accede.

I thank my colleague for yielding.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, in 1984, as part of the deregulation swindle pushed by the Reagan administration and some Members of Congress, the Government withdrew its rate protection for cable TV consumers. Despite the fact that in community after community, in Vermont and throughout this country, there is no competition between different companies—that monopolies exist—the Government said to the cable TV industry, "You can raise your rates as high as you want. You can squeeze the consumer as hard as you want."

And what have been the results? The General Accounting Office determined that cable rates, on the national level, increased 61 percent from November 1986 to April 1991. And in recent years, cable TV rates have gone up even faster. They are going up off the wall.

Mr. Speaker, President Reagan and Members of this Congress deregulated the savings and loan industry, and the taxpayers of this country will be paying hundreds of billions of dollars in additional taxes as a result. President Reagan and Members of this Congress deregulated the cable TV industry, and

consumers from one end of this country to the other are paying billions more than they should be paying in rates for the basic tier of cable TV services.

Mr. Speaker, it is not acceptable to me that in my own State of Vermont, according to the National Association of Broadcasters, rates for similar channel offerings since 1986 have gone up by 58 percent in Bennington, 123 percent in Montpelier, 110 percent in St. Johnsbury, 34 percent in Burlington, and 34 percent in Rutland.

Mr. Speaker, where competition does not exist and a monopoly is in place, the Government has a legitimate right to make certain that citizens, especially our elderly citizens on limited incomes, can receive basic cable TV service at a rate that they can afford. That is a right of the people.

Mr. Speaker, last year I held hearings in Vermont on this issue and in my view, the people want regulatory protection. They want some control on the escalating costs of basic rates for cable TV, and this legislation begins that process.

Mr. Speaker, I urge support for the rule and support for the entire legislation.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I stand to echo the comments of the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] with respect to our disappointment that retransmission consent was not included in the rule, for I, too, think it would have passed.

Mr. Speaker, one of the most important services that our local television broadcasters provide is local news. That includes weather bulletins, public service programming, and public affairs programs as well as local happenings.

Because I feel strongly that local news is so crucial, I was supportive of the Eckart-Fields amendment to H.R. 4850, the Cable Television Consumer Protection and Competition Act, and am disappointed that it will not be offered. This amendment would give local broadcasters the opportunity to negotiate their terms of carriage with local cable operators and develop a second revenue stream which can help support the cost of local news and other programming. If local stations cannot bargain on the open market for the value of their signal—which is their only product—one of the first areas that local stations will have to cut back on is local news and other programming. In fact, we're already seeing that happen at many news departments around the country.

This right of retransmission consent, which the Eckart-Fields amendment would provide, is a local right. This is not, as some allege, a network bailout

for Dan Rather or Jay Leno. Networks are not a party to these negotiations, except in those few instances where they own local stations themselves.

This is a fundamental rights issue, however, about what one business can do with the product of another.

Congress should act to ensure that local TV news and other local programming can continue to serve the American people. If we are not able to address this issue today, I urge the leaders of my Committee on Energy and Commerce to favorably consider it in conference.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the rule, House Resolution 523. It is a good rule, and deserves the support of our colleagues.

I would like to thank the Committee on Rules, and particularly its chairman, Mr. MOAKLEY, for the time that they spent yesterday crafting this rule. This is a complicated matter, and I am grateful that the committee was willing to hear from so many members on issues that are frequently difficult to comprehend.

In its wisdom, the Committee on Rules did not make in order amendments that are nongermane. This was a wise decision, particularly in that it will keep the House from debating extraneous matters that are time-consuming and complicated. I know that some who hoped to offer amendments are disappointed; however, in my view the House is well served by a rule of this type.

Two years ago, the House was able to pass a cable reregulation bill under suspension of the rules, with 40 minutes of debate. I very much regret that we will be unable to repeat that performance today. But the rule will help us to move this bill as expeditiously as possible, and we will do our best to avoid unnecessary delays.

Frequently, telecommunications legislation addresses disputes between what I like to characterize as the very rich and the very wealthy. In my view, this rule has helped us to avoid that situation. The rule has focused on the heart of the legislation—customer rates and service for cable subscribers. We are here to legislate on behalf of our constituents, and this rule will keep us on track.

I know that many of our colleagues are disappointed that the rule did not make in order consideration of the Eckart-Fields retransmission-consent amendment. I supported their right to offer that amendment. It is germane, and it addressed an important issue with respect to the relationship between cable system operators and television broadcasters.

But while I understand the disappointment that many here feel, I

would remind my colleagues that the Senate companion bill, S. 12, contains a retransmission consent provision. Retransmission consent will be on the table in the House-Senate conference, and Members will be able to express their views on the conference report, which will reflect the outcome of that discussion.

Mr. Speaker, we have a long day ahead of us today, and I will not take more of the House's time. I would like to reiterate my appreciation to the Rules Committee and Chairman MOAKLEY for this rule, and urge my colleagues to support its adoption.

Mr. SOLOMON. Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. ROHRBACHER], the star of the "Good Morning Show" this morning.

Mr. ROHRBACHER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I do not have any great problem with this rule, but I rise in strong opposition to H.R. 4850.

Mr. Speaker, this bill's supposed purpose is consumer protection. Admittedly, people are up in arms about the rates charged by cable TV companies. But Mr. Speaker, this bill is ultimately anticonsumer, despite its good intentions. And despite its good intentions, this bill will end up decreasing, over time, the choices available to viewers and the quality of programming. Increased costs, decreased choice, lower quality—I ask you, is this protecting the consumer?

Granted, consumers are angry over their cable TV rates. But increased regulation is not the answer to high costs; it never is. No; the answer instead is increased competition. That is what Congress should be fostering, not additional burdensome, counterproductive regulation.

Instead of focusing on and requiring must-carry provisions, for example, we should instead be forbidding exclusive cable franchising practices which create cable monopolies. We should also be working to let the Nation's telephone companies into the cable marketplace—and to let the nation's cable companies into the switched-network telephone marketplace. Let us let the phone companies and the cable companies fight it out with each other over who can provide the best service, not only in the video market but in the telecommunications market as well.

Mr. Speaker, new technologies always foster increased competition, and new communications and information technologies are on their way. Direct broadcast satellite systems, for example are about to become commercially available. Fiber optics, digital television, advanced interactive information services, world-wide cellular telephone systems, and much, much more will also soon be here. In such a hot-house atmosphere of technological

change who knows what other new capabilities and services will result? Which is precisely the point, Mr. Speaker.

This is the time to free this vital industry from the burden of regulation, not saddle innovation to the control of politicians and bureaucrats. We can expect expansion of service and product offerings, improved quality, and dramatic innovation as new technologies come on line—if there is competition, and if businessmen and entrepreneurs are free to manage their affairs, rather than be shackled with political and bureaucratic regulation.

Mr. Speaker, I urge my colleagues to withstand the temptation of offering something for nothing to our constituents at the expense of the future. I urge my colleagues to defeat this bill, although I have no great complaint with the rule.

□ 1600

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I rise in strong support of this rule for the consideration of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. I support this rule and I support H.R. 4850, legislation reported by the Energy and Commerce Committee to reregulate the cable television industry.

Mr. DREIER of California. Mr. Speaker, I yield 3½ minutes to the gentleman from Louisiana [Mr. HOLLOWAY], a hard-working member of the committee.

Mr. Speaker, this important legislation would give consumers effective and immediate relief from unfair and unreasonable cable television rates and service. The bill would require the Federal Communications Commission to establish a rate regulation scheme for a basic tier of service that would include all broadcast signals and any public, educational, or government access programming.

The Commission would also be authorized to reduce rates for cable programming services outside of the basic rate regulated tier that are determined to be unreasonable.

In this respect, the bill responds to the concerns many of our constituents have expressed: unreasonable and excessive cable television rates must be brought under control.

Mr. Speaker, I also want to take this opportunity to thank the Rules Committee for making my substitute amendment to the Tauzin amendment on program access in order.

Mr. Speaker, should Congressman TAUZIN offer his amendment on program access, I plan to offer a substitute with my good friend and colleague, the gentleman from North Carolina [Mr. ROSE].

The Manton-Rose amendment is virtually identical to the program access

provision contained in the cable reregulation bill that unanimously passed the House during the 101st Congress. The Manton-Rose amendment is a bipartisan compromise that has the strong support of the chairman of the Energy and Commerce Committee, the distinguished gentleman from Michigan [Mr. DINGELL] and the ranking minority member of the committee, my friend, the gentleman from New York [Mr. LENT].

The Manton-Rose amendment strikes a balance between the need to promote competition in the multichannel video marketplace and the need to protect the legitimate intellectual property rights of video programmers. I will speak in greater detail on the amendment when it is offered during consideration of the bill later today.

Mr. Speaker, I urge members to vote for the rule and to support the Manton-Rose substitute to the Tauzin amendment on program access during the consideration of this important consumer protection legislation.

Mr. HOLLOWAY. Mr. Speaker, I rise in opposition to the rule. I am troubled by the fact that the amendment on retransmission consent for broadcasters which was to be offered by my colleague from Taxes has not been made in order.

The Cable Act of 1984 has been successful, in that it has allowed cable to flourish. Dozens of new programming options have been created, and cable has grown beyond anyone's expectations. These successes have not been without cost, however, and that is why we are considering the bill before us today.

As we debate solutions to the problems that have arisen with cable, I agree with those who favor marketplace solutions wherever possible. We should avoid heavyhanded regulations, and look to competition as the cure. In my view, retransmission consent is a prime example of such an approach. It is designed to allow local broadcasters and local cable operators to address competitive issues with a minimum of Government intrusion.

The amendment establishing retransmission consent is simple. It provides that no multichannel provider may use the signal of a local broadcaster without first obtaining permission. A broadcaster's exercise of the must carry option would constitute such a grant of permission. For those who utilize their retransmission rights, it does not require payments, or impose taxes, fees, or surcharges. It does not affect any of the commercial networks. Retransmission consent simply establishes a mechanism by which two established commercial interests can negotiate with each other and both interests bring something of value to these negotiations.

While retransmission consent will allow such negotiations for the first

time, it does not require an agreement or mandate that the parties come to terms. It places the broadcaster who opts for retransmission consent at risk, because the broadcaster must choose between must carry and retransmission consent and then enter into negotiations with the cable operator. If there is no agreement, the broadcaster can lose access to that part of his market that subscribes to cable for 3 years. Also, it is important to keep in mind that the broadcaster who deals with several or many cable systems is not required to lock in to retransmission consent or must carry for all of those systems. The broadcaster can choose between the two options for each cable system within the broadcasters market.

I just speak on these issues, because I am in a small market, 50,000-people station. News cost is tremendous, and I think each and every one of us depend on the commercial stations' newscasts in our local markets. The cost is rising. We all know how the cost is rising on news on our local stations. They do it all. They do all the newscasts. The market on advertising is shrinking, because the cables are getting part of it. It is limited to start with.

In closing, retransmission consent is a marketplace mechanism that allows two business interests to try and reach an agreement. It does not mandate any predetermined outcome. I am disappointed that we will not have the opportunity today to vote for this amendment.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I support H.R. 4850. However, an amendment, which to my disappointment has not been made in order, would have improved this bill significantly.

It was a procompetition amendment. It was a proconsumer amendment. It would have addressed a growing threat to something all Americans take for granted—that local TV stations are the principal means by which they can know and understand what is going on in their communities; the principal means by which their communities are reflected back to them.

In the last decade or so, much has changed in the way Americans receive their news and entertainment on their television sets. And, in the past, those local television stations provided all the services we call localism and made a lot of money doing it. Today, those same TV stations still provide those services—are still the only television service required by law, regulation, and license to provide those services.

But, during that time, the marketplace has changed dramatically. Local broadcast TV is no longer the gold mine it once was. Competition from new and diverse technologies has

changed that. And that is OK. But if those broadcasters must compete with the added burden of providing local programming but with limitations on their ability to compete for revenue, the localism we take for granted can and will disappear with the TV stations themselves. None of the competitors to the local station are required to provide the viewing public with that localism service.

The amendment I wish had been made in order by this rule would have addressed this situation. It would have recognized broadcasters' retransmission consent rights, thus establishing fair competition in the local marketplace.

Further, retransmission consent relies on competition, itself—not regulation—to check any anticompetitive behavior of cable operators. It frees stations to negotiate with local cable systems without Government intervention or coercion. Retransmission consent does not intrude into the private business of either cable operators or local broadcasters. It permits negotiations, but does not dictate the terms of any agreements that these two parties choose to enter into. Indeed, it does not require that the two parties come to terms at all.

I believe that the majority of Members support legislation to address today's problems with the cable industry. But a retransmission consent provision would also protect broadcasters' rights in their signal, allow them to function more effectively in the marketplace and assure they can continue to provide the basic local service that only they have been required to offer since the Communications Act was first passed 58 years ago. I will vote for this rule, but it is unfortunate that we will not be able to include a retransmission consent provision in the legislation that will pass the House today.

□ 1610

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER], a very hard-working member of the Committee on Ways and Means who is going to be carrying his brilliance to the other body in January.

Mr. CHANDLER. Mr. Speaker, I rise in opposition to the rule.

I am delighted to follow my fellow former broadcaster, the gentleman from Washington [Mr. SWIFT], in complaining about this rule.

Mr. Speaker, I rise today to express my dismay that the amendment to be offered by the gentleman from Texas [Mr. FIELDS] was not made in order. While I understand that there is varied opinion on this issue, I believe that it is an issue this House should have the opportunity to debate on the floor during debate on H.R. 4850.

The Fields amendment would have provided for a retransmission consent

option for free, over-the-air broadcasters. The intent of the amendment was to give bargaining power to local broadcasters when negotiating the terms of cable carriage—not to serve as a subsidy for major networks. Unfortunately, we will not have the opportunity to fully address the merits of this proposal today.

Counter to what opponents may argue, retransmission consent is a local issue. It affects broadcasters and the public service which they provide to their communities. It is an issue of local stations, carrying local programming and news about local interests.

My first job out of college was with an ABC affiliate. In 1968, I began a 5-year period of reporting and anchoring with KOMO-TV in Seattle. I saw firsthand how valuable news and programming, produced by local broadcasters, is to communities. I also understand the impact that the cable industry has had on local television stations. Programming which serves the needs of a community are being rebroadcast by cable companies without any return to the affiliated or independent station for the effort and cost required to produce that public service.

Without a retransmission consent option, local broadcasters are literally being forced to subsidize their own competition. No industry should be subject to such an inequity. Broadcasters are merely asking to receive a portion of the payments that cable operators are already charging their customers for this service in their basic package rates.

Could you imagine a successful cable company which did not carry local broadcasting to its customers? Could you imagine turning on your television and instead of getting your local news on channel 4, your only news option was a superstation, or even a variety of superstations. I think my colleagues would agree that a great deal would be lost—a sense of community.

Cable operators will argue that they would never elect not to carry local networks. However, if the retransmission consent option is not considered, we may find that local networks are unable to survive the increasing revenue losses. Who then would be left to cover the story on a local high school football team winning a State championship, or the heroics of a little girl whose 911 emergency call saved her mother's life?

Mr. Speaker, this amendment would have provided a practical and reasonable response to one major inequity in today's video marketplace. I urge all of my colleagues to support retransmission consent later in the legislative process.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I would like to alert our colleagues to a very

important amendment that is going to be coming up on this very important cable bill. The amendment is the Tauzin amendment. I would like to urge all our colleagues, those on the floor and back in their offices, to focus on that amendment. It is the heart and soul of this bill.

People on both sides of the aisle have said what they really want in cable TV is competition. Competition is the best way to lower prices for cable TV and improve service. Competition is the answer, and the only real way to get competition is through the Tauzin amendment program access. What program access does is allow competitive cable companies, in some cases these are going to be rival cable companies themselves. Sometimes they are going to be satellite dish companies. Sometimes they are going to be wireless cable companies. Lots of technologies are involved.

What the amendment does is give these companies a chance to buy the hot program, a chance to compete in the marketplace to buy the hot shows that people want to watch on TV because you can have cable company A and you can have cable company B, but if cable company B has none of the hot shows, nobody is going to want to subscribe. You are not going to have any real competition. So program access may sound like a technical amendment, but it is a vitally important amendment.

This bill is not a good bill without the Tauzin amendment.

I would also like to urge my colleagues not to be fooled by the Manton substitute. It looks good on the surface. It does not, however, provide real program access. It does not give these competitive cable companies a chance to go out and really bid on the program.

For example, it may help some satellite dishes, the 10-foot wide dishes, the old-fashioned dishes. It does nothing for the new dishes that everybody wants, the 2-foot wide dishes, the dishes that you can carry home in the trunk of your car, the dishes that you can set up easily where you live, including on your condo balcony or your apartment balcony, the dishes that are going to transform the video marketplace of this great country.

Let us have real competition in the delivery of multichannel video services. To do that, vote "no" on Manton, vote "yes" on Tauzin.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG], another of our many television personalities.

Mr. KLUG. Mr. Speaker, I was prepared to rise today in support of the amendment which should have been offered by my colleagues, the gentleman from Texas and the gentleman from Ohio. The amendment, as we have just

heard several speakers talk about, was retransmission for broadcasters. I am disheartened by the fact that I am not going to have the opportunity to vote for this amendment to support my local broadcasters back in Wisconsin and to grant them the ability to control the use of their signals.

I bring the perspective of somebody who worked in broadcasting for 14 years, in Washington State, like my colleagues, the gentleman from Washington [Mr. CHANDLER] and the gentleman from Washington [Mr. SWIFT], here in Washington, DC, and back in my home State of Wisconsin.

If you look at my home television market of Madison, WI, it is a perfect example. There are three local network affiliates and one independent.

There is no guarantee that the local cable systems have to carry any of those stations, period. They might choose to carry two of them and eliminate the other two, which puts the two not carried at a great competitive disadvantage.

There is absolutely no ability for the local broadcasting stations to be paid for the fact that the cable system reaches out, grabs the signal, repackages it, sells it, and makes money off of it.

Finally, and perhaps more importantly, the local stations have no ability whatsoever to reach an agreement with the local cable system about what channel they are going to be replayed on. So a station, such as channel 7 here in Washington, might find itself channel 7 on one cable system, channel 17 on another, 27, 33, 52, 64, and the combinations are endless.

As the gentleman from Washington [Mr. SWIFT] and the gentleman from Washington [Mr. CHANDLER] have said, broadcasters today face a much different economic climate than they did in the past, and it is important that we lay down some fundamental principles, especially because of the new forms of video distribution which shortly will be arriving on the scene.

We have heard about the promise today of telephone company delivery of video, direct satellite broadcasting, and wireless cable. In the future there may be even more technologies. If broadcasters do not have the right to protect their signals and negotiate with these newer technologies, they will find in the future they may not be able to survive at all.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, let me first thank the chairman of the Rules Committee and the Rules Committee for the rule. Unfortunately, it does not contain a rule that will permit the consideration of the retransmission consent amendment that I think should be considered on this floor and hopefully will be considered in the conference.

The other body has already adopted such a provision. I think it is terribly important.

But the rule does permit—and we will see a great debate on the floor of this House before this bill is over. We will see a debate between the Tauzin amendments; but more importantly, that debate will be between the ability of the great cable monopolies to insist in this Chamber, as it has insisted in America, that it can raise rates at will and nobody can do anything about it, or whether we in this Chamber will answer consumers' legitimate concerns that they have a chance at a competitive price marketplace.

□ 1620

The Tauzin amendment will give you that competitive price marketplace. What it will do, we will show you, is that, according to the FCC, when competition exists in cable—and it only exists in 5 percent of the cable markets—where competition does exist, cable rates fall by as much as 34 percent. We will demonstrate for you that consumers are losing \$4 billion annually to monopoly cable rates because the monopoly cable companies face no competition in 95 percent of the marketplace.

This law will decide between MANTON and TAUZIN, but to get to the Tauzin amendment, to give consumers the chance they got on the other side when the Senate voted 73 to 18 for a similar amendment like Tauzin, to get to that vote we are going to have to defeat the Manton amendment. It is an amendment crafted for the big cable companies, designed for the cable companies, and unless we defeat it we are never going to do anything for the consumers of television in America.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 2 minutes to a gentleman who, unfortunately, is going to be retiring from this body. I refer to our great judge from Tuscaloosa, the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we have heard a lot of misinformation about an issue that many in this Chamber hoped would be debated here today—retransmission consent.

The cable industry has spent a lot of money and effort at scaring the American people about this concept. They even ran ads on their cable systems and sent out flyers in their cable bills warning customers that if retransmission consent were enacted, they would have to begin charging a 20-percent surcharge on every cable bill to pay the networks for their programming.

Well, as we know now, this campaign of misinformation has been completely discredited. There is no 20 or any other percent surcharge on cable bills that

would arise from this change in communications law. And networks would not even be a party to these local negotiations, except in those few instances where they themselves own a local station.

What retransmission consent will do is simply allow local stations to enter into negotiations with local cable operators for the right to use their only product—their broadcast signal. This is a fundamental communications right which has been granted to broadcasters since the Radio Act of 1927, but which an exception for cable was made in 1959, when cable was nothing more than an antenna service.

Today, cable is a \$21 billion-a-year industry. It creates and owns much of the programming it provides on its wires. It is the sole gatekeeper for the video choices of over 60 percent of American homes. It no longer needs—and broadcasters can no longer afford—the subsidy which local stations must provide to cable when cable uses those signals without negotiations over the terms and conditions of that usage.

I do not know of any other area of American commerce where one business is allowed to take the product of a competitor for free—sell it to the public at a monopoly price—and then use the profits from that transaction to create competing products. But that is exactly what we have with cable and local broadcasters. And if it does not get corrected soon, local stations will simply be forced to cut back further and further on their local services, including local news, weather reports, public service, and public affairs programming. That hardly serves the public interest.

Mr. Speaker, I support the effort to include this provision when the House and Senate conferees meet to work out a final version of cable legislation. Such a provision is fair and reasonable. It would not force cable to pay one cent for anything. What it would do is allow there to be a marketplace between broadcasters and cable operators, and that is something all of us should support.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I have listened, Mr. Speaker, to a lot of my colleagues who have been explaining that they just regret we do not have an opportunity to vote on retransmission consent. Well, the answer is very simple, it is simple: Energy and Commerce basically could not legislate in the copyright area because that is within Judiciary's jurisdiction and they took it out in full committee to try to avoid a sequential referral, simple as that. I regret that because we were prepared to try to deal comprehensively with the entire law. You cannot do that piecemeal.

You know, retransmission consent is a broadcaster's Christmas in July. You

know, they are addressing a problem that needs to be addressed. There is no question but that cable should not have a free ride for local signals. That is wrong. They have enjoyed that ride for a long time. But you do not solve that by giving broadcasters \$1 billion and more.

The estimate is \$1 billion, anywhere between \$1 billion and \$3 billion for the consumer. That is what you are talking about.

The answer is to try to deal with some of the copyright issues, and we hope to do that. A bill is moving through the Committee on the Judiciary, it is out of subcommittee, that will deal comprehensively with the whole compulsory license issue. That is what we need to do.

We need to provide that second stream of revenue for broadcasters, but, you know, all of a sudden they have gotten greedy. They see that instead of perhaps receiving \$200 million or \$300 million, there is potentially \$1 billion to \$3 billion which they will saddle on consumers.

So, before you lock yourselves into retransmission consent, read a little bit about what that means to not just telecommunications policy but to your consumers. When you do, you will see that there is another answer. It is not retransmission consent. It is not to give that kind of power to broadcasters, but to develop the kind of mechanism that we need to provide to try to sort this out in the context of copyright, which is where we can deal with those problems.

Mr. DREIER of California. Mr. Speaker, at this time I have no further requests, but I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this rule, and I also rise in support of the bill, H.R. 4850. I am, however, sorry that I was not able to have my sense of the Congress amendment regarding sports blackouts made a part of this rule, but there are other features of H.R. 4850 that I think are very worthy in this piece of legislation.

For example, it allows local governments to regulate program rates charged for any professional championship contests. While season ticket-holders are sure to get tickets to the championship games, other supportive fans also deserve a chance to see the games at a reasonable rate.

For the last 2 years, for example, when the Chicago Blackhawks hockey team made it to the Stanley Cup playoffs, fans who had loyally supported the team throughout the season and were unable to get a ticket to the sold-out games found out they could only

see the games on television and only on a pay-per-view basis. I think this is unfair, given the fact that in Chicago and other cities, professional teams play in stadiums and arenas partly financed by local government.

For many Blackhawk fans, hockey is a way of life and a needed diversion from the sometimes hard work of providing for their families. Many of these fans helped pay for arenas and stadiums through their taxes. We need to keep the televising of professional sports as accessible as possible.

Although cable and sports executives are quick to say that traditional championship games like the World Series, Super Bowl, and the NBA playoffs are not headed for pay-per-view, it is clear that putting hockey championship games on pay-per-view is the start of a trend. It is only a matter of time before more and more games will be offered only in this way.

When and if pay-per-view becomes the standard for sports, and I hope that it never does become the standard, we need to be sure that the rates are affordable for most fans. The last thing we need is a television system that further divides our country along economic lines. Regulation of pay-per-view is just one reason why I support this bill.

Mr. Speaker, this legislation provides for fair and equitable cable television rate regulation. I am not in favor of unnecessary regulation, but I believe the cable television industry has reached the point where it is necessary for Congress to pass legislation to protect consumers by bringing under control some of the problems we have experienced in the industry in recent years.

Since the Congress adopted the Cable Communications Policy Act 7 years ago, there has been tremendous growth of the cable industry. In 1985, only 37 percent of households had cable television; today cable is in 61 percent of American homes.

While the quality and diversity of programming has greatly increased during this period, subscribers are concerned because cable rates have skyrocketed. Between 1986 and 1991, monthly rates for the most popular basic rates increased by 61 percent, from an average of \$11.71 to \$18.84 per subscriber, according to the GAO.

This is a proconsumer bill that would ensure reasonable competitive-level rates for cable programming and offer some protection to consumers from unreasonable rate hikes. Unfortunately, many of the low income and fixed-income residents of my district cannot afford cable, and I am concerned that many of those who currently subscribe to cable may be forced to give it up if the rates continue at the current pace.

RATE REGULATION

Rate regulation is the heart of this legislation. One study shows that basic

cable rates have risen an average of almost 65 percent in my district over the last 5 years. This bill extends Federal Communications Commission price protection to all tiers of programming. If the FCC finds the basic cable rates are excessive, the local franchising authority can reduce the basic service charge. This bill would limit basic rates to what would be charged in a competitive market, based on a formula established by the FCC. In 97 of the Nation's cable markets, operators face no real competition. Studies have shown that cable rates would be about 50 percent lower if cable companies faced the pricing pressures that come from being in a competitive market.

MULTIPLE FRANCHISES

The provision of the bill which allows for cities to offer multiple franchises offers a chance for the kind of competitive environment that could resolve some of these problems. I wish that perhaps the legislation had gone a step further and mandated multiple franchises so that customers would have a greater choice of programming and other services, but this is a good first step. I have been pushing the cable industry to find new ways of offering consumers a chance to make wider program choices. At some point these additional program choices will be made possible through new technologies and the eventual entry of telephone companies into the cable television business.

TELCOS

While I am on the subject of telephone companies getting into the cable, let me say that the Bush administration's most recent gambit of getting the FCC to let local phone companies transmit cable television does not negate the need for this legislation.

At some point down the road, competition from the telephone companies and other sources will work to keep cable prices down and offer consumers greater diversity in programming, but that is at least a decade away. Also, there are a number of questions that must be answered, including who is going to pay the billions of dollars needed to develop a video-telephone network.

Let us first attempt to rectify the problems that exist in the current cable structure, then look to expanding the marketplace.

EEO

This bill has provisions that call for continued rigorous enforcement of equal opportunity rules designed to improve opportunities for minorities and women.

Although there has been increased equal employment opportunities in the cable industry since 1984, when the first Cable Act was enacted, there is still room for improvement. A look at the FCC Employment Trend Reports shows that the majority of female and minority employees continue to be

clustered in low-paying positions, particularly office and clerical positions.

The percentage of professional positions held by ethnic minorities has not increased significantly since 1985. In fact, in the case of African-American males, there has been a decrease. According to the FCC, in 1985, 4.1 percent of professional positions were held by blacks, compared with 3.6 percent in 1991. This bill requires licensees to establish a program that ensures cable operators hire and promote a workforce that reflects the diversity of the community it serves.

As I said in the beginning, it is not my intent to saddle the cable industry with unneeded regulation. This bill offers consumer protection, encourages competition, and sets much needed rate regulation. I urge my colleagues to vote in favor of this bill. It is time we joined the Senate in approving cable legislation that is proconsumer without being anticable.

I hope that everyone will support the bill and the rule.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. I thank the chairman of the committee for yielding this time to me.

Mr. Speaker, I must reluctantly rise in opposition to this rule today, because it fails to recognize the value of locally oriented broadcasting.

For years, many American TV viewers have come to depend on the local news, weather, public service, sports, and public affairs programming of their local television stations. These broadcasters have served us well as they meet their public interest obligations as FCC licensees.

But they face a grave future unless they can gain a more equal footing with their chief competitors. Given the current situation, where cable can take broadcast signals for free, sell them for a profit, then use those profits to create competing programming, broadcasters are now in the terrible position of having to subsidize a wealthy and successful competitor. If this goes unchecked, we will see local stations having to cut back on those local services which make them unique among video providers.

Mr. Speaker, we cannot afford to let that happen. We need strong, locally-licensed stations to provide that local programming which cannot be produced elsewhere. I had hoped that today, we could have voted on an amendment which my friends, the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] wanted to offer. That amendment, known as retransmission consent, would set up an option system for broadcasters.

Local stations could choose either must-carry, which is already a part of

the bill, or they could waive must-carry and seek to negotiate the terms and conditions of their cable carriage directly with cable operators. This second option would give broadcasters the opportunity to bargain for the value their signals provide to local cable operators. And given that nearly two-thirds of cable viewing is of these local broadcast signals, it's clear that these stations deserve more than they are currently getting.

A recent survey conducted by the National Association of Broadcasters of 1,000 adults show that nearly 60 percent of those surveyed agree that it is unfair that cable systems do not have to pay broadcasters for the right to use their programming. That finding merely supports the commonsense approach I take, which is that retransmission consent is the only way broadcasters can recoup the value that their signals—their only product—provide to cable.

I share the disappointment of many here that this issue was not made in order as an amendment to the cable bill. The Eckart-Fields amendment has been extensively discussed in the Energy and Commerce Committee, and it absolutely deserves to be a part of today's debate. Since this resolution fails to rule the retransmission consent amendment in order, I cannot support it, and I strongly encourage my colleagues to vote "no."

□ 1630

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. Markey].

The SPEAKER pro tempore (Mr. TORRES). The Chair would advise the gentleman from Massachusetts [Mr. MOAKLEY] that he has 3 minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Massachusetts [Mr. MARKEY], so that he can close the debate here on the rule.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 4 minutes.

Mr. MARKEY. Mr. Speaker, I thank the gentlemen very much, the gentleman from California [Mr. DREIER] and my good friend, colleague, and leader, the gentleman from Massachusetts [Mr. MOAKLEY].

And I thank the Committee on Rules for their rule, and I think that it has helped to shape this debate so that the major issues, with the exception of the retransmission issue, will be out here on the floor, and I know that many Members are disappointed that the transmission issue will not be out here today. But I think most of us believe that it is absolutely essential that a retransmission consent provision be in the bill that is sent to the President for signature, and I can guarantee the Members that we are going to work to-

ward that effort. I especially say those words to the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] who have dedicated a good part of the last year toward that effort.

The gentleman from Michigan [Mr. DINGELL] and I have worked with our staffs over the last year to shape this bill. We have worked as closely as possible with the minority, with my good friend, the gentleman from New Jersey [Mr. RINALDO] and the gentleman from New York [Mr. LENT] to bring a piece of legislation to our colleagues.

Now there are disagreements; there is no question about it. The Lent substitute, to a very large extent, is going to frame those choices for this body. Now whether it be blockage of foreign ownership of the cable system of our country, tougher regulations, tougher consumer protections, increased competition, which this bill has, the must-carry provision which protects television stations against being moved around indiscriminately or just bounced completely off the cable network completely; this bill has a long list of provisions which contrast sharply with the minority substitute which the gentleman from New York [Mr. LENT] will be making. It is my hope that since 1984, Members in this body understand that, although, with the best of intentions, there was a deregulation of the cable industry. It was for the purpose of getting the technology out as quickly as possible, into the hands of as many Americans as possible. Right now cable goes past 90 percent of the homes in America and 65 percent of all Americans subscribe to it. So, the technological benefits are out there now.

Now the question is: Do we return and clean up some of the unintended consequences which have manifested themselves over the last several years? We think that the proposal which we bring to our colleagues here today does that, and it does so in a judicious way. The issues that were unresolved, primarily this issue of access which the amendment of the gentleman from Louisiana [Mr. TAUZIN] brings out here to the floor, is one which ultimately will be determined in the course of the debate today.

Mr. Speaker, I think the chairman of the Committee on Rules and the members on our committee have done a good job in framing those issues for the body. I think by the close of the day today we will be well on our way to constituting a telecommunications policy for the 1990's, and I would hope that this body would give some respect to the product which came out by a vote of 31 to 12 out of the Committee on Energy and Commerce. We worked long and hard on this bill, and at the end of the day today I think we will be completing the House procedure that will then allow us to go to conference and to put a bill on the desk of the

President. It is highly controversial and highly technical, but in the end we are protecting consumers, we have augmented competition, we are protected against the foreign takeover of this vital communications network in our country and, we think, produced a good bill for consideration today.

Mr. DREIER of California. Mr. Speaker, I am not particularly ecstatic about the rule or the bill in its present form, but I hope very much we will be able to craft something that will create a wider range of choices for the American consumer at the lowest possible price.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 523 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. 4850.

□ 1635

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. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume, and that would be just briefly, to once again reiterate what a pleasure it has been to work with the gentleman from New Jersey [Mr. RINALDO] at the subcommittee level and with the minority staff, working, of course, in conjunction with the gentleman from Michigan [Mr. DINGELL] and all of the members on the majority side. We have tried to put together a piece of legislation in as collegial a fashion as possible.

Mr. Speaker, the issues out here today are the remaining issues that the full House will have to decide, and, as we reach this point, I would like to say that we really do have an historic moment. We made a big decision here in

Congress. It was that we wanted to create a technological revolution back in 1984, and we wanted to get it into the hands of the consumers as quickly as possible. Now that decision was made on a bipartisan basis back 8 years ago, and the fruits of that decision are in the hands of most consumers in the country right now.

But with it came a number of problems, a number of problems that have gone unaddressed, and that includes our ability to be able to protect against rate increases which are happening in many parts of the country without any concern for the impact upon consumers, the lack of competition against an industry that in 99 percent of the communities in which there is a cable system there is no competition, against the threat that, as we move forward, we learn that the purchase of two or three companies that have cable interests would give some foreign entity control over the latter-day, modern telecommunication network of our country, and in our opinion it is time for us to come back and to revisit these issues to ensure that there is protection of consumers, ensure that there is more competition, ensure that there is protection against foreign ownership of this vital network.

On the foreign ownership issue, Mr. Speaker, we do not allow them to own our television stations. We do not allow them to own our radio stations. We do not allow them to own our telephone networks across this country. And for good reason. And that reason is that it is a part of the vital infrastructure of our country, and the cable network has become the modern equivalent of those earlier telecommunications technologies. This piece of legislation ensures that equivalent legal treatment and protection will be given.

I, over the last several years, have requested GAO accounting studies of the cable industry and the rate increases.

□ 1640

We have found since deregulation the cost of basic service has ballooned 61 percent to cable consumers across the country. That is three times the rate of inflation since deregulation. Just this year it has seen the rate of cable TV go up 10 times the rate of inflation in the month of February and 4 times the rate of inflation in the month of April in this country. These dramatic increases have to end.

We are going through this legislation to give the tools to the relevant government agencies and to the consumers which will ensure they are protected against that kind of rate gouging. We are going to protect against the bad actors out there in the cable industry.

I think this is a good time to put out in the RECORD that there are many, many, many good cable operators in this country, but there are too many

others who have in fact taken advantage of the lack of regulation and continue to exploit this inability of consumers, of local municipalities, to be able to protect their citizens against the rapacious conduct that has resulted in these dramatic increases in cable rates.

Mr. Chairman, this is a good bill. It is one which I think the full House should endorse today.

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

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

Mr. Chairman, today, the House of Representatives will consider legislation to address concerns about the cable industry that have arisen since the Cable Communications Policy Act was adopted in 1984.

That law was enacted for a simple reason: The industry was being held back by unnecessary, burdensome requirements being imposed upon it. Testimony was given to us that, with deregulation, we would see fuller penetration of cable TV throughout the country. We would see greater consumer choice. And we would see greater investment by the industry in programming.

In short, deregulation was supposed to provide the industry the impetus it needed to reach its potential.

There is no doubt about the actions Congress took in 1984. The Cable Communications Policy Act was a success.

Once that law was passed, cable TV became one of the most talked-about developments in America.

More than 60 percent of American homes now subscribe to cable.

In many areas throughout the country, cable customers have access not just to dozens but to scores of cable channels.

C-SPAN and CNN have literally changed the way Americans receive information about politics, government, and local, national and international events.

In a word, Mr. Chairman, Congress made an important decision in 1984, and that decision was, and is, a success.

But in the years since 1984, we have also encountered problems.

In some jurisdictions, cable operators took advantage of price deregulation to raise rates above what was justified.

That is clearly wrong.

And unfortunately, in far too many of those instances, cable TV customers have had no other cable company to turn to. It was all-or-nothing with the only franchise in town.

At the same time, far too many cable operators were not ready for the number of homes who signed up.

Customer services was woefully poor in many areas. And it was far below the minimum level that rising cable prices demanded.

There have also been repeated complaints from other industries—including

DBS, MMDS, TVRO and others—that the cable industry was refusing to provide programming to potential competitors.

On the one hand, cable operators were given freedom from price regulation, and on the other hand they were stifling any potential competition by locking up programming.

The Telecommunications Subcommittee has carefully examined the cable industry over the last 4 years and has compiled an extensive record on problems in the industry.

Our committee record provides clear evidence that there have been numerous instances of abusively high rates and poor customer service.

But when we have identified those problems, we have acted to deal with them responsively, effectively, and swiftly.

Nearly 3 years ago, I laid out a challenge to leaders of the cable industry. I told them the facts of life in Congress, and I said that if they were unwilling to clean up problems in their industry, Congress would do it for them.

I laid out a six-point plan for customer service, which included a restraint on rises in cable TV rates, hiring more customer service representatives, adding additional telephone lines if necessary. In short, I told them to do the job they should have been doing all along.

Not long after that, Chairman DINGELL, Chairman MARKEY, Congressman LENT and I put together a responsible piece of legislation. It had broad, bipartisan support and it passed the House of Representatives overwhelmingly 2 years ago.

It died in the other body. But earlier this year, the other body tried to pick up where it left off.

I would like to commend my colleagues in the other chamber for attempting to follow our lead, but the fact is the legislation they passed is nothing like the bill the House of Representatives approved 2 years ago.

Frankly, I am distressed at how this issue has evolved in the last several months, for an important reason:

Our goal should not be to bash the cable industry. It should not be to undermine the success of the 1984 Act.

Our goal should not be any different from what it was 2 years ago:

We should pass a solid, effective, practical piece of legislation that addresses real problems in the industry, that protects consumers from excessive rate hikes, and that gives consumers the service they deserve.

We should not pass a wish list of proposals that will only do more harm than good.

I strongly support rate regulation for abusive cable operators, and I will vote for such an approach.

I also support strengthening the Federal law on stimulating competition. We should not allow members of the

cable industry to refuse to deal with potential competitors, and that is why I am supporting the Manton amendment.

We must make sure that cable TV customers get the service to which they are entitled, and I support provisions that will improve customer service.

In conclusion, Mr. Chairman, I hope that we will work this afternoon to produce legislation that protects consumers.

As we consider this bill today, and as we continue toward a conference with the Senate, I am going to do everything I can to enact effective consumer safeguards, improve customer service, hold down rate hikes, and prevent unnecessary and unwarranted costs from being passed on to consumers.

I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in full support of this legislation. There is, however, an issue of great importance to me which is not addressed in H.R. 4850.

For several years, major league baseball and other professional sports leagues have repeatedly requested regulatory and legislative changes that would have the affect of hindering or preventing superstations from continuing to carry these sports into millions of homes across the Nation.

Many sports fans can't afford the high cost of taking their families to a professional game. That's why I attempted to have adopted an amendment to the cable bill, H.R. 4850, that would prevent major league baseball from blacking out baseball on superstations.

Across this Nation there are hundreds of thousands of sports fans, many of them senior citizens living on fixed incomes, who can not afford \$30 or \$40 to go watch a major league baseball game. These fans have watched baseball over superstations for over 15 years. They can't afford to go to the stadium and they will not be able to afford the higher price of viewing games on regional sports networks or pay per view.

Superstation sports have been an important counterbalance to the sports leagues, ensuring viewers inexpensive access to sporting events, particularly in sports short areas of the country. At the same time, it has been proven that sports telecasts over superstations do not have a negative affect on home team attendance. Eliminating superstation sports while the leagues' anti-trust immunity continues would be a mistake for American sports fans.

Mr. Chairman, I think this is a good bill for consumers and I sincerely hope that, in conference it will not by allowing ninth inning proposals by baseball to create blackouts.

□ 1650

Mr. RINALDO. Mr. Chairman, I yield 6 minutes to the distinguished ranking member of the full committee, the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, in 1984, Congress deregulated the cable television industry for the express purpose of stimulating growth and diversity in the video marketplace. In large part, that objective has been achieved, and most expectations have even been exceeded.

Prior to deregulation, cable provided essentially an antenna service to those homes that could not receive clear, over-the-air signals. Since the 1984 act, cable has developed into something infinitely more valuable to the American consumer. Today, the average cable system offers 36 channels. One-fifth of the systems offer more than 50 channels. Without a doubt, cable has revolutionized the way Americans watch television. Cable has become a rich source of educational, informational, and cultural programming including CNN, C-SPAN, Nickelodeon, the Discovery Channel, the Learning Channel, Black Entertainment Television, and many others.

The American people, moreover, have responded enthusiastically to the quality, value and diversity of programming provided by cable. The numbers don't lie: Today, over 52 million homes receive cable.

By most measures, the 1984 Cable Act, therefore, has been an overwhelming success. Cable's success has not been achieved without problems. There have been instances of unreasonable increases in cable rates and unacceptable declines in the quality of customer service. These instances, however, have been the exception rather than the rule.

Mr. Chairman, I am as committed as anyone to taking the necessary steps to ensure that consumers receive the best service at the best possible price. But I am also concerned that we not act with too heavy a hand—because that will ultimately hurt consumers as much as the industry. The heavy handed approach places future industry investment in technology and programming at significant risk.

It was, after all, the investment in technology that brought cable to the American consumer and it is the vast array of innovative and diverse programming developed by cable which continues to attract subscribers to cable today. So we must seek to achieve a balance. The best possible rates and services for consumers brought about through fair and equitable rules on the cable industry, so that continued investment and future growth in the industry is assured.

We began a serious reexamination of the Cable Act in the last Congress. At that time, the members of the Energy and Commerce Committee worked in a

bipartisan manner to craft consensus legislation that achieved the very balance I am talking about. Some of you may recall that this House approved such a bill on a voice vote.

Mr. Chairman, I had hoped that the consensus, bipartisan approach approved by the House last Congress would serve as a model for legislation this year. Certainly, the record demonstrates nothing had occurred in the last 2 years to support a dramatic change from the public policy we sought to advance last Congress.

In fact, according to a recent GAO study, commissioned by the chairman of the Subcommittee on Telecommunications and Finance, the evidence demonstrates that cable rates, which undeniably had risen dramatically in the first few years following deregulation, had by 1990 begun to moderate and essentially reflected the rate of inflation.

But something else had changed, Mr. Chairman, something we are all familiar with—politics. Because some believe the cable industry didn't play ball last Congress and consequently the cable bill passed by this House was not enacted into law. Thus, the cable legislation we are being asked to consider this Congress is more punitive in nature than corrective. The public policy considerations behind this bill represent nothing more than an advanced case of regulatory zeal, to regulate for the sake of regulating. This zeal, moreover, is not fueled by genuine concern for the American consumer. Rather, it is aimed merely at punishing an entire industry.

The committee vote on H.R. 4850 was along party lines, hardly a mandate for passage of this legislation. Sadly, I might add that this is the first time since the early eighties that the Energy and Commerce Committee has failed to produce a bipartisan, consensus communications bill.

Mr. Chairman, let me address, for a minute, one of the most onerous and burdensome provisions of the bill—rate regulation. H.R. 4850 would encourage the inclusion of cable programming in the traditional basic over-the-air broadcast tier. Because under the formula for setting rates contained in the bill the cable operator may recover the costs of adding programming to the basic tier, the cost to consumers will undoubtedly increase. Thus, ironically, this proconsumer legislation may result in higher, rather than lower, consumer cable bills.

Nor does H.R. 4850 offer any public policy rationale for regulating a tier which includes cable programming in addition to over-the-air broadcast signals.

It is one thing to regulate a basic tier composed only of local broadcast stations. I support that. In that instance, the cable company is simply providing an antenna service. Clearly, there is a substantial Federal interest in seeing

that over-the-air broadcast stations that are licensed by the Government to serve local communities are available to the citizens of those communities by a cable system at reasonable rates.

However, there simply is no Federal interest or public policy rationale, for regulating cable programming such as ESPN or MTV. First, these channels do not use the public spectrum and are not licensed by the Government to serve local communities. Second, Government regulation of these channels amounts to a regulation of the speech of the cable operator and, therefore, probably violates constitutionally protected speech under the first amendment.

Cable television programming is not an entitlement program. It is not telephone service or electric service. It is entertainment programming, pure and simple. The American people are smart enough to know the difference. They are not looking to Congress to place arbitrary controls on their entertainment choices.

Indeed, one can only speculate where this Federal interest over the price of entertainment might end. Will we also regulate the price of movie video rentals, theater tickets, newspapers, and tickets to sporting events?

H.R. 4850 is also overly regulatory with respect to cable service and equipment requirements. Given that the industry spends millions of dollars annually in upgrades and investments in new plants, I am concerned that we risk creating significant financial disincentives for continued investment in new and improved technology.

H.R. 4850 could also discourage investment in new cable programming. Last year alone, the industry spent \$3.5 billion on video programming. That spending created new business and roughly 8,000 new jobs in 1 year alone.

As this country struggles to regain a strong economic foothold, clearly the most important consideration in approving any legislation is its impact on the economy and jobs. If in our zeal to regulate the cable industry, we discourage the industry's capacity to invest in new technologies, to invest in the infrastructure and to develop new and innovative programming, all Americans will lose. Not only will we hurt the consumer, who has looked to us for help with rates and services, but we risk a substantial loss of American jobs as well as this country's competitive edge in telecommunications.

Another issue raised by the over-regulatory nature of H.R. 4850 is who is going to pay for this regulation? The American taxpayer. The Congressional Budget Office and the FCC estimate that the cost to taxpayers of implementing the regulation mandated by the bill will be an astounding \$22 to \$60 million per year.

Finally, if this body is serious about passing legislation to address consumer

concerns, it should pass a bill that the President can sign into law. The administration's senior advisers have recommended that the President not sign H.R. 4850, if passed in its present form. H.R. 4850 will be conference against a bill with a similar veto recommendation.

Mr. Chairman, we should not be playing politics when the American consumer has turned to us for help. Instead, we should be passing legislation that makes the necessary corrections in the industry and which can be signed into law.

H.R. 4850 will not accomplish that goal. Consequently, I will be offering an amendment in the nature of a substitute that will. I urge my colleagues, therefore, to join me in opposing H.R. 4850, as reported by the committee, and in supporting the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, 8 years ago a fledgling industry came before the Congress in need of Government assistance. That industry got its wish, and Congress passed the 1984 Cable Act. That legislation eased regulatory controls on the price of cable television service, and created a compulsory license by which cable could procure quality programming.

The Cable Act has stimulated tremendous investment and growth in the cable industry in the past decade. Today over 60 percent of all Americans receive cable service. The average number of channels on cable menus has increased, and the quality of programming has greatly improved. Today, consumers enjoy an unprecedented diversity of quality cable programming: the Cable News Network, C-SPAN I and II, the Discovery Channel, Arts and Entertainment—outstanding educational, entertainment and news programming.

Unfortunately, this remarkable growth has been accompanied by rate increases that are, in some cases, unreasonable and unjustified. The GAO reports that cable rates have increased by 61 percent from November 1986 to April 1991—that's more than 10 percent per year. In some instances, the higher rates are somewhat justified by the increased diversity of excellent cable programming. However, some bad actors in the cable industry have abused their monopoly privilege and abandoned the principle and goal of customer service, fueling consumer anger against the entire industry. Because consumers have nowhere to turn for relief, we must legislate.

The legislation reported by the Energy and Commerce Committee will regulate the basic tier of cable programming. It will empower the FCC to punish bad actors in the industry, and reverse unreasonable rate increases where they occur. It will also require

cable operators to meet minimum levels of customer service. These are provisions which will help consumers in the short term before true competition exists in the video marketplace.

In the long term, this market needs more competition. I urge my colleagues to support the amendment which will be offered by Representatives ROSE and MANTON—an amendment which will stimulate competition from alternative providers such as wireless cable and direct broadcast satellite systems by ensuring their access to cable programming. We must address this issue—without a program access section, the cable monopoly will continue to dominate the marketplace in the future.

Mr. Chairman, the Committee on Energy and Commerce has crafted this legislation with great skill, wisdom and balance. Chairman DINGELL and Chairman MARKEY should be commended for their hard work and diligence in this regard. They know, as I do, that it is very difficult to produce a public law to regulate this industry. This bill is our best, and perhaps last chance to do so. It is a bill that the President can, and will sign in this election year. I urge my colleagues to vote for this legislation.

□ 1700

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, H.R. 4850 is overregulatory in every respect. The bill, while promoted as proconsumer legislation, will result in higher, yes, higher rather than lower, cable bills. It has been estimated that it could add as much as \$5 billion to the cost.

In addition to failing to accomplish its goals of lower cable bills for consumers, the CBO and the FCC estimate that the cost to taxpayers of implementing the regulations imposed by the bill will be an astounding \$22 million to \$60 million per year. The bill ignores the needs of small cable systems, and it only pays lip service to small business by telling the FCC to take into account the administrative burdens.

The provision mandating that a subscriber need not take a programming tier service in order to access premium pay-per-view programming could destroy the programming structure of the cable industry. This provision is an unjustifiable Government intrusion, and there is no Federal interest in mandating how a cable operator must market or structure premium and pay-per-view services.

The New York Times just this week said this bill overreaches. We should adopt the Lent substitute, which we will have a chance to vote on later, which we have already passed, pretty much as it is written, in a previous Congress. That is what we ought to do to protect consumers.

If we pass H.R. 4850 and it goes to conference, then they add retransmission, we are looking at another \$1 billion. If we think the cable companies are going to absorb it, we must think that the Moon is made of green cheese.

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, remarkable work has been done on this legislation. I want to salute and commend the members of the committee, the members of the subcommittee, and the distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for an outstanding job well done.

Mr. Chairman, I rise in strong support of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. This is a comprehensive piece of legislation that was supported by a bipartisan majority in the Committee on Energy and Commerce. I am confident that it will enjoy comparable support when the House votes on final passage.

In 1984, Congress passed legislation that resulted in the deregulation of the cable television industry. Since that time, cable has developed into a dominant player in the media marketplace. Today, nearly 70 percent of American homes watch television that is delivered by a local cable operator.

Since 1984, the number of cable channels has increased dramatically. The proceedings of the House are now available across America via C-SPAN. Millions were able to watch the Gulf War live on CNN. Local news channels are proliferating. It appears that there is, or will soon be, a channel for every taste.

But this growth has not been without cost.

Since cable rates were deregulated by the FCC, millions of cable subscribers have been subjected to rate increases that never seem to end. Customer service is poor or nonexistent. Telephones go unanswered. Installation appointments are missed—and, when the installer decides to show up, they frequently do a shoddy job.

In short, cable has been behaving like an unregulated monopoly.

This should not come as any surprise. I was unenthusiastic about the 1984 law because I anticipated precisely these abuses. Thus, I am pleased that Congress has decided finally to reevaluate its decision made in 1984, and impose some meaningful protections for consumers.

H.R. 4850 does that. It provides for a formula that will be developed by the Federal Communications Commission and overseen by local franchising authorities. It requires the FCC to come up with tough customer service standards—and provides for effective en-

forcement. H.R. 4850 will ensure that cable operators are held accountable to someone other than their stockholders.

I do not pretend that this is a perfect bill. It is a compromise, and like all compromises, it contains provisions that are offensive to some. But it is a bill that deserves the support of the House here today. And I pledge to my colleagues that I will continue my efforts to improve the legislation as it makes its way to the President's desk.

Cable subscribers need the protections this bill contains. They need to have their rates controlled. They need improved customer service. They need to continue to have access to their local broadcast stations—both commercial stations and public stations. They need to be able to obtain remote controls and converter boxes at realistic and reasonable prices. They need to be able to purchase cable-ready TV sets confident in the knowledge that they are, indeed, cable ready.

Curiously, the cable industry needs legislation too. There are many responsible cable operators that have been tarred by the behavior of a few bad actors. In my district in Michigan, we are fortunate to be served by some of the best operators in the country. But many of you, I know, are not so fortunate. In my view, the industry needs the benefits of regulation that will either weed out the bad actors, or force them to clean up their act.

It is my hope that this is the last time we are going to have to bring a cable bill to the floor. I hope that, by the time we have completed the conference, the administration will have softened its stand against reasonable legislation, and that we will be able to have a bill signed into law.

Mr. Chairman, the go-go days of the eighties are over—for stockbrokers, for junk bond salesman, and for cable operators. It is time for the Congress to correct the problems that have been caused by deregulation and vote for this bill. I urge my colleagues to join me in supporting H.R. 4850.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

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

Mr. Chairman, if it is our goal with this legislation to convince the American people that their frustrations with Congress are unfounded, we are about to miss a golden opportunity.

Today we have a chance to put partisan politics aside and work together on behalf of the cable consumer. We could attempt to balance the interests of consumer groups, broadcasters, and the cable industry in a single piece of legislation worthy of nearly unanimous support in the House. Although it may sound too good to be true, that is exactly what we accomplished 2 years

ago. All it took was a common objective.

At some point over the course of the last 2 years, that bipartisan objective changed substantially. Consensus gave way to partisanship, rhetoric took the place of reason, and sound public policy fell victim to politics. With it went any real chance of having a sensible cable bill signed into law this Congress.

Although it was they who abandoned the consensus position, proponents of H.R. 4850 will undoubtedly characterize theirs as the consumer approach. Their claim is based on the 1970's belief that greater regulation and Government micromanagement will, by definition, benefit the cable customer. In reality, the opposite is true.

For try as we might, we can't have it both ways. We can't burden a particular industry with excessive regulation and expect it to produce similar results as if it operated in a free and open marketplace. Enactment of H.R. 4850 is certain to dampen reinvestment in cable plant, equipment and programming. Should this legislation prove to be our chosen course, we had better be prepared to explain why the diverse, quality programming to which cable subscribers have become accustomed just is not the same anymore.

Far from the mistake some claim it to be, the Cable Act—on balance—has been a significant success. But that's not to say it can't be improved. As pointed out in the findings section of H.R. 4850, "a minority of cable operators have abused their deregulatory status." Subscribers of these bad actor systems may require additional protections beyond what the Cable Act currently provides. By no means, however, is the kind of regulatory overhaul and overkill put forth by the Markey bill either warranted or appropriate. Nor is it likely to become law.

That is the bottomline for consumers. They are more interested in lower cable rates and improved customer service than they are in who wins a political battle long on rhetoric but short on results. Some have characterized H.R. 4850 as the consumer vote of the 102d Congress. I'm not sure that's true. But I am certain that from a cable subscriber's perspective, a true vote for the consumer—both procedurally and substantively—is one against the Markey bill, and for the Lent substitute. I urge a "no" vote.

□ 1710

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the distinguished chairman of the subcommittee for yielding time to me.

Mr. Chairman, the average household in America today will be watching about 7 hours of television, 7 hours, and 50 to 60 million of those American homes will be watching cable tele-

vision. Unfortunately, in this great land of free enterprise and capitalism, 95 percent of the communities in this country are only able to choose one cable TV company, there is only one choice for them. They have no alternative. We might as well be living in Eastern Europe as far as 95 percent of the communities are concerned, because they can only sign up with one company. That is all there is.

Fortunately in 5 percent of our communities we know what competition and choice and free enterprise is all about, and in those 5 percent of the communities they have an alternative. If they do not like cable company A they can sign up with cable company B.

Now what are the results of that in the communities with competition? Guess what? Prices are 30 to 40 percent lower and the quality of TV is better. There are more offerings, and cheaper prices. That is what competition can do.

The goal of this body should be to allow all of our great country to enjoy the benefits of competition instead of just 5 percent that enjoy it today.

Allentown, PA, was one of the first communities in America to taste competition and multichannel video programming, and they are still enjoying it. The little communities such as Glasgow, KY, and the larger towns such as Huntsville, AL, there is no reason why their competitive example cannot be spread nationwide. That is the opportunity before this body and before the Senate.

The Senate has passed a very strong procompetition bill. We can do the same if we reject the Manton amendment and support the Tauzin amendment.

Mr. RINALDO. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Chairman, there are millions of Americans who rely on cable to provide them with access to a broad range of programming which just a few short years ago was not even to be imagined. And so millions of Americans are deeply concerned with the actions that we will take here today.

Through the legislative and political process we have been called upon to regulate an industry which some 8 years ago we deregulated. Our vision then was to promote the growth of an alternative video delivery system, and we were remarkably successful in reaching the goal. The majority of cable subscribers now have access to 30 or more program channels and over one-fifth can get more than 50 channels. Cable networks provide consumers with a wide range of quality entertainment and children's programming, CNN, C-SPAN, Nickelodeon, the Discovery Channel, the Learning Channel, and the black entertainment television

being prime examples of the program diversity cable has brought to American households.

Do we want in legislation to destroy the energy, the creativity of this emerging high-technology industry? I say "no." But H.R. 4850 has the opportunity to do that.

Cable's explosive growth has also made the industry a major contributor to the economic health of this country. In 1990 cable TV contributed some \$42 billion to the GNP. In the same year the industry directly or indirectly provided over 500,000 jobs, generating income of \$18.2 billion. They employed some 100,000 people earning nearly \$3 billion annually, and suppliers directly or indirectly employ an additional 69,000 persons in cable-related jobs with personal income of \$2.5 billion.

The regulatory course that we embarked upon in 1984 led to great success, but our vision then was not without its limitations. There are some egregious examples where customers have been overcharged, where there is only one cable company and they are the bad actors. But are we going to throw out this baby with the bath water for few or some bad actors?

Let us do something reasonable. Let us do something intelligent. We will find out about that possibility through the Lent substitute which will be offered soon.

We do not want to swing the pendulum from deregulation to overregulation and deliver a knockout blow to the economic well-being and the cultural diversity and entertainment capacity that has been brought on since we deregulated in 1984.

We have been fairly successful. There have been cost increases, it is true, and part of it has to do with the way the cable companies bundle the channels together for billing. And if Members look at the cost increases just in isolated fashion, they look like they have really jumped up well beyond the CPI. But if Members look at cost increases on a per-channel basis, the increase has pretty well kept pace with the CPI. So the answer to this problem is to allow for separate pricing on a basic tier of cable channels. That's what the Lent substitute would do.

Yes, there are some service problems, and more needs to be done. The Lent substitute addresses this problem appropriately, with a rifle and not a nuclear bomb.

Investment capital is not inexhaustible in this country. We need more long-term investment. That is what the cable industry has in mind for its future. They plan to spend some \$18 billion over the next 10 years to upgrade plants and equipment.

Approximately 60 percent of the existing systems will eventually be rebuilt, and a lot of optic fiber is going to be in here, in the trunk, in the feeder cable. There is HDTV out there, there

is digital systems linked to computers, increased reliability and channel capacity, and all of these things do require investment.

My urging to my colleagues is to not do something that cripples this kind of long-term high-technology, high-creativity investment. Let us have innovation go forward. We have so little idea as to how a superregulatory bill like H.R. 4850 could impact on this industry and its growth and investment. And what about added FCC costs, up to \$60 million in a year of \$400 billion budget deficits.

But what concerns me far more than the FCC cost, and this is the bottom line, the main cost of all of this is the cost to the consumer. While some think we will be doing the consumer a favor with H.R. 4850, we will curtail investments, reduce the ability of the industry to produce its value; we don't add competition which is the real force to keep prices down and quality up. We will increase rate regulation litigation and we end up regulating to the point of actually increasing costs to the consumer.

Yes, this bill H.R. 4850 will increase costs to the consumer.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise in reluctant support of the bill before us. I compliment the gentleman from Massachusetts [Mr. MARKEY] and the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], for getting us this far, and I hope they can successfully conclude this with a bill that can be signed by the President. I intend to support the bill today.

I have three brief reservations about the bill.

One, I think the buy-through provisions that the gentleman from Massachusetts [Mr. MARKEY] has are too restrictive and could be counterproductive. They are not in the Senate bill, however, and that could be cured.

Second, the issue of access today. There will be a disagreement between the gentleman from New York [Mr. MANTON] and the gentleman from Louisiana [Mr. TAUZIN], and I intend to vote with the gentleman from New York. I think there are adequate safeguards in this regard.

Finally, I am disappointed that retransmission is not included in the legislation today. It is in the Senate bill.

Of particular concern to me is a matter that is taken care of in the en bloc amendment to be offered by the gentleman from Michigan [Mr. DINGELL].

□ 1720

That impacts the impact that exclusive contracts between college athletic conferences and regional sports programming networks have on the ability of local broadcasters to air local

events for local college football fans. In most instances, college conferences sign exclusive contracts with regional sports broadcasting networks which govern the broadcasting or cablecasting of conference games, often prohibiting those games from being aired in the same time slot as so-called games of the week.

For instance, in my congressional district, a Fresno State University football game against a Pac 10 school was not aired by the regional cable network because the sports network decided to feature a different Pac 10 game. All other conference games were similarly prohibited from being aired at the same time as the featured game.

To make matters worse, this contract also prevented local television broadcasters from securing the rights to broadcast that game. As a result, my local fans were deprived of seeing a game that they should have been able to see.

Similarly, when a Fresno State game against another school was blocked out due to the other conference's contract, local viewers could not see any game because the local system did not carry the network.

My amendment very simply would direct the FCC to consult with the Attorney General to examine and conduct an analysis of the impact of these contracts. The amendment does not solve the problem 100 percent, but it provides for a solution to the problem. It is the first step toward solving the problem.

I urge its adoption.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I want to begin by complimenting the chairman, the gentleman from Massachusetts [Mr. MARKEY]. So many times we hear about the gridlock in the House of Representatives and in our respective committees. I want to say in regard to our chairman that I feel like our chairman was always fair to us on the minority side. I cannot say that we always agree, but I can say that I felt he was always fair, and I appreciate that as an individual member.

I say the same thing in regard to our ranking member. I think he has been fair to members on this side and has given us every opportunity to express ourselves.

I have to say continually that I am disappointed that retransmission consent is not in this debate today as a policy question. I think it would be an important part of this debate.

But, regardless, it is important and incumbent upon all of us as Members to look at the legislation that is before us, because we do have some choices.

Mr. Chairman, I am here to say that I think that the Lent alternative that will be coming up later is the best alternative, and I think there are several reasons why we should vote against

H.R. 4850, this massive reregulation bill. First of all, I believe that H.R. 4850 in its present form is anticonsumer. Industry investment and programming quintupled, and channels typically available to consumers doubled since 1984. This piece of legislation would raise costs of cable service and limit the availability of programs to consumers.

Second, I think H.R. 4850 increases cost. Massive reregulation would cost, it is estimated, between \$1.2 billion and \$2.8 billion per year, which is the equivalent to about \$23 to \$51 per year for each cable subscriber.

A third reason that I think people should vote against H.R. 4850 and for the Lent alternative is the regulatory burden. The FCC is already empowered to permit States to regulate problem areas, and the FCC regulatory standard was recently toughened.

H.R. 4850's reregulatory costs to FCC, to the Federal Communications Commission, would be between 17 and 44 percent of its entire current budget.

I think there are alternatives to create competition in the video marketplace, which is what we want. Competition, not rate or service regulation, best keeps cable rates low and quality high. Competition could result in a \$4.4 billion annual benefit, or an \$80 per household savings.

I think to increase competition in the video marketplace there should be an outlaw of exclusive cable franchising practices. Personally I think telephone companies should be able to compete in offering cable.

And then, finally, we should look at ways to eliminate regulatory burdens on other competitors to cable.

Mr. MARKEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, Members of the Committee, I think the problem can be stated very simply: Since this Government deregulated the cable industry, something dramatic happened. The cable industry, first of all, concentrated in some very large national companies, and it vertically integrated. It does not only own the cable in our homes now, it owns the programs that go over those cables.

The second thing that has happened is the very few companies on the national level that control the program now have refused to sell that program to anybody else who would compete with cable, or they have offered it to competitors at excessively high rates.

If you take the C-band satellite industry where they are charging as much as five times as much for a consumer on the C-band satellite, the big dishes, to see the same programming that others might see on a cable somewhere in America, and they are doing the same thing when it comes to nonwire cable, what we call microwave or wireless cable, and they are doing

the same thing when it comes to DBS, the new technology in the sky, new satellite technology that will be available to urban consumers as well as rural consumers.

That is the problem, monopoly concentration without regulation, and consumers that are catching it in the neck, no competition.

There are two ways to cure that problem. One is to reregulate, to give to the local communities the power to set rates and terms and conditions again. The other is to provide competition.

Now, our bill provides some regulation, but the real heart and soul of this bill ought to be to create competition.

The gentleman from Tennessee [Mr. COOPER] told us earlier what it brings, a 34-percent reduction in rates. How do we get competition?

The gentleman from New York [Mr. MANTON] will offer a solution, and I will offer now. Mr. MANTON's solution, drafted by the cable companies for the cable companies, will solve only the old problem of the old dishes. It will say to the new technologies, to wireless cable, "The big companies have to deal with you, but they can deal with you under any price and terms and conditions. In other words, they can charge you 10 times as much as anybody else. If you do not like the deal, sorry, no competition." That is the Manton substitute.

The Tauzin amendment is the only one that provides that programs will be available to competitors, that consumers will have choice, and out of choice comes lower prices and a control in this marketplace in the hands of the consumer, not the cable company.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, first I wish to commend the chairman for agreeing to the amendment that I offered in full committee that imposes EEO requirements on the broadcasting industry just as we did on cable in the 1984 Cable Act.

Mr. Chairman, I will be vigilant in this effort as we move through conference to ensure that women and minorities have the equal rights in terms of opportunity, in terms of hiring, in terms of professional advancement. This is something that the broadcasting industry, I understand, may try to replace or remove in the conference. We will make sure that that does not happen.

Second, I will be supporting the real consumer amendment in this legislation, and that is the Manton amendment.

Mr. Chairman, I come from a rural area. The Manton provisions will ensure access to home dish owners.

I have a letter in front of me from a major entrepreneur in the DBS business, Mr. Stanley Hubbard, of Hubbard

Broadcasting, expressing a preference of the Manton amendment because it will force programmers to negotiate with him in a free, open, and anti-competitive environment. That is why this DBS proponent prefers the Manton amendment.

But today we will deal with cable legislation, and the question is going to be this: We all know that cable needs to be regulated. The issue is now far do we go and at what point Congress imposes too much regulation that results in consumers being hurt over the long run. The Tauzin amendment is a clear example of going too far.

Mr. Chairman, I rise in support of the rule and in support of H.R. 4850, the Cable Television Consumer Protection and Competition Act. I do so not because this bill is perfect; it is not. But H.R. 4850, on the whole, is a balanced measure and the product of 3 years of hard work by subcommittee Chairman ED MARKEY, full committee Chairman JOHN DINGELL, and other Energy and Commerce Committee members. It represents the consensus of the committee, having passed by a 31-to-12 vote. And finally H.R. 4850, as reported by the committee, does accomplish important consumer objectives: It will bring cable rates under control, establish universal customer service standards, ensure that local over-the-air broadcast stations are carried on cable systems, and protect customers from egregious behavior on the part of cable operators.

These provisions are the heart of the bill. After all, the cable bill is supposed to be a response to customer dissatisfaction and complaints, not a vehicle for interindustry fights. Our constituents back home want a cable bill passed because they are angry about arbitrary price increases in their monthly cable bills, because they are tired of receiving lousy customer service, and because they have little control to stop serious abuses being committed by a limited number of cable operations.

As the Congress moves closer, however, to passing a cable bill this year, we also need to preserve a regulatory environment that allows the cable industry and emerging competitors like DBS operations to have the freedom and the incentive to invest in new programming, services, and infrastructure.

The 1984 Cable Act, for all its shortcomings and notwithstanding the need to amend it, was an enormous success. Ninety percent of all households now have access to cable television compared to 60 percent in 1984. The number of subscribers has jumped from 37 million in 1984 to almost 60 million subscribers in 1991. And the average cable system now offers consumers 30 to 53 channels today compared to just 24 channels before the enactment of the 1984 Cable Act. And consumers are

clearly getting a better product today than they did in 1984.

Mr. Chairman, there is little disagreement over the need to impose new rules on the cable industry; everyone agrees that is necessary. So the debate today is not about leaving the cable industry completely unregulated. Let me make that clear: The cable industry will be reregulated.

Today's debate will be about how far do you go, and at what point does Congress impose too much regulation that results in consumers being hurt over the long run.

We will face that choice on the issue of program access. An amendment will be offered by Congressman TAUZIN to strip cable program networks of their right to enter into exclusive contract distribution arrangements and require them to sell their products at government-mandated wholesale prices, terms, and conditions. Mr. Chairman, that is an intrusive, unnecessary, and destructive proposal that should be rejected by the full House. I would urge my colleagues to support a more effective and reasonable solution to the program access problem that will be offered later by Congressmen TOM MANTON and CHARLIE ROSE.

I will speak later in the debate on program access when the Manton-Rose amendment is before the House. I will conclude by urging my colleagues to support the rule and to get this bill to conference so that the House can begin working with the Senate on a bill that will receive the President's signature, thereby giving consumers the benefits of this legislation.

Mr. Chairman, I am including for the RECORD a copy of the letter from Mr. Hubbard and copies of two letters as follows:

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 23, 1992.

THE MANTON-ROSE PROGRAM ACCESS AMENDMENT PROTECTS THE NEEDS OF RURAL AMERICA

DEAR COLLEAGUE: Before you make a decision on the "program access" issue, you should be aware of the consumer and rural protections in the Manton-Rose Amendment. The Manton-Rose amendment completely satisfies the unique problems which have been raised by rural Americans who own C-Band, backyard dishes.

It requires cable networks to make their programming available to independent distributors of programming who serve the backyard dish market, at the same prices, terms, and conditions these networks offer other cable systems.

The debate about program access, therefore, is not as some have suggested, about whether rural America's C-Band home dish owners' needs will be served. The Manton-Rose amendment ensures that these needs are met.

Unlike the Tauzin amendment, however, which Representative Dingell and Lent have said in a Dear Colleague letter "is punitive and goes too far"—the Manton-Rose amendment represents a balanced approach to the issue presented by new technologies like Di-

rect Broadcast Satellite (DBS) systems. It prohibits cable program networks from refusing to deal with new technologies "if such refusal would unreasonably restrain competition" but would not impose a blanket mandate of uniform price terms and conditions—these issues would be left to the marketplace except where violations were found.

The difference between the Tauzin and Manton-Rose amendments is how far the Congress will go in restricting the property rights of cable networks like CNN and Nickelodeon, in a way that unfairly tips the scales in favor of a few special interests. Manton-Rose offers a balanced solution to a limited problem. It is virtually identical to the relevant provisions of the cable bill which the House passed unanimously in 1990.

Sincerely,
BILL RICHARDSON,
Member of Congress.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 23, 1992.

VOTE "YES" FOR THE MANTON-ROSE AMENDMENT TO H.R. 4850 DBS PIONEER SUPPORTS MANTON-ROSE OVER TAUZIN

DEAR COLLEAGUE: As you may be aware, when the House takes up the cable re-regulation bill (H.R. 4850) today, you will be presented with a choice between the Tauzin program access amendment and the Manton-Rose substitute. We urge your support for the Manton-Rose substitute.

Some of the proponents of the Tauzin amendments have argued that the Manton-Rose substitute will not protect the ability of emerging technologies such as Direct Broadcast Satellite (DBS) to compete with cable. They contend that new technologies cannot survive unless cable networks are forced to sell their creative product to all comers at government-mandated wholesale prices, terms, and conditions.

We would like to draw your attention to the position of Stanley S. Hubbard, President of United States Satellite Broadcasting Company, Inc., a DBS company that plans to launch in December 1993. Mr. Hubbard makes clear in a letter to the Energy and Commerce Committee Chairman his preference for the Manton-Rose program access substitute over the Tauzin approach. We intend to insert this letter into the Record during floor debate on H.R. 4850.

Here is what Mr. Hubbard says:

"USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for Section (a) of the Manton Amendment, Competition and Technological Development, because the Manton Amendment does not prescribe terms and conditions."

The proper course for Congress to take in providing a solution to the "program access" issue should be to promote competition and diversity in the delivery of video programming to the American consumer.

In the words of Mr. Hubbard, Congress needs to pass a program access provision that creates "a level playing field whereby we [DBS operators] can bargain in a free and open marketplace" for programming.

It is the Manton-Rose amendment, not the Tauzin amendment, that accomplishes that objective. We hope you will join us in supporting the Manton-Rose Substitute Amendment.

Sincerely,
TOM MANTON,
BILL RICHARDSON,
Members of Congress.

UNITED STATES SATELLITE
BROADCASTING Co., Inc.,
St. Paul, MN, July 22, 1992.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DINGELL: United States Satellite Broadcasting Company, Inc. (USSB) is constructing a Direct Broadcast Satellite (DBS) to be launched in December, 1993, with its programming service to commence in early 1994. USSB will share the satellite with a competitive DBS service to be provided by DirecTV, Inc., a subsidiary of Hughes Communications, Inc., Thus, DBS programming in the United States will become a reality in 1994.

USSB plans to preset new, innovative programming; however, in order to foster the growth of DBS service, we anticipate including some of the programming services presently available on cable television in our programming mix. Separate amendments to H.R. 4850 to provide for program access have been offered by Congressman Manton and Congressman Tauzin. USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for Section (a) of the Manton Amendment, Competition and Technological Development, because the Manton Amendment does not prescribe terms and conditions. Our only interest is that there be a level playing field whereby we can bargain in a free and open marketplace for our programming.

USSB is a subsidiary of Hubbard Broadcasting, Inc., which is also the managing partner of Conus Communications, a satellite news-gathering service. In turn, Conus is a joint venturer with Viacom, Inc. in the All News Channel, which has been primarily developed to provide a news service to C-band home satellite television viewers. A very limited number of cable systems also carry the All News Channel. By legislating the price, terms and conditions of sale to C-band, Section (b), Marketing of Certain Satellite Communications, of the Manton Amendment as well as the Tauzin Amendment would have a strong, adverse economic impact on comparatively new programming services, where cable provides not the primary but only the ancillary market. Accordingly, a relief from this blanket provision should be provided at conference by excluding services such as the All News Channel in order to maximize service available to the public.

If we can provide additional information regarding our positions on this important legislation, please let us know.

Cordially,

STANLEY S. HUBBARD,
President.

□ 1730

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I thank the gentleman for yielding to me at this time for a colloquy.

In taking up this cable television bill today, our attention naturally turns to the ways in which television can serve our national purposes and our No. 1 education goal, namely, making certain that our children are ready to learn when they go to school.

By the time a child sets foot in kindergarten, he or she is likely to have

spent more than 4,000 hours watching television. We have television channels devoted exclusively to sports, weather, health, rock music, around-the-clock news. It seems reasonable that we ought to have one place on the TV dial that parents could turn to with confidence, a reliable source of enriching programming all day long. That is what Representative WYDEN and I have proposed in our ready to learn legislation.

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

Mr. PRICE. I am glad to yield to my colleague, the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, I thank my colleague for yielding to me. It has been a pleasure to work with him on this legislation where we can harness the power of television on behalf of preschool kids. It is amazing to think that the commercial television stations are doing less in preschool programming now than they did 30 years ago.

Mr. Chairman, I appreciate the opportunity to work with the gentleman. I also want to thank the gentleman from Massachusetts [Mr. MARKEY] who has been a tremendous advocate for seniors, children, and consumers, and thank the gentleman for his assistance.

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

Mr. PRICE. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I share the views of both gentlemen.

I would say that I as well believe that television should help preschool kids get ready to learn. We will hold hearings on that part of the legislation that is being introduced here and which will come before our jurisdiction in the very near future.

Mr. PRICE. Mr. Chairman, I thank the subcommittee chairman.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, first let me just salute the gentleman from Massachusetts. He has done a remarkably good job, as has the subcommittee and staff in a very difficult area, and while I am not pleased with every aspect of the bill, I am not pleased with many aspects of bills that come out of the Committee on the Judiciary.

I rise in support of H.R. 4850, the Cable Television Consumer Protection Act. I think it is a good bill.

In our economic and political systems, unregulated industries usually work fine when there is real competition. They do not only serve us as well when there is little or no competition.

The cable television industry is one in which there is very little competition, and that, quite simply, is why we need this legislation.

In the absence of real competition, cable systems which too often enjoy local monopolies have jacked up their prices, scaled back service, and dem-

onstrated attitudes toward their captive customers that range from indifference to insolence.

Under the deregulation which we enacted in 1984, there can be no governmental regulation of cable systems in communities where there is so-called effective competition. That might be acceptable if the term meant what it says.

It does not. Under current rules, about 60 percent of the cable systems and more than three-fourths of all customers are deemed to be in areas of effective competition. As a result, local government is prohibited by Federal law from regulating rates charged by these cable operators.

In fact, there is cable competition in only a handful of communities. There are some 13,000 cable systems throughout the country, but only 65 communities are served by more than one cable system. In the few communities where local government is allowed to regulate rates charged for basic cable service, operators resort to a tiering price system to subvert that regulation.

That competition is the solution is revealed in a very telling statistic: In those 65 communities with two cable companies, the average price to consumers is 34 percent lower. That suggests to me that cable companies are overcharging the rest of the country hundreds of millions of dollars a year by virtue of their monopoly situation.

There is another factor, though, and that factor is the cost to cable of the programming that it often charges consumers monopolistic prices for. While I strongly support H.R. 4850, H.R. 4850 only addressed the fees cable charges consumers, it does not and cannot address the fees cable pays program suppliers.

The prices cable pays for programming is governed by the copyright law, and is within jurisdiction of the Subcommittee on Intellectual Property and Judicial Administration of the Judiciary Committee, which I am privileged to chair. Under an antiquated and unfair system of compulsory licensing, the rates cable pays are set by Government regulation at artificially low rates. In two important areas, cable in fact pays nothing. These areas involve local television broadcast stations and distant network stations. As valuable as this programming is, under the copyright law, cable has an absolute right to take the broadcasters' signal for free and then charge consumers.

That is wrong, but it is only part of the picture. Under a ruling by the Copyright Office, competitors to cable, such as wireless cable are not entitled to the same privileges as cable. Along with Judiciary Committee Chairman JACK BROOKS and my distinguished ranking minority member CARLOS MOORHEAD of California, I introduced H.R. 4511, a bill to comprehensively re-

solve these issues in a fair way. H.R. 4511 will bring effective competition. H.R. 4511 will bring the best programming available, including sports, to the largest number of subscribers, and at the lowest possible cost.

We have been working hard to process our bill through the Judiciary Committee. Chairman JACK BROOKS has stated his intention of acting on the bill forthwith. But, a funny thing happened on the way to the full committee.

Broadcasters saw a pot of gold at the end of the retransmission rainbow. Even though H.R. 4511 for the first time provided a needed second stream of revenue for local broadcasters by requiring cable to pay for retransmitting local signals, broadcasters saw big—I mean big dollars in something called retransmission consent. Broadcasters want the right to negotiate with cable to retransmit their broadcast day. I agree they should have the ability to negotiate for copyrighted works that they own, and H.R. 4511 gives them this right.

But broadcasters do not want copyright owners of the programs they broadcast to have the same right. They want to leave in place the compulsory license for cable to take others' programming so that broadcasters only can negotiate. That is not a free market. This is special interest legislation at its worst: Leave government regulation in place for programming copyright owners, but remove that regulation for broadcasters so that broadcasters can sell the program copyright owners' works to cable at market rates.

Make no mistake, retransmission consent is nothing more than a copyright right in the sheep's clothing of the communications statute. The U.S. Copyright Office has agreed, stating that retransmission consent "alters the fundamental principle of the (copyright) compulsory licensing scheme: Signal availability."

The advocates of retransmission consent try to make a distinction between "signal" and "programming," arguing that retransmission consent only deals with the signal and copyright only deals with the copyrighted programming carried on the signal. This is sophistry. Consumers do not sit around and watch a signal. They watch programming.

The advocates of retransmission consent have also resorted to all sorts of maneuvering to avoid the Judiciary Committee's jurisdiction. They took retransmission consent out at the Energy and Commerce Committee after they learned that the Parliamentarian was going to give Judiciary a sequential referral.

Yesterday the Rules Committee did the right thing. It rejected a last-ditch effort to reinsert retransmission consent back in H.R. 4850.

Why do broadcasters want retransmission consent so much? As I said, money, lots of it. How much? Larry Tisch, president of CBS, and a very knowledgeable industry figure put a tag of \$1 billion on retransmission consent. That money will be passed on to consumers.

Retransmission is bad policy and bad for consumers. This is why its advocates have been attempting to circumvent the normal committee process: They're afraid that once Members are aware of the devastating costs of retransmission consent to consumers, it will be rejected.

In conclusion, while I support H.R. 4850 in its current form, I urge rejection of retransmission consent if it is ever raised again.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON], a member of the committee.

Mr. BARTON of Texas. Mr. Chairman, I, too, want to commend the leaders on both sides of the aisle in their misguided and in my opinion unnecessary effort to reregulate cable.

This is the wrong bill at the wrong time for the wrong reasons. If we are worried about holding rates down, we ought to engage in more effective competition.

Congressmen COOPER and OXLEY on the committee have got a bill that will allow telephone companies into cable television. That would definitely provide some competition.

This is an industry that is an entertainment industry. It is not a public necessity. There is absolutely no reason to regulate it. I would hope that we would vote no, no, and then move on to more important things; but again, those who think we need to regulate cable on both sides have been fair in the hearings of the subcommittee and the full committee.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman and my colleagues, I urge your support for the Tauzin amendment to the Cable Television Consumer Act and ask you to accept no weakening amendments. The Tauzin program access amendment serves two purposes: It promotes competition and makes possible the wider distribution of information, education and entertainment to people in rural areas who have not fully benefited from this so-called Information Age.

As you probably know, 60 percent of the homes in this country have cable television, but less than 3 percent of these households have any alternative to the local cable monopoly. In the areas, where competition does exist, rates are substantially lower and customer service infinitely better and the cable companies still show a healthy profit. These findings indicate that with real competition in the market-

place, consumers benefit through greater choice and more reasonable prices.

However, rural America, and certainly many communities in Alabama, are not served by the present cable systems because of the cost limitations of cable technology. While many rural residents have invested in satellite dish delivery systems, they still have found themselves at the mercy of cable programmers who have refused to sell their programs to satellite program distributors or who greatly inflate the price of their programs as compared to what they charge their own cable affiliates. There are new and developing technologies which have the potential to deliver the full range of television programs to rural areas at affordable prices. Yet, without access to the programs people really want to watch, these systems may never get off the ground and the real losers are once again the viewing public.

The Tauzin amendment addresses this issue by preventing cable programmers which are vertically integrated with cable system operators from unreasonably refusing to deal with alternative multi-video providers. In other words, cable companies which also own programming cannot refuse to sell their programming to other distribution systems in order to choke off any competition. It also prohibits a vertically integrated cable company from discriminating in price, terms and conditions in offering its programming. The amendment does not set those prices, terms or conditions, but merely encourages good faith negotiations.

The Tauzin amendment is supported by the Alabama Rural Electric Association of Cooperatives, the National Rural Electric Cooperative Association, the U.S. Telephone Association, the National Rural Telecommunications Cooperative, the American Public Power Association, Consumer Federation of America, the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties among others.

Real competition is the best solution. Limited regulation will merely institutionalize increasing cable rates—they alone will never result in greater diversity or lower charges. While I support the rate provisions of H.R. 4850 as interim measures to protect consumers from abusive practices, I would like to point out that these provisions sunset when effective competition becomes a reality. Let us act now to promote this competition by supporting the Tauzin amendment.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRBACHER].

Mr. ROHRBACHER. Mr. Chairman, I rise in strong opposition to H.R. 4850.

Since when is it the Federal Government's job to regulate all economic activity, and since when is entertainment

and communications an essential economic activity that needs to be regulated?

I have heard today that we have no competition when it comes to this type of communication. Give me a break. What about video cassettes? What about the radio? What about regular TV? What about books? What about CD's? What about audio tapes?

Hey, what about newspapers, and how about just sitting around in the living room talking to one another? Does the Federal Government really have to get in and regulate every single business in this country? When it does it messes things up.

We have some new technologies about to come on line to undercut the cable industry right now. These people have invested so much money, it is going to cause a lack of competition in the future because it is going to drive these people out of business at a time when new competition is coming in because of technology.

Mr. Chairman, let us defeat H.R. 4850.

□ 1740

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

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. I thank the gentleman for yielding.

I just wanted to engage the gentleman from New Jersey [Mr. RINALDO] in a colloquy. As the distinguished ranking member knows, I have been pretty vocal in trying to make sure that an important amendment which helps a particular city in my district, the city of Dubuque, is included not only in the Republican substitute but also in H.R. 4850.

This amendment would permit the city of Dubuque to maintain its very unique rate regulation agreement with TCI Cable, which currently serves the Dubuque area. I just wanted to make sure to take this opportunity to verify that this amendment is still part of not only the Republican substitute but also H.R. 4850, the one we are considering today.

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

Mr. NUSSLE. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Mr. Chairman, I assure the gentleman from Iowa that his persistence and hard work have paid off and that his amendment, which protects Dubuque from any inadvertent legislative action, is still included in both the Lent substitute and H.R. 4850.

Mr. NUSSLE. I thank the gentleman for his comments. As you know, Congressman Tom Tauke, my predecessor, was a very hard and diligent worker on this particular issue, and I wanted to make sure that it was a part of the

bills as a result of the fact that Dubuque has such interesting terrain and makes it difficult for competition. I appreciate the fine work of the committee.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time in order to complete debate.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 3 minutes remaining.

Mr. MARKEY. I thank the chairman.

Mr. Chairman, the reason this legislation is needed is that the cable industry is a monopoly. When we passed the 1984 act, it was with the promise that cable companies would compete against each other, that if a cable system went into one system, another cable system would also come in and there would be two wires going down the streets of this country, and three or four.

It turns out, 8 years later, that they have an informal agreement not to compete, and in 99 percent of the communities in this country there is no competition.

So, now we must return to the original premise and regulate it not as a competitive industry but as a monopoly. To those who ask why do we regulate it, that is the answer. It is a monopoly.

Competition to cable is not reading a newspaper, competition to cable is not sitting in your living room twiddling your thumbs or going deep-sea diving or walking the dog. Yes, you can do all that as opposed to watching cable TV; but if you want to watch cable TV, there is only one cable TV in town, and it is owned by a monopoly.

That is why this legislation is going to pass tonight. That is why we are debating it.

Eight years later, we were wrong, there is no competition.

Now, the Consumer Federation of America says that because of the lack of competition or regulation—and we have neither—it costs the consumers of this country an extra \$6 billion every year more than it should for the product which the cable industry provides on a monopoly basis.

Think of this vote tonight as a \$6 billion tax cut for the consumers of America—\$6 billion.

That is why it is endorsed by the Consumer Federation of America, that is why it is endorsed by the National League of Consumers, that is why it is endorsed by the National Council of Senior Citizens, that is why it is endorsed by the many members of the AFL-CIO and others who are in the forefront of the protection of the consumers of this country.

That is why we need this legislation.

Now, to those who want to walk the dog, those who do not really care about the consumers of this country, they can vote against protection of the consumer. However, I emphasize the bi-

partisan nature of this legislation. The bill was reported out of the Committee on Energy and Commerce on a bipartisan vote.

The Senate bill, which goes at least as far as this bill goes, was sponsored by the ranking Republican on the Commerce Committee, Senator DANFORTH, and it was voted out 73 to 18, with a majority of Senate Republicans voting "yes."

The reason for that bipartisan vote is very clear: It protects the consumers of this country. I would hope, as we complete general debate and move on to the amendments, that each and every Member of this body could keep that in the back of their minds, that \$6 billion tax cut we are voting tonight for the consumers of this country.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY] a distinguished member of the committee.

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] is recognized for the balance of the time remaining, which is 2 minutes.

Mr. OXLEY. Mr. Chairman and Members, we really have, I guess, a philosophical difference here. There are those on that side, and I say this with great respect to my friend from Massachusetts, the chairman of the subcommittee, who feel that when something is successful out there in the business world, let us regulate it, and if it is really successful, then let us overregulate it.

That is really what we have got before us right now.

We are trying to kill a fly with a sledge hammer. And that sledge hammer happens to be the overregulatory bill that we have before us today; big, big mistake.

We did not make any mistake in 1984 when we deregulated cable. We saw one of the greatest growth industries in the history of this country, that has brought more entertainment and information to our people and indeed around the globe than any other thing that we could have done. It was a successful piece of legislation. That is not to say there are not some glitches out there. Clearly, there are some problems. We can deal with that.

Mr. Chairman, the Lent substitute, in fact, does deal with that.

I hoped that we could have passed that last session. It did not happen. We all know why it did not happen, but it did not happen.

So we have a choice: Instead of paying lip service, lip service to competition, we could bring up the bill that I have introduced along with Mr. BOUCHER, Mr. COOPER, and others, that would allow the Bell operating companies to get into cable, that would provide real competition to enhance the network, to bring broadband technology to the American public, and we could get off this reregulatory kick

that we somehow get on that somehow we are going to protect that poor consumer out there.

Does anybody out there really think this bill is going to drive down the cost of cable to the average consumer? I would argue quite the contrary. Because we are unable to debate today the retransmission consent language for other reasons, we will not be able to get into the fact that it is going to cost the average consumers about \$3 per head and some \$20 billion more. That is going to be taken care of apparently in conference committee. Too bad; we had a chance, I think, to really do something and we simply did not do it.

Mr. POSHARD. Mr. Chairman, I rise in strong support of this legislation and the consumers it protects.

The General Accounting Office study of the period between November 1986 and April 1991, which shows that cable rates increased nearly 60 percent, is dramatic evidence in support of this bill. During those first 4½ years of deregulation, the cable industry took excessive advantage of its unregulated monopoly status to raise rates. At the same time, those of us in elected public office heard continuing complaints not only about price but about the service which they received from the companies.

In my rural Illinois district, cable television is a popular outlet to the rest of the world. Cable News Network and C-SPAN, the excellent public service offerings of the cable industry, have strong audiences in my district. I say this because I believe there is great promise for the cable television industry, and I know that in some ways the companies in my State and across the Nation have tried to address some of the issues under consideration in this bill. But they have not come far enough, and this legislation is critical to balancing the playing field, protecting consumers, and introducing competition.

I regret that the Rules Committee did not allow an amendment to provide retransmission consent for local broadcasters, and I urge the House conferees to stand up for that provision which is included in the Senate version of this bill.

The bill deserves strong support for the way it otherwise recognizes the needs of over-the-air commercial and public television stations. I was also pleased to support the Tauzin amendment to provide equal access to programming at nondiscriminatory prices by noncable technologies.

For all of those reasons, I strongly support the bill and commend the committee and the House for its excellent work.

Mr. KYL. Mr. Chairman, the cable television legislation before the House today is a mixed bag of some good and some bad proposals.

It includes must carry and channel positioning provisions that I believe are important and should be enacted: must carry to ensure the viability and availability of free, over-the-air broadcast television to the viewing public; and channel positioning to help avoid the confusion to viewers that might otherwise result from the shifting of stations from one channel position to another, not to mention the losses in viewership that local stations might suffer

from viewers no longer able to find their favorite station.

The House won't have an opportunity under the rule to debate the retransmission consent issue. I would have supported retransmission consent, which would have allowed local stations the opportunity to negotiate with cable operators over the terms and conditions of their carriage on cable.

Unfortunately, some of these good things in the bill are far outweighed by the bad; namely the massive reregulation of the cable industry which in the end will increase, not decrease or stabilize, cable rates and jeopardize the high quality of service available to most cable subscribers.

Mr. Chairman, according to information I received from the Department of Commerce, regulatory costs imposed by this bill at the Federal, State, and local levels will increase by \$22 million to \$60 million annually, costs that will ultimately be paid by the taxpayers or by cable subscribers.

Cable operating costs will also increase, by as much as \$1 billion annually. Who will pay? Cable subscribers.

Increased competition, not more regulation, is the direction this House should be moving. If the severe regulation is not removed from the bill, I will have to vote no on final passage. If the massive reregulatory approach is not removed, President Bush has vowed to veto the bill, and, if he does, the good things I had mentioned will be threatened along with the bad.

Increased competition, not more regulation, is the answer.

Mr. LEHMAN of California. Mr. Chairman, as a member of the Energy and Commerce Committee, I rise in reluctant support of H.R. 4850, the Cable Television Consumer Protection Act of 1992.

While I acknowledge the hard work of Chairman JOHN DINGELL, ED MARKEY, NORM LENT, MATT RINALDO, and their respective staffs, I would like to take this opportunity to note some of my continuing concerns that I have with the bill under consideration today.

Thanks in large part to this body which approved the Cable Act of 1984, the cable television industry has experienced tremendous growth over the past decade. It now reaches over 90 percent of all homes and is subscribed to by 60 percent of all American households. The cable television industry not only provides a clear picture to many locales that did not have broadcast signals, but now through the miracle of cable, millions of Americans enjoy a steady diet of HBO, ESPN, CNN, MTV, BET, Discovery and dozens of other programs developed by cable. The programming services and picture quality offered by cable and its competitors are here to stay and we owe the industry our gratitude.

However, as with all growth industries, there have been problems and cable has been no exception. Through the years there have been complaints of excessive rate increases, poor customer service, arrogant franchise operators, and incompatible equipment. In many instances, the cable industry has acknowledged its shortcomings and has taken many steps to solve these problems.

Yet, the bad apples do exist and the intent of H.R. 4850 is to rein in these few bad apples

that threaten to ruin it for the majority of good ones. Though several of the concerns that I raised during the subcommittee consideration of the bill have been resolved and while I am generally supportive of the goals of H.R. 4850, I still have reservations of whether or not we will actually accomplish what we originally set out to do.

There is no doubt that the cable television industry is a monopoly. Single franchises dominate the landscape with competition provided in only 5 percent of the marketplace. Vertically integrated cable system and programming entities control the majority of programming currently available. In the absence of market-driven competition, however, it is not clear to me that the basic tier regulatory structure provided in the legislation will in fact reduce subscription rates and in the long term lower cable rates for our constituents.

Of particular concern to me is the impact of the buy-through prohibition in section 3 of H.R. 4850. The industry says that this will cost them and, ultimately, the consumer, \$4 billion in additional costs to ensure that the appropriate addressable converter technology is available for consumers. Proponents argue that this provision makes sense, that the industry has been rapidly moving toward this technology, and that this gives the consumer more choices in determining how their discretionary entertainment dollar will be spent. Yet, there is no convincing evidence that the consumer will in fact continue to receive the type of diversified cable programming that is currently available nor at the same affordable rate.

I do, however, appreciate the concessions which were made by Chairman MARKEY in allowing the equipment cost to meet this provision to be passed along to the consumer, and for allowing the FCC to grant an additional 2 years to comply due to technological limitations.

H.R. 4850 unfortunately does not address the issue of access to programming. As a member of the committee, I am familiar with the controversy regarding this issue and it is unfortunate that the committee could not satisfactorily resolve this complex problem. I am, however, in support of the Manton substitute and in reluctant opposition to the proposal offered by my good friend and colleague from Louisiana, Mr. TAUZIN.

At the very heart of this issue is whether or not the alternatives to hard wire cable systems, either microwave or satellite services, have adequate access to video programming sources, much of which is controlled by cable entities. And are these current protections or the ones we are contemplating today sufficient to meet the needs of new DBS technology and possible entry by other competitors such as the telephone companies?

There is no doubt in my mind that the amendment offered by Mr. MANTON is fair and reasonable, and does, in fact, provide for the type of access to programming that the competition, both present and prospective, needs to have in order to foster true market competition. Does it go far enough to anticipate the technological and marketplace demands of tomorrow, of the next decade, that remains to be seen. The Manton substitute does, however, acknowledge the present issues and it is realistic in its approach.

The Manton substitute prohibits vertically integrated cable entities from refusing to deal with multichannel system operators where such refusal would "reasonable restrain competition." This provision provides adequate protection for existing programmers, yet ensures that other video delivery system operators have reasonable access to these programming sources.

Furthermore, the Manton amendment ensures that cable programming remains available to C-Band satellite dish at rates, terms and conditions comparable to cable—this provision is virtually identical to the approach embodied in H.R. 5267, which was approved overwhelmingly in the 101st Congress.

The Manton substitute is reasonable and fair, and it also provides assurance of access to programming sources for the competition.

Let me express my disappointment that H.R. 4850 does not include the so-called retransmission consent provision. Unfortunately, due to jurisdictional concerns, the Energy and Commerce Committee did not include this provision in H.R. 4850 and the rule did not make in order an amendment by my good friends and colleagues Congressmen ECKART and FIELDS. Fortunately, the Senate bill, S. 12, does include retransmission language, and, hopefully, this issue can be resolved in conference.

All of us believe in competition—putting your best product forward and going head to head in the marketplace.

But what has occurred in the cable industry is just the opposite. Instead of cable and its chief competitor, the broadcast industry, playing by the same rules on the same turf, we have a situation where broadcasters must subsidize their competition by being required to give away their programming to cable. No negotiations, no permission required. There is no other business in America which operates this way and it's time that we put a stop to it.

Retransmission consent is simple but effective. For those stations who choose it, this option would allow broadcast stations to retain the right over who may use their signals and under what terms and conditions. This is a simple and fair negotiated contract between two parties.

Furthermore, the negotiations would be strictly between the station and local cable operator—no networks, no outsiders. And it is not a surcharge or tax as has been alleged. The agreement may not be a financial agreement, it could include promotional considerations, channel positioning, or other non-monetary considerations.

Finally, many stations might not even opt for retransmission consent, and instead would simply opt for the "must carry" provisions already included in H.R. 4850.

The concept is simple, rational and fair. It allows competition on open terms and it removes an unfair advantage which the cable industry has had over the local broadcaster.

Finally, Mr. Chairman, let me thank my chairman of the committee for including my two amendments as part of his en bloc package.

Included in this package is my amendment which would amend section 18(b) regarding a study of sports migration. Section 18(b) requires that the Federal Communications Com-

mission conduct a study of the carriage of local, regional and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The purpose of the study is to develop quantitative data regarding the migration of collegiate and professional sporting events from over-the-air broadcast signals to cable and pay-per-view [PPV] services.

While cable and PPV services may have increased the availability and diversity of televised sporting events, there is clear evidence that the migration of some events from over-the-air signals to pay cable services has been disruptive to both the broadcast industry and the local fan. The study is an important first step in resolving an issue which has been before the committee for several years now.

Of particular concern to me has been the impact which exclusive contracts between college athletic conferences and regional sports programming networks have had on the ability of local broadcasters to air these events and ultimately the impact on the college football fans. In most instance college conferences sign exclusive contracts with regional sports programming networks which govern the broadcasting or cablecasting of conference games, often prohibiting games from being aired during the same time slot as their so-called game of the week.

For instance, in my congressional district, a Fresno State University Bulldog football game against a PAC 10 school was not aired by the regional sports cable network because the sports network decided to feature a different PAC 10 game. All other conference games were similarly prohibited from being aired at the same time as that featured game. To make matters worse, that exclusive contract also prevented a local television broadcaster from securing the rights to broadcast that game. As a result, my local fans were deprived of seeing a game that they normally could have seen on a local television station.

Similarly, a Bulldog game against another conference school which had signed a similar exclusive contract with a regional sports network was not even carried on our local cable system, an effective blackout of the area. Area fans had absolutely no access to this game thanks to the exclusive contract.

This problem is not unique, it has occurred in university communities throughout the country, including California, Washington, Tennessee, Arizona, and Iowa, depriving both local broadcasters and sports fans with the opportunity to view these games live.

Though the report which accompanies H.R. 4850—House Report 102-628—alludes to this problem, my amendment provides some statutory direction. It would very simply direct the FCC to consult with the Attorney General to examine and conduct an analysis of the impact of these exclusive contracts between college athletic conferences and video programming vendors. The amendment provides some statutory guidance for the FCC sports migration study, and asks for a recommendation to solve the problem.

Fresno State fans, more commonly known as the "Red Wave" are among the best fans that any university community could ever want and they deserve to have access to the live broadcast of their hometown college team,

whether it is on cable or over the air broadcast signals. Like the Washington Redskins, Bulldog fans fill their stadium every weekend and for every home game, and the hordes of rabid fans that follow the team throughout the West strike fear into the hearts of opposing teams.

If the Bulldogs can compete against the best schools in the West, then their fans deserve to view those games, live. My amendment would help to do just that. The taxpayers and the community of Fresno have built the stadium and the ballpark. They are the ones who support the teams through thick and thin. They deserve and demand the right to watch their hometown athletes shine wherever they play and against whomever, regardless of these artificial and legalistic restraints.

I have worked closely with both Chairman DINGELL and Congressman MARKEY since this problem first surfaced last fall and I agree with the thousands of Bulldog fans who contacted me then. And though this amendment will not eliminate the problem, my amendment is just the first step in solving this problem. I appreciate Chairman DINGELL and the ranking minority member, Congressman LENT, for including this amendment in their package. I urge the adoption of the amendment. Go 'Dogs!

My second amendment that is included in the en bloc package clarifies the channel positioning requirements contained in section 5 of H.R. 4850. As reported by the committee, the bill affords local television broadcasters protection against having their television channels shifted by cable operators.

H.R. 4850 permits a television broadcaster to be carried on the cable channel it occupied on July 19, 1985 or on its FCC designated channel number, at the option of the television station. In addition, a television broadcaster can be carried on such channel as is mutually agreed upon by the station and cable operator.

This provision was included in the bill to end the unfortunate practice by certain cable operators of unilaterally and sometimes repeatedly moving a broadcast station's channel position. Cable subscribers are accustomed to viewing these stations on their current channel assignments and broadcasters have marketed their stations based on the channel assignment. It should be noted that according to a 1988 FCC report, 974 cable systems had repositioned local stations a total of 3,000 times. The bill rectifies the unilateral repositioning of broadcast channels.

My amendment merely affords this protection to stations which commenced operation after 1985. It should be noted that the July 19, 1985 date is the date of the Quincy decision, which invalidated the FCC's must carry rules, *Quincy Cable TV v. FCC*, D.C. Cir.—H. Rept. 102-628, p. 48. Again, this is merely a technical amendment, and I appreciate its inclusion in the chairman's package.

Again, Mr. Chairman, let me reiterate that H.R. 4850 is not a perfect solution to the problems associated with the cable television industry. It is, however, the product of very serious negotiations by the entire Energy and Commerce Committee and is worthy of approval by this body. And while many advocate that the Lent substitute is a far less onerous package and that it more closely mirrors the legislation that this House approved in the pre-

vious Congress, the fact remains that the marketplace has evolved since then and H.R. 4850 is a result of that evolution.

This legislation has the broad support of a number of interests, including labor, the U.S. Conference of Mayors, consumer groups, and it does lay the foundation for sound and reasonable regulation of the cable industry. It is a good bill for our constituents, and I urge my colleagues to support H.R. 4850.

Mr. GREEN of New York. Mr. Chairman, alarmed and concerned over the skyrocketing costs of cable since deregulation, I should like to express my support for the cable regulation proposal offered by my friend and colleague from New York, Mr. LENT. However, in the event that the Lent cable substitute is defeated, I shall cast my vote in support of H.R. 4850, the Cable Television Consumer Protection Act of 1992.

At present, my constituents have no choice but to subscribe to one existing cable company. Many New Yorkers—who need cable just to get clear reception of regular network television due to tall building interference—have been forced to subscribe to an unregulated monopoly, which has consistently raised rates and rendered certain high-technology subscriber television and VCR equipment obsolete.

The Lent substitute, which would require that the rates of basic cable service be regulated in areas where there is no effective competition, provides a balanced approach that will protect the interests of cable consumers. The proposal protects the consumer without placing excessive regulatory burdens on existing cable companies that could discourage investment in new programming when the American consumer is looking to the industry for greater programming choices.

Should the Lent substitute be defeated, I shall vote for the Cable Television Consumer Protection Act, which redefines "effective competition" and requires the Federal Communications Commission to regulate rates charged by cable TV operators. The legislation also requires the FCC to establish customer service standards for cable operators and directs the Commission to control rates charged by cable companies for the equipment and installation necessary to receive service. While I am concerned with some of the legislation's more restrictive and burdensome provisions, I remain hopeful that they can be revised when the bill goes to conference with the Senate.

I have never been a proponent of costly and unwarranted regulation. Moreover, I have long advocated and sponsored legislation which would allow for competition in the cable industry by permitting telephone companies, such as NYNEX, to compete with current cable TV operations. However, while reregulation is not the ideal response it is the only alternative that the House has been given to consider that will protect the interests of the cable consumer. I should also like to encourage the leadership to permit the House to vote on legislation that would allow the telephone companies to offer cable services. After all, cable companies, which have been free from regulation since 1984, have also been free of any meaningful competition. If Congress really wants to lower cable costs, let us give the cable industry more competition and the cable consumer some more choices.

Mr. MORRISON. Mr. Chairman, I rise today to say that we should be very careful about regulating an industry which has experienced substantial growth during a recession. Growth is good. The American consumer has undoubtedly benefitted from the growth of the cable industry.

But our job here is to look out for the best interests of that same American consumer. Along with its successes, the cable industry has experienced some significant growing pains. In many areas, cable rates have far exceeded the rate of inflation. Customer service and equipment complaints continue. In an industry which serves as the sole provider of a particular service, the Government has a responsibility to protect the consumer from monopolistic tendencies. In areas where cable has no competitor, it is our duty to ensure that rates are reasonable and service responsive. Passage of legislation today will move us in that direction.

THE IMPORTANCE OF LOCAL BROADCASTERS

Before I get into the specifics of the bill before us today, I would like to speak out for the local broadcasters who continue to be so integral to communities across the country.

When you want to catch up on local news, who do you turn to? Your local television broadcasters. When the national network affiliates don't carry your city's pro football game on Sunday, who do you turn to? Your local television broadcasters. If you want to see talk shows, weekly town meeting shows, and educational programming specific to your region, who do you turn to? Your local television broadcasters.

There is no doubt that the cable companies are slowly improving in this area. Government access channels, local high school sports, and other similar programming are becoming increasingly available on cable. But the local affiliates continue to be the backbone of our community news and information. The action we take today will ensure that those local affiliates remain strong and vital.

At a minimum, we can give those affiliates the must carry protection they need. While the courts have not been kind to must carry, it is a provision of this bill I'm confident nearly every one of my colleagues supports, and that most cable companies do not have a problem with. It ensures that those with cable television won't be deprived of the local programming that keeps them in touch with their community.

The bill before us today does not contain the retransmission consent language which the broadcasters feel is vital to their continued existence. While it made sense 20 years ago for the cable companies to retransmit those signals at no charge, today finds the broadcaster subsidizing their main competitor.

Giving the local broadcaster the option of requesting mandatory carriage or negotiating a carriage agreement, gives them the freedom to be treated like any other cable programmer. In discussions with broadcasters in my district, most would simply ask for mandatory carriage. For those who choose to negotiate a carriage agreement, compensation would not have to be monetary, and joint advertising and promotional arrangements seem likely in many cases.

In short, it is important that we act today in the best interests of the consumer. That

means reasonable rates and service. And it also means maintaining the role of the local affiliate as the provider of important news, information, and programming specific to each region and community in this country.

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Because I believe we should be careful about regulating a growth industry, I will support the Lent substitute when it comes to the floor. While it ensures that rates do not rise unfairly, it does not micromanage what has, for the most part, been the successful delivery of this service.

Should the Lent substitute be defeated, however, I will support final passage of H.R. 4850. I have concerns with a number of specific provisions of this bill. But in the best interests of the consumer, I believe this is a train that we must keep moving. Again, we shouldn't restrict this industry, but ensure that its growth does not do harm to viewers or local broadcasters. In most areas, cable continues to enjoy monopoly status in the delivery of multichannel programming. We must ensure that the consumer is treated fairly by an industry which enjoys these monopoly powers.

There are a number of specific concerns I have with this bill which I hope can be resolved in conference with the Senate. Let me go over a few of those here.

ANTIBUY THROUGH

This bill allows consumers to purchase premium channels without purchasing the basic tier. That may sound innocent and a proconsumer choice. Wait until the bill comes in to make every home addressable. The current legislation means cable companies must have the ability to provide every cable consumer with HBO but not basic services. Most don't currently have that capability. One of the primary purposes of this bill is to keep rates at a reasonable level, and this provision flies in the face of that goal. Let's instead encourage cable companies to reach that goal as soon as they can, without mandates, and without sticking the consumer with the bill.

LACK OF EMPHASIS ON COMPETITION

History has shown us that the best remedy for high rates and poor service is competition. Give folks a choice of their provider. The FCC opened the door for the telephone companies last week. The direct broadcast satellite industry also continues to grow. Let's do more in this bill to prohibit exclusive franchises, to encourage modern communications development through fiber optics, and give consumers the ability to switch providers of multichannel service if they are unhappy.

NO EXEMPTION FOR SMALL SYSTEMS

As a member who represents a rural region of this country, I can tell you that many of those for whom cable was first intended are still waiting. Fewer homes and televisions per mile means less incentive to install cable. Regulating the small companies that provide most rural services hoggies them further and endangers service to folks who don't have as many entertainment options as their urban neighbors. They turn on their TV's for their trips to Broadway, and can't afford to have their small cable provider cut them off because that provider can't afford to pay for the increased burdens of regulation.

In short, I will support the concept of curbing unreasonable rates and improving service in

the cable industry today, and support final passage of H.R. 4850. I'm hopeful we will see an improved version of this bill come out of conference with the Senate—one which does not micromanage a thriving industry. Our job is to make sure the continued growth of the cable industry does not occur at the expense of the consumer.

Mr. DOWNEY. Mr. Chairman, 3 years ago, dedicated sports fans on Long Island were almost denied the opportunity to watch the New York Rangers and Knicks playoff games because of a dispute between the local cable provider and the programmer. While this dispute was settled, it mobilized Long Islanders to fight for their rights as cable consumers.

For me, this dispute underscored the need to reexamine the cable industry and the negative impact of deregulation. Deregulation has not achieved its goals and the last few years have been a time of frustration for cable consumers. They have been subject to higher rates, a decline in basic programming and a loss of service, including the coverage of favorite sports teams. It has left cable watchers with a sense of helplessness at the hands of this unregulated monopoly.

I believe that the solution is to inject real competition into the cable industry. I am pleased that the FCC has agreed to ease the restrictions on the entry of telecommunications companies into the cable market. But this will take time and cable consumers cannot and should not have to wait any longer.

The Cable Television Consumer Protection and Competitiveness Act will protect consumers, require additional competition, and ensure reasonable rates for cable programming. It will also discourage the movement of championship professional sporting events from free television to pay-per-view. The amendment offered by Mr. TAUZIN to increase program access will further encourage competition.

The rights and interests of cable consumers must be respected and protected. This legislation will accomplish these goals and I urge my colleagues to support it.

The rights and interests of cable consumers must be respected and protected. This legislation will accomplish these goals and I urge my colleagues to support it.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

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

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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 "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS; DEFINITION.

(a) FINDINGS.—Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Passage of the Cable Communications Policy Act of 1984 resulted in deregulation of rates for cable television services in approximately 97 percent of all franchises. A minority of cable operators have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates. The Federal Communications Commission's rules governing local rate regulation will not provide any protection for more than two-thirds of the nation's cable subscribers, and will not protect subscribers from unreasonable rates in those communities where the rules apply.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for local franchising authorities and the Federal Communications Commission to prevent cable operators from imposing rates upon consumers that are unreasonable.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling interest in making all nonduplicative local public television services available on cable systems because—

"(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

"(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of \$10,800,000,000 between 1972 and 1990 that provides public service programming that is responsive to the needs and interests of the local community;

"(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than \$3,000,000,000 in public broadcasting between 1969 and 1992; and

"(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to en-

sure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems.

"(9) Cable systems should be encouraged to carry low power television stations licensed to the communities served by those systems where the low power station creates and broadcasts, as a substantial part of its programming day, local programming.

"(10) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(11) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audience. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent reimposition of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(12) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operator's provision of this access and the operator's economic incentives described in paragraph (11), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(13) Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the 'A/B' input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

"(14) At the same time, broadcast programming has proven to be the most popular programming on cable systems, and a substantial portion of the benefits for which consumers pay cable systems is derived from carriage of local broadcast signals. Also, cable programming placed on channels adjacent to popular off-the-air signals obtains a larger audience than on other channel positions. Cable systems, therefore, obtain great benefits from carriage of local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster. This has resulted in an effective subsidy of the development of cable systems by local broadcasters. While at one time, when cable systems did not attempt to compete with local broadcasters, this subsidy may have been appropriate, it is no longer and results in a competitive imbalance between the two industries."

(b) DEFINITION.—Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(1) by redesignating paragraphs (11) through (16) as paragraphs (12) through (17); and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel

multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.”

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) **AMENDMENT.**—Section 623 of the Communications Act of 1934 is amended to read as follows:

“SEC. 623. REGULATION OF RATES.

“(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

“(1) **IN GENERAL.**—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

“(2) **PREFERENCE FOR COMPETITION.**—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

“(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b) of this section; and

“(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c) of this section.

“(3) **QUALIFICATION OF FRANCHISING AUTHORITY.**—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

“(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

“(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

“(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

“(4) **APPROVAL BY COMMISSION.**—A certification filed by a franchising authority under paragraph (3) shall be effective 30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

“(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

“(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

“(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

“(5) **REVOCACTION OF JURISDICTION.**—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commission shall revoke the jurisdiction of such authority.

“(6) **EXERCISE OF JURISDICTION BY COMMISSION.**—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

“(b) **ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.**—

“(1) **COMMISSION REGULATIONS.**—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

“(A) **BASIC SERVICE TIER RATES.**—A formula to establish the maximum price of the basic service tier, which formula shall take into account—

“(i) the number of signals carried on the basic service tier;

“(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing such signals, including signals and services carried on the basic service tier pursuant to paragraph (2)(B), and changes in such costs;

“(iii) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

“(iv) a reasonable profit (as defined by the Commission) on the provision of the basic service tier;

“(v) rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

“(vi) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers; and

“(vii) any amount required, in accordance with subparagraph (C), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise.

“(B) **EQUIPMENT.**—A formula to establish, on the basis of actual cost, the price or rate for—

“(i) installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (3); and

“(ii) installation and monthly use of connections for additional television receivers.

“(C) **COSTS OF FRANCHISE REQUIREMENTS.**—A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

“(D) **IMPLEMENTATION AND ENFORCEMENT.**—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

“(i) procedures by which cable operators may implement and franchising authorities may enforce the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection;

“(ii) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such formulas, standards, guidelines, and procedures;

“(iii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

“(iv) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

“(E) **EFFECTIVE DATES.**—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

“(2) **COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.**—

“(A) **MINIMUM CONTENTS.**—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

“(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

“(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

“(iii) Any signal of any broadcast station that is provided by the cable operator to any subscriber.

“(B) **PERMITTED ADDITIONS TO BASIC TIER.**—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under paragraph (1)(A).

“(3) **BUY-THROUGH OF OTHER TIERS PROHIBITED.**—

“(A) **PROHIBITION.**—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (2) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other

subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

"(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—

"(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

"(ii) 5 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

"(C) STUDY; EXTENSION OF LIMITATION.—(i) The Commission shall, within 4 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to consider (I) the benefits to consumers of subparagraph (A), (II) whether the cable operators or consumers are being forced (or would be forced) to incur unreasonable costs for complying with subparagraph (A), and (III) the effect of subparagraph (A) on the provision of diverse programming sources to cable subscribers.

"(ii) If, in the proceeding required by clause (i), the Commission determines that subparagraph (A) imposes unreasonable costs on cable operators or cable subscribers, the Commission may extend the 5-year period provided in subparagraph (B)(ii) for 2 additional years.

"(4) NOTICE OF FEES, TAXES, AND OTHER CHARGES.—Each cable operator may identify, in accordance with the formulas required by clauses (vi) and (vii) of paragraph (1)(A), as a separate line item on each regular bill of each subscriber, each of the following:

"(A) the amount of the total bill assessed as a franchise fee and the identity of the authority to which the fee is paid;

"(B) the amount of the total bill assessed to satisfy any requirements imposed on the operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels; and

"(C) any other fee, tax, assessment, or charge of any kind imposed on the transaction between the operator and the subscriber.

"(c) REGULATION OF UNREASONABLE RATES.—(1) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

"(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any franchising authority or other relevant State or local government entity alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall set forth the minimum showing that shall be required for a complaint to establish a prima facie case that the rate in question is unreasonable; and

"(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of such complaint and that are determined to be unreasonable.

"(2) FACTORS TO BE CONSIDERED.—In establishing the criteria for determining in individual

cases whether rates for cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

"(A) the rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

"(B) the rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

"(D) the rates, as a whole, for all the cable programming, equipment, and services provided by the system;

"(E) capital and operating costs of the cable system, including costs of obtaining video signals and services;

"(F) the quality and costs of the customer service provided by the cable system; and

"(G) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues.

"(3) LIMITATION ON COMPLAINTS CONCERNING EXISTING RATES.—On and after 180 days after the effective date of the regulations prescribed by the Commission under paragraph (1), the procedures established under subparagraph (B) of such paragraph shall be available only with respect to complaints filed within a reasonable period of time following a change in rates that is initiated after that effective date.

"(d) REGULATION OF PAY-PER-VIEW CHARGES FOR CHAMPIONSHIP SPORTING EVENTS.—A State or franchising authority may, without regard to the regulations prescribed by the Commission under subsections (b) and (c), regulate any per-program rates charged by a cable operator for any video programming that consists of the national championship game or games between professional teams in baseball, basketball, football, or hockey.

"(e) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(f) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(g) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry. Such report shall include such recommendations as the Commission considers appropriate in light of such information. Such report also shall address the availability of discounts for senior citizens and other economically disadvantaged groups.

"(h) PREVENTION OF EVASIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions of the rates, services, and other requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

"(i) SMALL SYSTEM BURDENS.—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 500 or fewer subscribers.

"(j) RATE REGULATION AGREEMENTS.—The provisions of this section (and the regulations thereunder) shall not apply to a cable system during the term of an agreement by a cable operator with a franchising authority that was entered into before July 1, 1990, and that authorizes the franchising authority to regulate the rates of such cable system for basic cable service, if such system was not subject to effective competition pursuant to the rules of the Commission in effect on July 1, 1990.

"(k) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(l) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act, except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment.

SEC. 4. MULTIPLE FRANCHISES.

(a) UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.—Section 621(a) of the Communica-

tions Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way."

(b) MUNICIPAL AUTHORITIES PERMITTED TO OPERATE SYSTEMS.—Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended—

(1) by inserting "and subsection (f)" before the comma in subsection (b)(1); and

(2) by adding at the end the following new subsection:

"(f) No provision of this Act shall be construed to—

"(1) prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the geographic areas within the jurisdiction of such franchising authority, notwithstanding the granting of one or more franchises by such franchising authority; or

"(2) require such local or municipal authority to secure a franchise to operate as a multichannel video programming distributor."

(c) CLARIFICATION OF LOCAL AUTHORITY TO REGULATE OWNERSHIP.—Section 613(d) of the Communications Act of 1934 (47 U.S.C. 533(d)) is amended—

(1) by striking "any media" and inserting "any other media"; and

(2) by adding after the period at the end thereof the following: "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction."

(d) LEASE/BUY-BACK AUTHORITY.—Section 613(b)(2) of the Communications Act of 1934 (47 U.S.C. 533(b)(2)) is amended by adding at the end the following: "This paragraph shall not prohibit a common carrier from providing multiple channels of communication to an entity pursuant to a lease agreement under which the carrier retains, consistent with section 616, an option to purchase such entity upon the taking effect of an amendment to this section that permits common carriers generally to provide video programming directly to subscribers in such carrier's telephone service area."

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator.

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to one third of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 46, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) SIGNAL QUALITY.—

"(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at rates in accordance with section 623(b)(1)(B).

"(8) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(d) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(e) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section.

"(f) SALES PRESENTATIONS AND PROGRAM LENGTH COMMERCIALS.—Nothing in this Act shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying

on any tier, the signal of any commercial television station or video programming service that is predominantly utilized for the transmission of sales presentations or program length commercials.

"(g) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to modify or otherwise affect title 17, United States Code.

"(h) DEFINITION.—

"(1) LOCAL COMMERCIAL TELEVISION STATION.—For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station for purposes of this section upon agreement to indemnify the cable operator for the increased copyright liability as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) EXCLUSIONS.—The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) MARKET DETERMINATIONS.—(A) For purposes of this section, a broadcasting station's market shall be determined in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

"(B) In considering requests filed pursuant to subparagraph (A), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

"(i) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

"(ii) whether the television station provides coverage or other local service to such community;

"(iii) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

"(iv) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

"(C) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this paragraph.

"(D) In the rulemaking proceeding required by subsection (e), the Commission shall provide for expedited consideration of requests filed under this subsection."

SEC. 6. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION.

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the cable operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the cable operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990,

shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by franchising authority pursuant to section 611 of this title, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network non-duplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that cable operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—A cable operator shall retransmit in its entirety the primary video, accompanying audio, and line 21 closed caption transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the cable operator.

"(2) BAND-WIDTH AND TECHNICAL QUALITY.—A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with band-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by a cable operator unless the cable operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system

channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local noncommercial educational television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local noncommercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

"(i) PAYMENT FOR CARRIAGE PROHIBITED.—

"(1) IN GENERAL.—A cable operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) DISTANT SIGNAL EXCEPTION.—Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the cable operator for the incremental copyright costs assessed against such cable operator as a result of such carriage.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that a cable operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data, views, and arguments to establish that the cable operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable operator has complied with the requirements of this section. If the Commission determines that the cable operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the cable operator to take such remedial action as is necessary to meet such requirements. If the Commission

determines that the cable operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—A cable operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

"(ii) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B)); or

"(B) is owned and operated by a municipality and transmits predominantly noncommercial programs for educational purposes.

Such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system."

SEC. 7. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may establish and enforce—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the subscriber (including standards governing bills and refunds).

"(C) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b). Nothing in this title shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section."

SEC. 8. CUSTOMER PRIVACY RIGHTS.

Section 631(a)(2) of the Communications Act of 1934 (47 U.S.C. 551(a)(2)) is amended to read as follows:

"(2) For purposes of this section, other than subsection (h)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

"(C) the term 'cable operator' includes, in addition to persons within the definition of cable operator in section 602, any person who (i) is owned or controlled by, or under common ownership or control with, a cable operator, and (ii) provides any wire or radio communications service."

SEC. 9. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders.

"(b) COMPATIBLE INTERFACES.—Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the

programming available on cable systems and the functions available on their televisions and video cassette recorders. The Commission shall issue such regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(c) RULEMAKING REQUIRED.—

"(1) IN GENERAL.—Within 1 year after the date of submission of the report required by subsection (b), the Commission shall prescribe such regulations as are necessary to increase compatibility between television receivers equipped with premium functions and features, video cassette recorders, and cable systems.

"(2) FACTORS TO BE CONSIDERED.—In prescribing the regulations required by this subsection, the Commission shall consider—

"(A) the costs and benefits of requiring cable operators to adhere to technical standards for scrambling or encryption of video programming in a manner that will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, while providing effective protection against theft or unauthorized reception of cable service, including functions that permit the subscriber—

"(i) to watch a program on 1 channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(ii) to use a video cassette recorder to tape 2 consecutive programs that appear on different channels; or

"(iii) to use advanced television picture generation and display features;

"(B) the potential for achieving economies of scale by requiring manufacturers of television receivers to incorporate technologies to achieve such compatibility in all television receivers;

"(C) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers; and

"(D) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

"(3) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

"(A) to establish the technical requirements that permit a television receiver or video cassette recorder to be sold as 'cable ready';

"(B) to establish procedures by which manufacturers may certify television receivers that comply with the technical requirements established under subparagraph (A) of this paragraph in a manner that, at the point of sale is easily understood by potential purchasers of such receivers;

"(C) provide appropriate penalties for willful misrepresentations concerning such certifications;

"(D) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(E) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(F) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (c) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers and purchasers of television receivers of such standards."

SEC. 10. TECHNICAL STANDARDS; EMERGENCY ANNOUNCEMENTS; PROGRAMMING CHANGES.

(a) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection."

(b) EMERGENCY ANNOUNCEMENTS.—Section 624 of such Act is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations."

(c) PROGRAMMING CHANGES.—Section 624 of such Act is further amended—

(1) in subsection (b)(1), by inserting ", except as provided in subsection (h)," after "but may not"; and

(2) by adding at the end the following new subsection:

"(h) A franchising authority may require a cable operator to do any one or more of the following:

"(1) to provide 30 days advance written notice of any change in channel assignment or in the video programming service provided over any such channel;

"(2) to inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority."

SEC. 11. REGULATION OF CARRIAGE AGREEMENTS.

Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS.—Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators or other multichannel video programming distributors and video programming vendors. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video pro-

gramming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video programming distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or non-affiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors;

"(4) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(5) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(6) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(b) DEFINITION.—As used in this section, the term 'video programming vendor' means a person engaged in the production, creation, or wholesale distribution of a video programming service for sale."

SEC. 12. EQUAL EMPLOYMENT OPPORTUNITY.

(a) FINDINGS.—The Congress finds and declares that—

(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

(b) STANDARDS.—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection."

(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

- "(i) Corporate officers.
- "(ii) General Manager.
- "(iii) Chief Technician.
- "(iv) Comptroller.

"(v) General Sales Manager.

"(vi) Production Manager.

"(vii) Managers.

"(viii) Professionals.

"(ix) Technicians.

"(x) Sales.

"(xi) Office and Clerical.

"(xii) Skilled Craftspersons.

"(xiii) Semiskilled Operatives.

"(xiv) Unskilled Laborers.

"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section."

(d) PENALTIES.—Section 634(f)(2) of such Act is amended by striking "\$200" and inserting "\$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video programming distributor".

(f) STUDY AND REPORT REQUIRED.—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

(g) BROADCASTING EQUAL EMPLOYMENT OPPORTUNITY.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"SEC. 617. EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS OF MUST-CARRY STATIONS.

"(a) APPLICATION OF SECTION.—This section shall apply to—

"(1) the licensee for any television broadcasting station that is eligible for carriage under section 614 or 615; and

"(2) any corporation, partnership, association, joint-stock company, trust, or affiliate or subsidiary thereof engaged primarily in the management or operation of any such licensee.

"(b) EQUAL EMPLOYMENT OPPORTUNITY REQUIRED.—Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) EMPLOYMENT POLICIES AND PRACTICES REQUIRED.—Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices and to promote the hiring of a workforce that reflects the diversity of its community. Under the terms of its programs, such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d) COMMISSION RULES REQUIRED.—

"(1) DEADLINE FOR RULES.—Not later than 270 days after the date of enactment of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section.

"(2) CONTENT OF RULES.—Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, on an ongoing basis as a potential source of referrals for whenever jobs may become available;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its service area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the service of mi-

norities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

“(3) **REPORTS REQUIRED.**—Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories—

- “(A) Corporate officers.
- “(B) General Manager.
- “(C) Chief Technician.
- “(D) Comptroller.
- “(E) General Sales Manager.
- “(F) Production Manager.
- “(G) Managers.
- “(H) Professionals.
- “(I) Technicians.
- “(J) Sales.
- “(K) Office and Clerical.
- “(L) Skilled Craftspersons.
- “(M) Semiskilled Operatives.
- “(N) Unskilled Laborers.
- “(O) Service Workers.

“(4) **ADDITIONAL CONTENTS OF REPORTS.**—In addition, such report shall state the number of job openings occurring during the course of the year and (A) shall certify that the openings were filled in accordance with the program required by subsection (c), or (B) shall contain a statement providing reasons for not filling such positions in accordance with such program. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

“(5) **RULES AMENDMENTS.**—The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

“(e) **ENFORCEMENT.**—

“(1) **ANNUAL CERTIFICATION.**—On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

“(2) **LICENSE RENEWAL REVIEWS.**—The Commission shall, at the time of license renewal, review the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge minorities and women equal opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications and accurately reflect compliance with the equal employment opportunity plan in filing its annual reports.

“(f) **COMPLAINTS.**—Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The rules prescribed under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

“(g) **PENALTIES.**—

“(1) **IN GENERAL.**—Any person who is determined by the Commission, through an investiga-

tion pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of \$200 for each violation. Each day of continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have any license under this Act conditioned, suspended, or revoked. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

“(2) **ADDITIONAL REMEDIES.**—The provisions of paragraphs (2)(D), (3), and (4), of section 503(b) shall apply to forfeitures under this subsection.

“(3) **NOTICE OF PENALTIES.**—The Commission shall provide for notice to the public of any penalty imposed under this section.

“(h) **EFFECT ON OTHER LAWS.**—Nothing in this section shall affect the authority of any State or local government—

“(1) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees; or

“(2) to establish or enforce any provision requiring or encouraging any entity specified in subsection (a) to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii)) or which have their principal operations located within the local service area of such entity.”.

SEC. 13. HOME WIRING.

Section 624 of the Communications Act of 1934 (17 U.S.C. 544) is amended by adding at the end the following new subsection:

“(i) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.”.

SEC. 14. SALES OF CABLE SYSTEMS.

Part II of title VI of the Communications Act of 1934 is further amended by adding at the end thereof the following new section:

“SEC. 618. SALES OF CABLE SYSTEMS.

“(a) **3-YEAR HOLDING PERIOD REQUIRED.**—Except as provided in this section, no cable operator may sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of such system by such operator.

“(b) **TREATMENT OF MULTIPLE TRANSFERS.**—In the case of a sale of multiple systems, if the terms of the sale require the buyer to subsequently transfer ownership of one or more such systems to one or more third parties, such transfers shall be considered a part of the initial transaction.

“(c) **EXCEPTIONS.**—Subsection (a) of this section shall not apply to—

“(1) any transfer of ownership interest in any cable system which is not subject to Federal income tax liability;

“(2) any sale required by operation of any law or any act of any Federal agency, any State or political subdivision thereof, or any franchising authority; or

“(3) any sale, assignment, or transfer, to one or more purchasers, assignees, or transferees controlled by, controlling, or under common control with, the seller, assignor, or transferor.

“(d) **WAIVER AUTHORITY.**—The Commission may, consistent with the public interest, waive the requirement of subsection (a), except that, if the franchise requires franchise authority approval of a transfer, the Commission shall not waive such requirements unless the franchise authority has approved the transfer.

“(e) **LIMITATION ON DURATION OF FRANCHISING AUTHORITY POWER TO DISAPPROVE TRANSFERS.**—In the case of any sale or transfer of ownership of any cable system after the 36-month period following acquisition of such system, a franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.”.

SEC. 15. CABLE CHANNELS FOR COMMERCIAL USE.

(a) **RATES, TERMS, AND CONDITIONS.**—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1), by striking “consistent with the purpose of this section” and inserting “consistent with regulations prescribed by the Commission under paragraph (4)”; and

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

“(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

“(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

“(B) standards concerning the terms and conditions which may be so established;

“(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section; and

“(D) procedures for the expedited resolution of disputes concerning rates or carriage under this section.”.

(b) **ACCESS FOR QUALITY MINORITY PROGRAMMING SOURCES AND QUALIFIED EDUCATIONAL PROGRAMMING SOURCES.**—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

“(i)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming or educational programming on that cable system under this subsection.

“(2) For purposes of this subsection, the term ‘qualified minority programming source’ means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term ‘minority’ is defined in section 309(i)(3)(C)(ii) of this Act.

“(3) For purposes of this subsection, the term ‘qualified educational programming source’

means a programming source which devotes significantly all of its programming to educational or instructional programming of such a nature that it promotes public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding \$15,000,000. Programming expenditures shall mean all annual costs incurred by the channel originator to produce or acquire programs which are scheduled to appear on air, and shall specifically exclude marketing, promotion, satellite transmission and operational costs, and general administrative costs. Nothing in this subsection shall substitute for the requirements to carry qualified noncommercial educational television stations as specified under section 615."

SEC. 16. CABLE FOREIGN OWNERSHIP RESTRICTIONS.

(a) FINDINGS.—The Congress finds that—
(1) restrictions on alien or foreign ownership of broadcasting and common carriers first were enacted by Congress in the Radio Act of 1912;

(2) cable television service currently is available to more than 90 percent of American households, more than 62 percent of American households subscribe to such services, and the majority of viewers rely on cable as the conduit through which they receive terrestrial broadcast signals;

(3) many Americans receive a significant portion of their daily news, information, and entertainment programming from cable television systems, and such systems should not be controlled by foreign entities; and

(4) the policy justifications underlying restrictions on alien ownership of broadcast or common carrier licenses have equal application to alien ownership of cable television systems, direct broadcast satellite systems, and multipoint distribution services.

(b) AMENDMENT TO COMMUNICATIONS ACT.—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);
(2) by inserting "(1)" after "(b)"; and
(3) by adding at the end thereof the following new paragraphs:

"(2)(A) No cable system (as such term is defined in section 602) in the United States shall be owned or otherwise controlled by any alien, representative, or corporation described in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection.

"(B) Subparagraph (A) of this paragraph shall not be applied—

"(i) to require any such alien, representative, or corporation to sell or dispose of any ownership interest held or contracted for on or before June 1, 1990, or acquired in accordance with clause (ii); or

"(ii) to prohibit any such alien, representative, or corporation that owns, has contracted on or before June 1, 1990, to acquire ownership, or otherwise controls, any cable system from acquiring ownership or control of additional cable systems if the total number of households passed by all the cable systems that such alien, representative, or corporation would, as a result of such acquisition, own or control does not exceed 2,000,000.

"(3)(A) For purposes of paragraph (1) of this subsection, a license or authorization for any of the following services shall be deemed to be a broadcast station license:

"(i) cable auxiliary relay services;
"(ii) multipoint distribution services;
"(iii) direct broadcast satellite services; and
"(iv) other services the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(B) Subparagraph (A) of this paragraph shall not be applied to any cable operator to the

extent that such operator is eligible for the exemptions contained in subparagraph (B) of paragraph (2)."

SEC. 17. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "\$25,000" and inserting "\$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "\$50,000" and inserting "\$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

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

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation."

SEC. 18. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY AND RULEMAKING.—The Commission shall conduct a rulemaking proceeding to review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such proceeding, the Commission—

(A) shall consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of such programming; and

(B) shall impose limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(3) PROCEEDING REQUIRED TO REVIEW DBS RESPONSIBILITIES.—The Federal Communications Commission shall, within 180 days after the date of enactment of this Act, initiate a rulemaking proceeding to impose, with respect to any direct broadcast satellite system that is not regulated as a common carrier under title II of the Communications Act of 1934, public interest or other requirements on direct broadcast satellite systems providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of the Communications Act of 1934 and the use of facilities requirements of section 315 of such Act to direct broadcast satellite systems providing video programming. Such proceeding also shall examine the opportunities that the establishment of such systems provide for the principle of localism under such Act, and the methods by which such principle may be served through technological and other developments in, or regulation of, such systems.

(4) PUBLIC SERVICE USE REQUIREMENTS.—The Federal Communications Commission shall require, as a condition of any initial authorization, or renewal thereof, for a direct broadcast satellite service providing video programming,

that the provider of such service reserve not less than 4 percent or more than 7 percent of the channel capacity of such service exclusively for noncommercial public service uses. A provider of direct broadcast satellite service may use any unused channel capacity designated pursuant to this paragraph until the use of such channel capacity is obtained, pursuant to a written agreement, for public service use. The direct broadcast satellite service provider may recover only the direct costs of transmitting public service programming on the channels reserved under this subsection.

(5) STUDY PANEL.—There is established a study panel which shall be comprised of a representative of the Corporation for Public Broadcasting, the National Telecommunications and Information Administration, and the Office of Technology Assessment selected by the head of each such entity. Such study panel shall within 2 years after the date of enactment of this Act, submit a report to the Congress containing recommendations on—

(A) methods and strategies for promoting the development of programming for transmission over the public use channels reserved pursuant to paragraph (4)(A);

(B) methods and criteria for selecting programming for such channels that avoids conflicts of interest and the exercise of editorial control by the direct broadcast satellite service provider; and

(C) identifying existing and potential sources of funding for administrative and production costs for such public use programming.

(6) DEFINITIONS.—As used in this subsection—

(A) the term "direct broadcast satellite systems" includes (i) satellite systems licensed under Part 100 of the Federal Communications Commission's rules, and (ii) high power Ku-band fixed service satellite systems providing video service directly to the home and licensed under Part 25 of the Federal Communications Commission's rules; and

(B) the term "public service uses" includes—

(i) programming produced by public telecommunications entities, including programming furnished to such entities by independent production services;

(ii) programming produced by public or private educational institutions or entities for educational, instructional, or cultural purposes; and

(iii) programming produced by any entity to serve the disparate needs of specific communities of interest, including linguistically distinct groups, minority and ethnic groups, and other groups.

(b) SPORTS PROGRAMMING MIGRATION STUDY AND REPORT.—

(1) STUDY REQUIRED.—The Federal Communications Commission shall conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The study shall investigate and analyze, on a sport-by-sport basis, trends in the migration of such programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including the economic causes and the economic and social consequences of such trends.

(2) REPORT ON STUDY.—The Federal Communications Commission shall, on or before July 1, 1993, and July 1, 1994, submit an interim and a final report, respectively, on the results of the study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such reports shall include a statement of the results, on a sport-by-sport basis, of the analysis of the trends required by paragraph (1)

and such legislative or regulatory recommendations as the Commission considers appropriate.

(c) **PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.**—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video programming, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

SEC. 19. ANTITRUST IMMUNITY.

(a) Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

SEC. 20. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those amendments made in order in section 2 of House Resolution 523 or printed in House Report 102-687. Said amendments shall be considered in the order and manner specified in the report, shall be considered as read, and shall not be subject to amendment, except as specified in the report. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

It shall be in order for the chairman of the Committee on Energy and Commerce, or his designee, to offer amendments in bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in House Report 102-687. Said amendments en bloc shall be considered as read, shall not be subject to amendment or to a demand for a division of the question, and are debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

The original proponents of the amendments offered en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

It is now in order to consider amendment No. 1 printed in House Report 102-687.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY: Page 9, beginning on line 1, strike all of section 3 through line 18 on page 28 and insert the following:

SEC. 3. RATE REGULATION.

(a) **AMENDMENT.**—Section 623 of the Communications Act of 1934 is amended to read as follows:

"REGULATION OF RATES

"SEC. 623. (a) COMPETITION PREFERENCE; STATE COMMISSION REGULATION.—

"(1) IN GENERAL.—No Federal agency or franchising authority may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any State commission (as such term is defined in section 3(t) of this Act) may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State commission under this section. If the Commission finds that a cable system is not subject to effective competition, the rates for the provision of cable service by such system shall be subject to regulation by a State commission pursuant to a law of such State.

"(b) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among subscribers or potential subscribers with regard to the services offered or the rates charged for such services, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(c) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(d) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(e) DEFINITION.—As used in this section, the term 'effective competition' means that—

"(1) fewer than 30 percent of the households in the franchise area subscribe to the basic service of a cable system;

"(2) the franchise area is—

"(A) served by at least two unaffiliated multichannel video programming distribu-

tors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(B) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(3) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area."

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

Does the gentleman from Massachusetts rise in opposition?

Mr. MARKEY. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

□ 1750

Mr. OXLEY. Mr. Chairman, I offer this amendment for the purposes of trying to determine where regulation is going to take place. If we are going aschew the possibility of real competition in this bill, which it appears we are, then the next question arises: Who really does the regulating under this particular provision? The gentleman from Massachusetts, in his bill, would have the Federal Government, essentially the FCC, do the regulating. My amendment puts it back to the States, where I feel it belongs both naturally and from a standpoint of practicality. It allows the public utilities commissions from each State to indeed provide that kind of regulation. It also says that States with systems already in place, and there are 10 or 12 of those, may retain them under my amendment. It also says, if there is competition out there, as determined by the FCC, there is no need for regulation, and that competition is determined by the FCC. It essentially uses the same competition standards as provided by the gentleman's bill, H.R. 4850. This provides for the consumer more expedited and efficient relief because it allows the States to make that decision, and not Washington, DC. The States better understand the problems, I think, of their citizens. They are closer to the action. The voters would be more successful in holding those State officials accountable if they are not happy with what they are doing.

For the States, historically they have wanted to regulate cable. That was a big argument back in the 1960's where there was a rash of legislation. They have hesitated because they are unsure at this point if the Federal Government would preempt. Once assured of no preemption, several States ventured forth. Those States, like Massachusetts and New York, under my

amendment the fear of preemption would be eliminated entirely, and they would have authority over those decisions.

NARU, the National Association of Regulatory Utility Commissioners, has supported my amendment, and hopefully those from my colleagues' particular States have contacted them for their support. They represent the utility commissioners from all 50 States, and the States better understand the needs of their consumers in their particular States far better than we do in Washington, DC, and can better address the needs.

The results of the FCC—rate regulation. Rate regulations under the Markey bill will cost the FCC \$250 million over 5 years, or 44 percent of their annual budget. That was provided to us in a letter from Chairman Al Sikes just a couple of weeks ago. It will essentially take that responsibility away that they could normally do, providing for such things as modernization of the telecommunications industry, as they did with the video dial tone proceeding just last week. No cable regulatory bills, including H.R. 4850, have addressed the need for more money from the FCC, so it is going to take money out of one pocket of the FCC and put it in another. I just think that makes common sense in a regulatory scheme, and I would certainly ask that the Members seriously consider this way of regulating.

I say to my colleagues, "If you have got to regulate, it seems to me we are better off at the State level than we are with Uncle Sam here in Washington, DC."

Mr. FIELDS. If the gentleman will yield, Mr. Chairman, I appreciate the gentleman from Ohio [Mr. OXLEY] yielding to me, and I say to the gentleman, "It seems to me your amendment makes a great deal of sense, and I think you said that the National Association of Utilities Commissioners, which is composed of the 50 States' commissioners supports your amendment." You said also that 10 States have cable commissions already. My State of Texas does not, and my question is: "What effect would your amendment have on my State and on the States that do not have cable commissions?"

Mr. OXLEY. They would be in a position to create their own regulatory schemes. That would be the job, obviously, of the people of Texas to make that determination. That gives them a free hand, as it would in Ohio, for example, and I know that in Texas, as well as in Ohio, I have already had discussions with our PUCO in Ohio, and they have clearly indicated that that is their desire.

So, this would facilitate the States actually setting up the regulatory possibilities for cable within their own States, and that is why NARUC and all

of the 50 States' commissions have supported my amendment.

Mr. FIELDS. Mr. Chairman, if the gentleman would continue to yield; then, if I understand the gentleman, he is proposing a situation that would allow us to deal with the problems on a State-by-State basis so that we can handle our own problems in my State of Texas in a much more expeditious manner and tailor it in a specific solution for the State.

Mr. OXLEY. Exactly. I think that, first of all, we cannot assume that we have got some monolithic cable system throughout the 50 United States. Obviously each State differs as to how they deal with cable. The gentleman's problems in cable in Texas may be totally different from some of the problems in Ohio. That is what the PUC's are for, to ferret that out and to make those determinations on a localized basis in the 50 States, and that really is what it is all about.

Plus I cannot emphasize enough the accountability factor. Those PUC's that are appointed by the elected governors of the States in most cases are accountable. The governor is accountable. He appoints them. Who is going to be accountable at the FCC level, and are we really going to hold the President of the United States, for example, accountable for the appointment of FCC commissioners that have to rule on these cases? It just makes absolutely no sense. So, the State level is really where to do it, and I appreciate the gentleman's interest and support.

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

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume, and I rise in strong opposition to the amendment of the gentleman from Ohio [Mr. OXLEY]. I very greatly have respected the gentleman from Ohio for the last decade. He and I have worked together on telecommunications policy in the Committee on Energy and Commerce. But this amendment strikes at the heart of the legislation which we have before us here today because the Oxley amendment allows States not to regulate at all, and in States that do not adopt cable regulations consumers would be entirely unprotected, and that would frustrate Congress' ability in an effort to establish universal protections for all Americans.

The amendment of the gentleman from Ohio [Mr. OXLEY] would also fragment the video marketplace into 50 uncoordinated States with 50 uncoordinated, regulatory programs which would make it hard for us to have a national video marketplace which, after all, was the heart of the 1984 act and something which we worked hard to put together on a bipartisan basis back in 1984.

Third, the State regulators are unlikely to have the resources and the expertise to regulate cable. There is no

question that the FCC is the agency of expertise in this country to be able to deal with this issue of the national video marketplace that we created through the 1984 Cable Act, and the complexities of that video marketplace are something that has to remain at that Federal level, and the Oxley amendment would again fragment this into 50 different pieces, shattering that uniformity and also making it difficult for us to have a sense of where this national marketplace is.

As well, Mr. Chairman, the Oxley amendment has never been considered in our committee. We have not had it before the committee, and the implication of transferring all of this power down to the State level is something that has tremendous ramifications for this country and for the video marketplace.

So, Mr. Chairman, it is my hope that the House today will reject the Oxley amendment. It goes to the heart of a bill which was voted out 31 to 12 out of the full committee and, in fact, is going to produce a new era of competition and consumer protection for the viewers of this country.

One of the most common criticisms of the bill heard here today is from Republicans and others who claim it is too regulatory.

I cannot resist pointing out to my colleagues that as originally introduced for markup in the Subcommittee on Telecommunications, this bill included a provision that would have empowered local subscribers to rely on themselves, rather than regulators, to keep their local cable company in check. It was opposed by these same Republicans.

The provision had three universal virtues: First, it would reduce the need for the Federal intervention in decisions that can best be made by local franchising authorities;

Second, it would encourage local cable subscribers to participate in the regulation of their local cable monopoly; and

Third, it would accomplish these purposes without costing the Federal Government or the taxpayer a dime.

Here is how it would work. Local cable franchising authorities would be authorized to certify a cable subscriber group. The group would have to earn that certification, however, by demonstrating that at least 5 percent of cable subscribers were willing to pay a \$10 fee and become a member of the group. The group would be voluntary, democratically run and cost the taxpayer nothing. Cable subscribers would be notified of their ability to join this group through an insert in the billing statement of the local cable operator. The insert would have to be neutrally worded and approved by the local franchise authority.

All incremental costs and expenses of these billing inserts would be reimbursed by the subscriber group to the cable company.

That's it. It is a simple method of keeping cable companies honest by empowering subscribers. The groups are not given any regulatory authority; they are given only the ability to provide an organized, democratic voice when the regulators make decisions affecting cable service and rates.

Now don't misunderstand me. This provision, perhaps more than anything we do here today, would be a serious threat to business-as-usual by cable companies.

At subcommittee, one of my colleagues asserted that these consumer groups are not mandated in any other industry, regulated or unregulated. But the fact is, these groups are tried and true. They have been authorized and overseeing regulated utilities in Wisconsin since 1979, in Illinois since 1983, in San Diego since 1983, and in Oregon since 1984. The State of New York is implementing this system this year.

So it is not the unknown that certain people are afraid of—it is the known, proven success of these consumer groups to save their consumers millions of dollars.

Clearly in the cable industry, where consumers have been subject to obscene rate gouging since 1984, cable subscribers are in desperate need of this kind of organized representation. Right now, cable operators are free to use cable profits to pay for lawyers to represent them in the myriad hearings on franchise renewal, rates and customer service standards that accompany cable regulation. We should rebalance this process by making it easier for cable consumers to get a foot in this regulatory door. That is what my provision would have accomplished.

The elegance of this approach should be obvious in an era of disenchantment with big government, big spending, and micromanagement by Washington. The cost of subscriber groups to the taxpayer is zero, the method of decisionmaking is grassroots democracy, and the quality of oversight is bound to be better than the regulation-by-remote-control on which we currently rely.

Symms Clothing likes to say in its TV advertisements that "an educated consumer is our best customer." But most businesses subscribe to a more ancient homily which says "Never give a sucker an even break." An educated empowered consumer is someone who cannot be suckered.

Despite its virtues, this provision was struck on the initiative of one of my Republican colleagues. I raise this point now only to remind my colleagues how hypocritical we sound to the voters when we rail against regulation but refuse to empower ordinary citizens. People are sick and tired of a system which is so easily captured by special interest here in Washington. They would prefer to rely on their own good judgment, to run their own lives, to accomplish tough oversight of communications monopolies without new Federal spending.

I urge any of my colleagues who are groping to understand the Perot boom to open their minds to citizens empowerment. The demand for this new approach will only grow.

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

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT], the ranking member of the full committee.

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] has 1½ minutes remaining.

Mr. OXLEY. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio, [Mr. OXLEY] to transfer rate regulation from the FCC to State public utility commissions.

This amendment could bring faster relief to cable subscribers because a more local authority—the State Utility Commission—will be able to address the cable rate challenge or concern on a more expedited basis.

Many State and local authorities, as well as constituents, are skeptical about the Federal Government's ability to address regulatory issues adequately and efficiently. This amendment obviates that concern.

Several States have already set up cable commissions, and this amendment would just encourage further expansion of that framework to address issues about an industry that is truly local in nature.

The FCC is very concerned about Commission's ability to handle its cable regulation mandate under H.R. 4850 without further appropriations, which probably are not forthcoming in this budget-tight year.

FCC Chairman Sikes strongly supports this. And I urge my colleagues to support it too.

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

Mr. LENT. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Chairman, on February 12, 1990, I testified at an FCC field hearing on cable in Los Angeles.

At that time, I said some cable regulation was necessary and that a State agency was best suited to accomplish the task of setting and reviewing rates.

I guessed that the FCC was not interested in that oversight chore and that to return rate regulation to cities was to return to the unworkable system that existed prior to 1984.

I feel the same way today. I believe the amendment from the gentleman from Ohio is an excellent one that should be supported by the House and I thank him for his commitment to sound cable policy.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I rise in reluctant opposition to the amendment offered by my friend and colleague, the gentleman from Ohio [Mr. OXLEY].

I am normally an advocate of State rights. I believe, frankly, that State governments are in a better position to understand the needs of their citizens than the Federal bureaucracy in Washington, DC.

In this particular case, however, I feel compelled by the real world experience of a community in my congressional district to oppose the Oxley amendment. In specific, the city of Dunedin, FL, has experienced several problems with its cable system and seeks to exert more authority over the service provided within its borders.

The Oxley amendment would essentially grant State public service commissions responsibility for regulating cable rates. By this act, the relief that the city of Dunedin seeks would suddenly be transferred from their hands or from the FCC to Tallahassee. The regulatory dance card would shift, leaving Dunedin facing an uncertain future.

Perhaps, under the Oxley amendment, the State of Florida would act in their interest and with enough speed to resolve their concerns before the time for franchise renewal expired. But perhaps not. I do not want to run that risk.

Today, we are altering parts of the 1984 act which many believe accelerated the expansion of cable service and offerings, but which also had an impact on cable rates. While the new regulatory scheme of H.R. 4850 is not without its critics, I do not feel we should suddenly shift to another regulatory venue emanating from 50 State capitols.

We need to seek a balance which will benefit the real world communities like Dunedin, FL; Oldsmar, FL, and the thousands of other small communities which are seeking to provide the best service and the best deal to their citizens. The Oxley amendment will not accomplish this and I must urge its defeat.

Mr. MARKEY. Mr. Chairman, I yield my remaining time to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 2½ minutes.

Mr. DINGELL. I rise first to pay tribute to my dear friend, the author of the amendment, the gentleman from Ohio [Mr. OXLEY]. The gentleman is a fine and valued member of the committee and a great Member of this body.

However, the gentleman has offered the House a very bad amendment, and I urge the House to reject it. This is essentially a Potemkin Village which is offered to us, all facade and nothing behind.

First of all, what the gentleman does is offer an amendment which does not really afford any requirement that there be any regulations to protect the viewers of cable television. But beyond that, the gentleman very specifically and emphatically strips the bill in a way which is interesting to behold. Some 19 pages of legislation are reduced to 4. The parts which are dropped are interesting.

First, the gentleman eliminates the bill's protection of the viewer with regard to remote controls. The bill requires that remote controls be charged for fairly; the gentleman eliminates that. The same with regard to converter boxes. If this passes, no longer is there a requirement that converter boxes be billed for fairly. The bill's pro-

visions with respect to pay-per-view of local sporting is eliminated.

Beyond that, the protection which would be afforded with regard to basic cable rates is excised by the amendment offered by my dear friend from Ohio.

The bad actor regulation, which addresses the problems of cable operators who are engaged in persistent and continuous misbehavior, is excised by the amendment.

A Potemkin Village? Perhaps worse. A sham? Probably worse. In point of fact, what this really is is essentially something which is done to skin the consumers of this country and to permit bad actors to continue to do so.

What we need here are real protections against serious misbehavior about which the consumers complain. The gentleman offers us something which would be worthy of a Ponzi or an Insull, because what it does is give much illusion, but no substance. In point of fact, if this amendment passes, the consumers of this country are in fact being skinned.

Mr. Chairman, I urge the rejection of the amendment.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OXLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 83, noes 327, not voting 24, as follows:

[Roll No. 308]

AYES—83

Allen	Fawell	Michel
Anderson	Fields	Miller (OH)
Archer	Franks (CT)	Miller (WA)
Army	Galgely	Molinari
Baker	Gallo	Moorhead
Barnard	Gillmor	Nichols
Barrett	Green	Orton
Barton	Gunderson	Oxley
Bentley	Hastert	Paxon
Bliley	Herger	Regula
Boehner	Hobson	Rhodes
Broomfield	Horton	Riggs
Burton	Houghton	Rinaldo
Campbell (CA)	Hunter	Roberts
Chandler	Inhofe	Roe
Clinger	Johnson (CT)	Rohrabacher
Coble	Klug	Saxton
Cox (CA)	Kolbe	Shuster
Crane	Kyl	Sisisky
Dannemeyer	Lagomarsino	Smith (OR)
DeLay	Lent	Smith (TX)
Dickinson	Lewis (CA)	Taylor (NC)
Doolittle	Lowery (CA)	Thomas (CA)
Dorman (CA)	Martin	Thornton
Dreier	McCandless	Wyllie
Duncan	McCrery	Zeliff
Emerson	McEwen	Zimmer
Ewing	McMillan (NC)	

NOES—327

Abercrombie	Andrews (ME)	Anthony
Ackerman	Andrews (NJ)	Applegate
Alexander	Andrews (TX)	Aspin
Allard	Anunzio	Atkins

AuCoin	Grandy	Nussle	Towns	Volkmer	Whitten
Bacchus	Guarini	Oakar	Trafigant	Vucanovich	Williams
Ballenger	Hall (OH)	Oberstar	Traxler	Walker	Wise
Bateman	Hall (TX)	Obey	Unsoeld	Walsh	Wolf
Bellenson	Hamilton	Olver	Upton	Waters	Wolpe
Bennett	Hammerschmidt	Ortiz	Valentine	Waxman	Wyden
Beruter	Hancock	Owens (NY)	Vander Jagt	Weiss	Yatron
Bevill	Harris	Owens (UT)	Vento	Weldon	Young (AK)
Bilbray	Hayes (IL)	Packard	Visclosky	Wheat	Young (FL)
Bilirakis	Hayes (LA)	Pallone			
Blackwell	Hefley	Panetta			
Boehlert	Hefner	Parker			
Bonior	Henry	Pastor			
Borski	Hertel	Patterson			
Boucher	Hoagland	Payne (NJ)			
Boxer	Hochbrueckner	Payne (VA)			
Brewster	Holloway	Pease			
Brooks	Hopkins	Pelosi			
Browder	Horn	Penny			
Brown	Hoyer	Perkins			
Bruce	Hubbard	Peterson (MN)			
Bryant	Huckaby	Petri			
Bunning	Hughes	Pickett			
Bustamante	Hutto	Pickle			
Byron	Jacobs	Porter			
Callahan	James	Poshard			
Camp	Jefferson	Price			
Campbell (CO)	Jenkins	Pursell			
Cardin	Johnson (SD)	Quillen			
Carper	Johnson (TX)	Rahall			
Carr	Johnston	Ramstad			
Chapman	Jones (GA)	Rangel			
Clay	Jones (NC)	Ravenel			
Clement	Jontz	Reed			
Coleman (MO)	Kanjorski	Richardson			
Coleman (TX)	Kaptur	Ridge			
Collins (IL)	Kasich	Ritter			
Collins (MI)	Kennedy	Roemer			
Combest	Kennelly	Rogers			
Condit	Kildee	Ros-Lehtinen			
Cooper	Klecza	Rose			
Costello	Kopetski	Rostenkowski			
Cox (IL)	Kostmayer	Roth			
Coyne	LaFalce	Roukema			
Cramer	Lancaster	Rowland			
Cunningham	Lantos	Roybal			
Darden	LaRocco	Russo			
Davis	Leach	Sabo			
de la Garza	Lehman (CA)	Sanders			
DeFazio	Levin (MI)	Sangmeister			
DeLauro	Lewis (FL)	Santorum			
Dellums	Lewis (GA)	Sarpalius			
Derrick	Lightfoot	Savage			
Dicks	Lipinski	Sawyer			
Dingell	Livingston	Schaefer			
Dixon	Lloyd	Scheuer			
Donnelly	Long	Schiff			
Dooley	Lowey (NY)	Schroeder			
Dorgan (ND)	Luken	Schulze			
Downey	Machtley	Schumer			
Durbin	Manton	Sensenbrenner			
Dwyer	Markey	Serrano			
Early	Marlenee	Sharp			
Eckart	Martinez	Shaw			
Edwards (CA)	Matsui	Shays			
Edwards (OK)	Mavroules	Sikorski			
Edwards (TX)	Mazzoli	Skaggs			
Engel	McCloskey	Skeen			
English	McCollum	Skelton			
Erdreich	McCurdy	Slattery			
Espy	McDermott	Slaughter			
Evans	McGrath	Smith (FL)			
Fascell	McHugh	Smith (IA)			
Fazio	McMillen (MD)	Smith (NJ)			
Fish	McNulty	Snowe			
Flake	Meyers	Solarz			
Foglietta	Mfume	Solomon			
Ford (MI)	Miller (CA)	Spence			
Ford (TN)	Mineta	Spratt			
Frank (MA)	Mink	Staggers			
Frost	Moakley	Stallings			
Gaydos	Mollohan	Stark			
Gejdenson	Montgomery	Stearns			
Gekas	Moody	Stenholm			
Gephardt	Moran	Stokes			
Geren	Morella	Studds			
Gibbons	Morrison	Stump			
Gilchrest	Mrazek	Sundquist			
Gilman	Murphy	Swett			
Gingrich	Murtha	Swift			
Glickman	Myers	Synar			
Gonzalez	Nagle	Tanner			
Goodling	Natcher	Tauzin			
Gordon	Neal (MA)	Taylor (MS)			
Goss	Neal (NC)	Torres			
Gradison	Nowak	Torricelli			

NOT VOTING—24

Berman	Ireland	Ray
Conyers	Kolter	Tallon
Coughlin	Laughlin	Thomas (GA)
Dymally	Lehman (FL)	Thomas (WY)
Feighan	Levine (CA)	Washington
Hansen	McDade	Weber
Hatcher	Olin	Wilson
Hyde	Peterson (FL)	Yates

□ 1827

Mr. PURSELL and Mr. SMITH of New Jersey changed their vote from "aye" to "no."

Mr. ALLEN and Mr. ROBERTS changed their vote from "no" to "aye." So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1830

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RINALDO: Page 18, line 11, insert immediately before the period the following: ", except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station".

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. RINALDO] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Massachusetts [Mr. MARKEY] stand in opposition to the amendment?

Mr. MARKEY. Yes, Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RINALDO].

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

Mr. Chairman, this amendment would make inclusion of super stations on the basic tier permissive rather than mandatory as is currently the case under H.R. 4850.

I would like to enter into a colloquy on this matter with the distinguished chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY]. Would the gentleman pledge to work with me in the forthcoming House-Senate conference on cable legislation to work out this issue to the satisfaction of the minority and other related parties?

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

Mr. RINALDO. I am pleased to yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I say to the gentleman that yes, I will work with my good friend from New Jersey to assure that this is resolved to our mutual satisfaction in the conference committee.

Mr. RINALDO. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENTS EN BLOC OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. SHAYS: Page 24, after line 3, insert the following new subsection (and redesignate the succeeding subsections accordingly):

“(d) ASSUMPTION OF REGULATORY JURISDICTION BY STATE AGENCY.—

“(1) STATE ELECTION.—A State may elect to assume regulatory jurisdiction with respect to any cable system that is not subject to effective competition (as determined under subsection (a)(2)). Any State desiring to make such election shall file with the Commission a statement that—

“(A) the State has enacted a law that authorizes or permits an agency of the State to assume such regulatory jurisdiction; and

“(B) such agency has the legal authority to adopt, and the personnel to administer, regulations consistent with the requirements of this section.

“(2) EFFECT OF ELECTION.—An agency of a State identified in a statement filed under paragraph (1) shall assume the duties, obligations, and authorities of—

“(A) the Commission under subsections (b) and (c) to prescribe regulations with respect to rates for basic cable service and for cable programming services;

“(B) the franchising authorities in such State under subsection (b) with respect to the administration and implementation of the regulations prescribed with respect to the rates for basic cable service; and

“(C) the Commission under subsection (c) to receive, consider, and resolve complaints concerning the rates for cable programming services.

“(3) WITHDRAWAL OF ELECTION.—A State may withdraw an election under this subsection by filing with the Commission a notice of such withdrawal. Upon receipt of such notice, the authority and jurisdiction assumed under paragraph (2) by the agency of such State shall revert to the Commission and the franchising authorities in such State, respectively.

Page 28, line 13, after “basis” insert the following: “, except that, for purposes of subsection (d), such term may, at the election of the State, include the video programming offered on a per channel or per program basis”.

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. SHAYS] will be recognized for 7½ minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 7½ minutes in opposition.

The Chair recognizes the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I yield myself such time as I might consume.

Years ago States and local governments gave away cable franchises. They did not sell them. They gave them away and made instant millionaires of those who received the cable franchises.

As a State legislator from Connecticut, I in disbelief, watched as Congress, in 1984 took away the rights of States and local franchising authorities to regulate this monopoly, making multi-millionaires out of individuals who owned cable franchise rights.

Why did Congress do this? The public did not ask for deregulation. They did not ask that cable operators be allowed to set whatever price they wanted to set. The consumers did not ask for it, but the cable operators did. And the cable operators won.

We now have an industry that is not competitive. It is a monopoly and it is not regulated.

I favor competition. That would be my choice. But we do not have it in the cable industry now. And we are not likely to have it in the near future.

Cable operators want it both ways. They want to continue in this environment where they are a monopoly with no competition. And they want to continue to have no regulations.

Congress has a moral responsibility to regulate an industry that is a monopoly, that is setting prices at will, and that is treating the consumer as if he or she does not count.

My amendment would allow States the right to regulate all tiers of service as did in the past. If they choose not to exercise this right, under my amendment the provisions of the bill take precedent and the FCC will regulate the basic tier programs. In either case, we will have some form of regulation.

Since cable deregulation took effect in 1986 we have seen prices increase 56 percent in general, and for the most popular services we have seen a 60 percent increase. In the State of Connecticut we have seen an 82 percent increase in rates since 1988. That to me to just unconscionable.

Mr. Chairman, the Wall Street Journal in 1989 said cable consumers were paying \$12 billion, 50 percent more than they should and would pay if there was a competitive market.

I do not understand why Congress thinks deregulation was such a great deal—when the consumers paid \$6 billion more than they should have paid.

Congress has made cable operators fabulously wealthy. Before deregulation a cable franchise was worth \$600 per subscriber. After deregulation, each franchise is worth \$2,000 to \$2,800 per subscriber. That means if you have 1 million subscribers your franchise used to be worth \$600 million. Nothing to feel sorry about. After deregulation, this same cable franchise is now worth more than \$2 billion, courtesy of the

U.S. Congress and the White House. Even a small cable franchise of 10,000 subscribers is worth over \$20 million.

Before deregulation the Mets' allowed sports channel the right to broadcast their games for the next 30 years for \$30 million. After deregulation the Yankees got \$500 million by allowing Madison Square Garden [MSG] the right to broadcast its games over a 12-year period. The Yankees got \$500 million because [MSG] knew ultimately it could pass the cost on to the consumer.

Please do not tell me that I or anyone else in the State of Connecticut has benefited from deregulation. Before deregulation I paid \$6.95 for 25 programs under the basic tier. After deregulation I have over 35 programs but I pay nearly four times as much. I pay \$24.95 for this basic tier. I'm getting programs I did not ask for and I'm paying nearly four times as much.

Maybe Members do not know it, but the Cable News Network costs the cable operators 34 cents per subscriber, the Discovery channel costs cable operators 8 cents per subscriber, and MTV costs cable operators 25 cents per subscriber, Sports News Network costs cable operators 8 cents per subscriber. They may have given me 10 more programs, but I do not like paying \$18 more for something I never asked for and for something that only costs them a few dollars.

I urge all my colleagues to recognize that the cable industry cannot be allowed to continue to operate as an unregulated monopoly. Without true competition we need to reregulate this industry.

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

Mr. MARKEY. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I would like to begin by saying that the gentleman from Connecticut [Mr. SHAYS] for the last 3 years has testified before our subcommittee on cable bill issues. He has lobbied on behalf of many provisions which are included in the legislation which we bring here tonight. He has given this Member and many other members of our subcommittee insights into issues that he had particular expertise to help us in guiding us in the drafting of this legislation. And I can say that there are very few members of our Telecommunications and Finance Subcommittee that rival the gentleman from Connecticut in terms of his expertise and the impact that he has had upon the drafting of this legislation.

□ 1840

Mr. Chairman, I would like to note that publicly, because he has dedicated an enormous amount of time, and he came out of Connecticut with this issue as something that he wanted to

see addressed, and the impetus that he helped to provide us has helped to bring the bill and its many consumer protection provisions before the committee, before the House here tonight.

That is why I rise in reluctant opposition to the amendment to permit States to assume cable regulation for essentially the same reasons that I opposed the amendment offered by the gentleman from Ohio [Mr. OXLEY], and because we just had the debate on the Oxley amendment, I will be brief.

I oppose the amendment despite the fact that the gentleman from Connecticut has gone far to address many of the ills in the amendment of the gentleman from Ohio. The amendment, unlike the earlier amendment, would not gut the rate provisions of the bill, but, instead, would shift authority where those rate regulations are administered and implemented. I appreciate my colleague's efforts throughout the whole cable bill to enact meaningful rate regulation, and I know the goal of this amendment is not to subvert the intent of rate regulation but, in fact, to strengthen, and the spirit of the amendment is appreciated and, in fact, supported.

However, I must oppose the amendment, because it does suffer from two flaws. First, in my opinion, it would be a mistake to disperse the rate-setting powers of the FCC amongst the 50 States. Both consumers and industry would benefit from centralizing this responsibility in a single regulatory agency where the essential expertise was concentrated.

Second, and somewhat ironically, this amendment misses the mark because it takes away regulation from local officials and shifts that power to the more remote State agencies. This approach denies the officials closest to the problem the ability to use their knowledge and insights to regulate cable effectively.

While I have the greatest respect for the gentleman from Connecticut, and many of the other provisions in the cable bill have been dramatically affected by his interest in those provisions, on this one amendment I must reluctantly oppose.

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

Mr. MARKEY. I am happy to yield to the gentleman from Alabama.

Mr. ERDREICH. Mr. Chairman, I rise in favor of the legislation and against this amendment.

Mr. Chairman, we all enjoy turning on our television and having the luxury of being able to choose from many different channels to watch. We may watch everything from baseball to home shopping to movies.

Truly these are the best of times in terms of variety. However, these are not the best of times in terms of value. Cable rates are rising at sometimes 5 or 10 times the inflation rate, and service from these companies is too often inadequate.

I have heard from folks across the Sixth District over cable service. Many have said they cannot receive cable, even if the house down the street has it.

But even if you have cable, your troubles are not over. Many have called to complain of frequent and lengthy outages. And still, prices are skyrocketing.

In Jefferson County, basic cable rates in some systems increased by 99 percent over the past 5 years. Neighboring Shelby County was hit with close to a 13-percent increase just last year. Cable service in the city of Tuscaloosa rose by about 90 percent in a 12-month period.

Mr. Chairman, that is why I am supporting H.R. 4850. We have to improve programming, service, and cost.

This measure does not make extraordinary demands on cable companies. It is a proconsumer, procompetition measure that simply states, where there is no competition, there must be oversight by the FCC.

Such oversight is needed until competition is in place. Nobody wants unnecessary Government intervention. But, the fact is, that competition has not materialized, yet, in most areas served by cable.

To see a reasonable rate structure and adequate service, this bill is a must.

A vote for this bill is a vote for competition and a vote for the American consumer. I urge my colleagues to support it.

Mr. SHAYS. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, very briefly I would like to associate myself with the remarks of my colleague, the gentleman from Connecticut.

Being a former State legislator, I certainly can understand the depth of expertise that frequently exists here. The gentleman's effort, I think, is a noble and appropriate one. I think it would give consumers a larger and more significant voice in the process, particularly because the powermaking would be vested to the folks who are closer to the people.

Ultimately I think it would relieve from the Federal Government a significant regulatory burden, so the gentleman from Connecticut, I think, has brought a very thoughtful initiative here.

I appreciate him and the light in which this was offered, and also to my colleague from Ohio.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

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

Mr. Chairman, I hope everyone in this body and this country realizes the gentleman's terrific leadership role in protecting consumers' rights versus abusive cable companies. This gentleman has done so at great personal risk to his own political career. His district is not an easy one to do that in, as I understand there are several leading cable companies that have substan-

tial operations there. He has stood up consistently for the little man, the consumer. I am proud of him for his leadership role.

I support his amendment. If you want regulation, and I think all of us would prefer competition, but if you want regulation, this is an excellent way to do it.

Traditionally States have had the right to regulate monopolies. Electric utilities and other monopolies are regulated by the States. Cable companies are similar sorts of monopolies.

Also, the gentleman has the only approach that will be before this House to regulate the prices on premium channels and pay-per-view channels, and that is what many of our consumers care most about.

If you are worried about overpricing on HBO and other premium channels, you had better support the Shays amendment.

Mr. SHAYS. Mr. Chairman, I yield myself the balance of my time, and thank the Members for their kind words.

In this industry that is not regulated and where there is no competition, the consumer is clearly at the mercy of the cable operators and has paid very dearly for this fact.

In terms of the issue of centralization, there is no compelling reason to have Federal legislation that would prevent the State of Connecticut to regulate State cable operations.

One reason why we had deregulation in 1984 was the fact that local franchise authorities did not do the kind of job they should do. My amendment purposely tries to avoid the abuse and problems we had in the past with local franchising authorities. That's why we give the power to the States to reregulate if they choose.

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

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

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding. I know that he has taken great leadership in this area.

Mr. Chairman, I reluctantly rise in opposition to his amendment. For those of you who think that we should have some kind of national view of this whole thing and we should not have 50 States regulating 50 different sets, and this mandates the regulation, I think that—

Mr. SHAYS. Mr. Chairman, excuse me, reclaiming my time to correct the gentleman, my amendment allows States to regulate only if they choose to.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I just wanted to say that if you are interested in a national

system, this gives the States 50 different ways of regulating cable, and not only that, it even goes beyond that, the Markey bill, in terms of regulation, because it would regulate the premium services. Even in the Markey bill, and those of us who are opposed to the Markey bill for being too regulatory, the Shays amendment goes actually beyond Markey to regulate premium services, and I would urge defeat of the amendment offered by my friend, the gentleman from Connecticut.

Mr. MARKEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from Connecticut [Mr. SHAYS].

The amendments en bloc were rejected.

AMENDMENT OFFERED BY MR. SLATTERY

Mr. SLATTERY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SLATTERY: Page 26, line 13, strike out "500 or fewer" and insert "1,000 or fewer".

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. SLATTERY] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Does the gentleman from Tennessee [Mr. COOPER] stand in opposition?

Mr. COOPER. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Tennessee [Mr. COOPER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kansas [Mr. SLATTERY].

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

The amendment I have before us is an amendment that is very simple, and I will not make a long speech in explaining it.

The amendment deals with the administrative burdens that this legislation would impose on small cable systems. The language in the legislation before us provides, and I quote:

In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and costs of compliance for cable systems that have 500 or fewer subscribers.

The amendment before us, Mr. Chairman, would merely change the 500 to 1,000. The simple justification is that a lot of these small systems do not need this additional regulatory burden.

I would point out to my colleagues that 51 percent of cable systems were identified as having less than 1,000 subscribers in a 1991 survey, and under the bill, there are about 40 percent of the systems that would be in this category, if we had the 500-subscriber limitation.

So let me point out that we are not talking about exempting the systems, the smaller systems from regulation. We are merely saying that when the FCC composes the regulations that they will design, the regulations affecting the smaller systems, in such a way as to reduce their administrative burden and cost.

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

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

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

Mr. Chairman, I endorse the amendment.

I commend the gentleman for offering it. This amendment does nothing whatsoever to diminish the bill's protections of consumers, second of all, it does a great deal to ease the administrative burdens on the small cable TV systems. It is a good amendment not only from the standpoint of the consumer, but, very frankly, from the standpoint of the small cable operators who are quite often incapable of offering the kind of service that they or the consumer would like.

I commend the gentleman.

□ 1850

Mr. Chairman, as always, I appreciate the support of the chairman of my committee.

Mr. COOPER. Mr. Chairman, I rise in reluctant opposition to the Slattery amendment. On the surface, this is a very simple and commonsense amendment. I think all of us are in favor of small businesses and small business exemptions where necessary to allow small businesses to cope with the terrific paperwork burden that they face; but this amendment is not drafted just to help the independent small businessman who has trouble with paperwork. The way this amendment is drafted, subsidiaries of the largest cable companies in America would benefit. Chains of small cable companies across America, some of which have the worst record of abuses of any cable companies in America would benefit.

We need to focus this amendment on its intended purpose. I hope in conference we will be able to do so, to help the independent small businessman and only the independent small businessman.

I am afraid in this case the small business exemption may well be a euphemism for poor service and high prices. Communities not only in Tennessee, but across the country, they may be small, but they are, as the gentleman pointed out, half of all the cable communities in America.

People there count, too. They should have the same rights as people who live in larger communities.

I would hope that in conference we could focus this amendment on the independent small businessmen and not

allow the subsidiaries of the giants, the largest cable companies in America, to get exemptions that they do not deserve. These are companies that are more than capable of doing the paperwork, more than capable of providing topnotch service, and yet in so many cases they have failed to do so. They think that the big newspapers will not notice, because how many media outlets are in communities of this size? They think that the TV stations will not notice. They think they will not be reported; but I happen to represent a nearly all rural district, all small towns in my district, and people in these communities do matter. They should have the same rights.

That is why, even though I have seldom disagreed with my good friend, the gentleman from Kansas, he and I agree on most matters. He is a very capable and common sensical gentleman. I am just worried that the drafting in this particular effort needs to be focused so that we do not benefit the subsidiaries of the giant companies.

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

Mr. COOPER. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank my good friend for yielding to me.

The gentleman is absolutely correct. We seldom disagree on anything, but on this matter we do, simply because I think it is very important for us to do what we can to reduce the administrative burden on a lot of these small cable concerns.

The gentleman has raised a legitimate concern. I will say to the gentleman that I hope as we move forward in the process that we may be able to address this; but candidly to this point in the process, I have not been able to figure out how to speak to the legitimate concern of a lot of our small cable operators in this country who do not need this additional administrative burden and who are serving their communities quite well. I do not hear any objection from people in those communities, in all candor, in my part of the country.

I know the gentleman's deep concern and I will try to work with him as we move forward.

Mr. COOPER. Reclaiming my time, Mr. Chairman, the gentleman and I share a concern for the independent small businessman, but when that company is sold to a giant enterprise, when the ownership moves away to another State, another region, local accountability is oftentimes lost.

And remember, cable companies when they enjoy a monopoly do not even have to answer the telephone. They do not have to provide any sort of quality consumer service. They tell you that if you do not like it, turn off the service, go to your video store, hook up an antenna, try to watch

broadcasts. Even though so many of these communities are so many hundred miles from the broadcast centers, they cannot get quality broadcast reception.

So I hope the gentleman will try his best to exclude the subsidiaries of giants and also the chains of enterprises that may have no large cable subscriber base in one locale, but have tens of thousands of consumers across the country who are not getting the quality service that they deserve.

Mr. SLATTERY. Mr. Chairman, if the gentleman will yield for one point of clarification, we are not talking about exempting them from service regulations. We are talking about the question of rate regulation.

Mr. COOPER. But so often when we start letting them off the hook, when we do not know what the rates are or whether they are reasonable and when we are not making them file their papers, we lose track of what they are really doing and whether they are really serving the community.

Mr. SLATTERY. I understand that. I just wanted to clarify that point.

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

Mr. COOPER. I yield to the gentleman from Massachusetts.

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

I support the Slattery amendment, but I would like to say to the gentleman from Tennessee that as we move to the conference stage on this legislation, I think we can work amongst ourselves to try to draft language which deals with many of the issues we are concerned about, while preserving the core of the objectives the gentleman from Kansas seeks to support.

Mr. SLATTERY. Mr. Chairman, I appreciate the support of the subcommittee chairman.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. COOPER] has expired.

The Chair recognizes the author of the amendment, the gentleman from Kansas [Mr. SLATTERY].

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

Mr. SLATTERY. I am happy to yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I just want to say to the gentleman that in my view small systems have not caused the problems that we are attempting to correct with this legislation.

The amendment that the gentleman is offering does not weaken any regulation that we seek to put into effect, but what it does is lighten the administrative burden, and with that the administrative costs.

Mr. Chairman, the minority is pleased to accept the amendment. It is a good amendment. It goes in the right direction.

Mr. SLATTERY. Mr. Chairman, I appreciate the gentleman's support.

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

Mr. SLATTERY. I yield to my friend, the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of the amendment introduced by the gentleman from Kansas to increase from 500 subscribers to 1,000 subscribers the maximum size of small cable systems for which the FCC must design rate regulations that would reduce the administrative burden and cost of compliance.

Mr. Chairman, I thank the gentleman for yielding to me. I thank the gentleman for his initiative. I certainly am supportive of this.

In my State alone, we have 115 communities that have fewer than 1,000 households who are served by the local cable system. They provide an important service to the rural customers. They have not been engaged in abusive practices, so I think the gentleman's amendment is highly appropriate and I thank him for his initiative. I urge my colleagues to support it.

As mentioned, the State of Nebraska has some 115 communities in which fewer than 1,000 households are served by the local cable system. Nearly 15 percent of those communities have more than 500 subscribers and would not be covered by the provisions included in the bill as it came to the floor, or they have nearly 500 subscribers and may soon lose that protection.

Yet, these are still very small communities. Generally, the smallest cable companies have not engaged in abusive practices. They are providing an important service to their rural customers, and we need to encourage them to provide this service in these small communities.

This Member encourages his colleagues to support this amendment and commend my neighbor, the distinguished gentleman from Kansas [Mr. SLATTERY] for his initiative in preparing and offering this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. SLATTERY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COOPER

Mr. COOPER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows.

Amendment offered by Mr. COOPER: Page 29, line 2, strike "a franchise" and insert "an exclusive or nonexclusive franchise".

The CHAIRMAN. Under the rule, the gentleman from Tennessee [Mr. COOPER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes. Does any Member stand in opposition to the amendment?

Mr. MARKEY. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Massachusetts will be recognized at the appropriate time in the debate.

The Chair recognizes the author of the amendment, the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I would like to enter into a colloquy with the chairman of the full committee.

I have been working with the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], because I have been very concerned about a provision that is very important to my constituents in Jamestown, TN. The people of Jamestown awarded an exclusive franchise to a cable operator in 1977, long before they knew competition in cable would ever be possible. But in 1984, Congress abrogated the provisions of the franchise to prohibit the city from regulating rates. Soon, rates began to rise, service declined and people got angry. The city got so fed up with the abuses of the cable monopoly that it built a competing system. But a 1991 State court ruling forced the city to shut down its system because it violated the exclusivity system in place, but they cannot enjoy the benefits of it because of a court's narrow reading of the 1984 Cable Act.

However, the purpose of the bill before us today is to foster competition at every turn, in every town and with every franchise. Section 4(a) of the bill provides that,

[a] Franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator.

Section 4(b) of H.R. 4850 provides that nothing in this act shall be construed to prohibit a local government from operating a cable system, even if it has already granted one or more franchises to other cable operators. Is it your intent that these and other provisions would act to permit every city and town in America to award additional franchises, including Jamestown?

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

Mr. COOPER. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, first of all, I want to commend the gentleman for raising the question.

Second of all, I want to observe that he raises a very legitimate concern and commend him for that.

My reading of the language of the bill before us is that it would enable every city and town to award additional franchises. It is the intent of the bill to remove barriers to competition and to, therefore, make unenforceable any franchise provisions that would thwart competition.

Mr. COOPER. Reclaiming my time, I appreciate the chairman's kindness. As the gentleman knows, very few exclusive franchises exist today, and the ones that do exist were granted in the sixties or seventies or earlier. Con-

sequently, if sections 4 (a) and (b) are to have any real meaning in practice, they must apply to and deal with existing exclusive franchises, including Jamestown, TN. I would hope that the chairman would agree that no provision of an existing franchise, whether it is an exclusive or nonexclusive contract, could be used as a reason for denying additional franchises.

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

Mr. COOPER. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to thank the gentleman for yielding to me, and to observe that to me, the language of the bill is general enough to cover every franchise to that effect. I am sensitive to the concern of the gentleman from Tennessee, and again I commend him for raising these questions, but I have been concerned that additional language might cause unintended problems. I intend to work with the gentleman as this issue progresses to resolve any concerns with improvements in the bill's language, should it be necessary.

Mr. COOPER. I appreciate the chairman's clarification and sensitivity to the concerns of the folks in Jamestown. Given this understanding, I would like to work with the chairman and Chairman MARKEY of the subcommittee in the conference to make this even more clear, but at this time I see no reason to push forward for a vote on my amendment. So I will withdraw it with the understanding that the clear congressional intent with regard to the existing language of the bill is that it would allow Jamestown to operate its competitive system again.

I appreciate the honor of working with the chairman of the full committee and the chairman of the subcommittee.

I appreciate the honor of working with the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY].

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee [Mr. COOPER]?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DOOLITTLE: Page 34, strike lines 9 through 11 and insert the following; subpart F of part 76 of title 47, Code of Federal Regulations.

"(C) The Commission shall revise the regulations relating to nonduplication protection and syndicated exclusivity (47 C.F.R. 76.92 et

seq.) to permit customers of cable systems in towns, cities, or communities with populations of less than 50,000 to receive network programs for each network from affiliated television stations that are located in the same State as such customers.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Does the gentleman from Massachusetts [Mr. MARKEY] stand in opposition?

Mr. MARKEY. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts will be recognized for 5 minutes.

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

Mr. DOOLITTLE. I thank the chairman.

Mr. Chairman, on behalf of my colleagues, Messrs. GUNDERSON, BEREUTER, VISLOSKY, HERGER, and HUNTER, I have an amendment to rectify an ongoing problem resulting from the Federal Communications Commission's syndicated exclusivity of network non-duplication rule.

Mr. Chairman, I would like to engage in a colloquy on this issue with the chairman of the Telecommunications Subcommittee.

Mr. Chairman, as a result of these FCC decisions, certain small communities in some State border areas are forced to watch out-of-state programming, losing valuable news and information relating to their own State. We have attempted to obtain relief from the FCC, to no avail.

I would like to ask if I could have the help of the gentleman from Massachusetts in resolving this matter.

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

Mr. DOOLITTLE. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, I have had several conversations with the gentleman from Wisconsin [Mr. GUNDERSON] over the last several years on this subject, and we have worked hard to try to resolve this issue. What I would say to the gentleman is that I would like to work with him, the gentleman from Wisconsin [Mr. GUNDERSON], and others who are interested in the issue so that we may reach a satisfactory resolution of the issue in this Congress.

Mr. DOOLITTLE. I am delighted to hear the gentleman from Massachusetts mention "in this Congress," because I know that will mean a lot to all of our constituents. There are just relatively speaking a handful across the country, but for the communities that fall into this category it is very important. I would appreciate the gentleman's help, the help of the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the ranking members, the gentleman from

New York [Mr. LENT], and the gentleman from New Jersey [Mr. RINALDO].

Mr. BEREUTER. Mr. Chairman, this Member strongly supports the initiative found in the amendment filed by the distinguished gentleman from California [Mr. DOOLITTLE] that would exempt cable systems in communities of under 50,000 residents that are located in a state different from the broadcaster from having to comply with syndicated exclusivity and nonduplication rules. Frankly, this Member wishes the amendment could have been enacted at this point but, of course, I accept the gentleman's judgment that this issue will be resolved during this Congress, given Chairman MARKEY's stated assurances.

Since January 1990, when the Federal Communications Commission implemented syndex rules, this Member has heard from residents in the northeast most corner of Nebraska, residents of the Siouland area, the tristate Sioux city Metropolitan area, regarding the inability of their local cable operators to carry programming from an Omaha, NE, station because that programming was being duplicated by a nearby Sioux City, IA, network affiliate.

This means that cable subscribers in that part of Nebraska are not receiving an adequate amount or desired amount of news about Nebraska state government and Nebraska's economic and cultural affairs as television viewers in other parts of Nebraska receive, because, quite naturally, the Iowa television stations tend to focus more on Iowa governmental, economic, and cultural affairs. These Nebraskans are being seriously disadvantaged in crucial daily information because of the FCC's syndex rules.

While the syndex rules were based on a regard for broadcasters' contractual programming rights, in these relatively unusual situations where communities of under 50,000 are not receiving the signal of their nearest in-state broadcaster, we should provide an exemption.

This Member urges the committee to adequately address this concern during this Congress by influencing or otherwise demanding this FCC response and solution.

Mr. MARKEY. Mr. Chairman, will the gentleman yield further?

Mr. DOOLITTLE. I am happy to yield further to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

If I may say to the gentleman from Nebraska, and also if I may, the gentleman from Indiana [Mr. VISLOSKY], who has also been talking to me and talking to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], we will work with them. We will work with them in the next month to try to resolve this issue.

Again, I thank the gentleman, and I especially thank the gentleman from Wisconsin [Mr. GUNDERSON], who has been working with us over the last few years.

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

Mr. DOOLITTLE. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate my friend from California. It seems that this is a problem that does need to be resolved, and it seems that we are going to do so with the support of the committee. I appreciate my friend bringing the issue that I know is very important to his district, but also to my constituents as well, to the floor. I thank the gentleman.

Mr. DOOLITTLE. I thank the gentleman.

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

Mr. DOOLITTLE. I yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding.

Mr. Chairman, I just want to join everyone in thanking the chairman for his help over the last 2 years in trying to get this resolved, and the staff on both sides of the aisle. And I certainly also thank the gentleman from California [Mr. DOOLITTLE] for working with all of us and for his taking the leadership in getting this resolved in this Congress.

Mr. DOOLITTLE. I thank the gentleman, and I, too, thank the staff.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment is considered as withdrawn.

AMENDMENTS EN BLOC OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The texts of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. DINGELL:

AMENDMENT NO. 10. NEAL OF MASSACHUSETTS, NOTICE ON RATE INCREASES

Page 17, after line 12, insert the following new subparagraph (and redesignate the succeeding subparagraph accordingly):

“(E) NOTICE.—The procedures prescribed by the Commission pursuant to subparagraph (D)(i) shall require a cable operator to provide 30 days advance notice to a franchising authority of any increase of more than 5 percent proposed in the price to be charged for the basic service tier.

AMENDMENT NO. 11. NAGLE, RATE REGULATION AGREEMENTS

Page 26, strike out lines 14 through 22, and insert the following:

“(j) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

AMENDMENT NO. 12. DINGELL, TECHNICAL AMENDMENTS

Page 34, line 9, strike “title 46” and insert “title 47”.

Page 79, line 22, strike “(17)” and insert “(47)”.

Page 94, line 19, strike “(a)”.

AMENDMENT NO. 13. LEHMAN OF CALIFORNIA, CHANNEL POSITIONING

Page 36, line 9, after “1985,” insert the following: “or on the channel on which it was carried on January 1, 1992.”

AMENDMENT NO. 14. MCEWEN, MUST-CARRY REGULATIONS

Page 41, line 2, after the period insert the following: “Such implementing regulations shall include necessary revisions to update section 76.51 of the Commission’s regulations (47 C.F.R. 76.51).”

AMENDMENT NO. 15. SCHUMER, FRANCHISING AUTHORITY LIABILITY

Page 82, after line 6, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 15. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) AMENDMENT.—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

“**SEC. 635A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.**

“(a) SUITS FOR DAMAGES PROHIBITED.—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

“(b) EXCEPTION FOR COMPLETED CASES.—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator’s rights.

“(c) DISCRIMINATION CLAIMS PERMITTED.—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority, or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.”

(b) CONFORMING AMENDMENT.—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting “and with the provisions of section 635(a)” after “subsection (a)”.

AMENDMENT NO. 16. LEHMAN OF CALIFORNIA, PRECLUSIVE CONTRACTS

Page 93, after line 20, insert the following new paragraph:

(3) ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.—In conducting the study required by paragraph (1), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The report required by paragraph (2) shall include a separate statement of the results of the analysis required by this paragraph, together with such recommendations for legislation as the Commission considers necessary and appropriate. For purposes of the paragraph, the term “preclusive contract” includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

AMENDMENT NO. 17. BROOMFIELD AMENDMENT, AS MODIFIED, SEXUALLY EXPLICIT PROGRAMS

Page 63, after line 15, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 10. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d)) is amended by adding at the end the following new paragraph:

“(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

“(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge,

“(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge,

“(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked, and

“(iv) block the channel carrying the premium channel upon the request of a subscriber.

“(B) For the purpose of this section, the term ‘premium channel’ shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association as X, NR-17, or R.”

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 10 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 10 minutes.

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

Mr. Chairman, I will not take the full 10 minutes. My remarks are brief.

These amendments are provided for in the rule. They are offered by agreement between myself, the gentleman from New Jersey [Mr. RINALDO], the gentleman from New York [Mr. LENT] and the distinguished gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee.

Mr. Chairman, pursuant to the rule previously adopted, I rise to offer an en bloc amendment consistent of amendments that were made in order under the rule.

The amendments included in this amendment are as follows:

An amendment offered by Mr. NEAL of Massachusetts, designated as No. 10 in the Rules Committee report.

The Neal amendment provides that cable operators must provide at least 30 days advance notice of any increase in cable rates of over 5 percent.

An amendment offered by Mr. NAGLE of Iowa, designated as No. 11 in the Rules Committee report.

The Nagle amendment clarifies language in the reported bill that protects grandfathered rate regulation agreements between cable operators and franchising authorities.

An amendment offered by myself, designated as No. 12 in the Rules Committee report.

The Dingell amendment contains three technical amendments correcting drafting errors in the reported bill.

An amendment offered by Mr. LEHMAN of California, designated as No. 13 in the Rules Committee report.

The Lehman amendment adds an additional option to commercial broadcasters, by which they may choose to be carried on the channel positions they occupied as of January 1, 1992.

An amendment offered by Mr. MCEWEN of Ohio, designated as No. 14 in the Rules Committee report.

The McEwen amendment requires the FCC to update the list of the Nation's television markets in order to clarify whether a signal of a television station is considered to be local or distant.

An amendment offered by Mr. SCHUMER of New York, designated as No. 15 in the Rules Committee report.

The Schumer amendment indemnifies local franchising authorities against damages claims, except those damages claims based on discrimination of any type.

An amendment offered by Mr. LEHMAN of California, designated as No. 16 in the Rules Committee report.

The Lehman amendment requires that the study of sports migration mandated by the bill include an analysis of preclusive contracts between college athletic conferences and video programming vendors, and whether such contracts may have unduly restricted local college sporting events from being broadcast locally.

An amendment offered by Mr. BROOMFIELD of Michigan, designated as No. 17 in the Rules Committee report.

The Broomfield amendment requires that, when cable operators provide premium chan-

nels without charge, and those channels carry movies with an X, R, or NR-17 rating, they must give subscribers 30 days advance warning and enable subscribers to have those channels blocked.

As contained in the en bloc amendment, the 60 day advance warning period has been reduced to 30 days. This change, permitted under the rule, has been agreed to by Mr. BROOMFIELD, the minority, and those of us on this side of the aisle.

Mr. Speaker, these are noncontroversial amendments that have been cleared by the leadership on both sides of the aisle. I am offering them in this form in an effort to limit the amount of time that the House will have to spend on them. I would like to commend my colleagues who submitted these amendments for their willingness to work with us to make sure that the amendments are acceptable.

I know that many Members will want to speak on these amendments, several of which seek to address local problems back home. I urge my colleagues to support this package of amendments, and reserve the balance of my time.

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

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Mr. Chairman, we have had an opportunity to review the numerous amendments presently being offered en bloc. After reviewing them, we have determined that they are good amendments and are not controversial, and they have been cleared on the Republican side, and we are prepared to support them en bloc. And I thank the gentleman for yielding.

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

Mr. LENT. Mr. Chairman, I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, my amendment would restore to parents in this country some measure of control over what their small children see and hear.

It would give cable consumers the right to prevent certain cable channels from being broadcast into their homes.

What I am thinking of, in particular, are certain premium movie channels. HBO and Cinemax come most readily to mind.

These are called premium channels because cable consumers are forced to spend extra money to subscribe to them. The consumers may choose not to subscribe to the premium channels because of the additional cost, or like many American families they may choose not to subscribe to them because many of the movies these channels purvey contain so much violence and sex.

The premium channels have now found a way to circumvent parental choice. The method is called the free weekend.

Premium channels like HBO and Cinemax offer all cable subscribers, even those who originally chose not to subscribe, free access to its movies for one weekend, the so-called free weekend.

My colleague who offered this amendment in the other body has likened this promotional

gimmick to a sample bar of soap. Put it in a hotel bathroom, or hand it out on a street corner, and see if someone will like it enough to buy a regular-sized bar. But instead of soap, he says, these merchants are peddling garbage.

To many mothers who are trying to raise their kids in difficult times it must seem like the old image of the street corner merchant of pornography. The one with the rumpled raincoat who stands on the street corner outside the local school and calls on unsuspecting little kids to come over and look at his assortment of dirty pictures.

It used to be that a child who was offended by the kind of stuff purveyed by the man in the rumpled raincoat could get away from him by running home. No longer. Now there is no escape. He's already in the home—on any number of television channels.

In an age when anything goes, this amendment may seem a little quaint to some. But I believe it will provide one small weapon that mothers and fathers can use in the battle to raise their children with a clear-headed respect for moral standards.

Earlier this week I received a call from a mother in my district. She had previously canceled her premium movie service because she didn't want her young children to accidentally turn the dial to an R-rated movie they couldn't handle.

She thought she had taken the necessary precautions to protect her family.

Yet last weekend, during a promotion, she discovered her children viewing some gory scenes from "Silence of the Lambs." Three days later the youngest child is still having nightmares.

The mother thinks this is a terrible irony because she is already so involved in the campaign against sleaze and violence on television. She is Terry Rakolta, director of Americans for Responsible Television. This is a grassroots organization with about 20,000 members who are dedicated to putting a stop to the escalation of random hard violence and exploitative sexual material on television.

R-rated movies are not uncommon during promotional weekends. Fully a third of the movies on both HBO and Cinemax during a promotional weekend in 1990 were rated "R."

The Motion Picture Association assigns movies this rating because they contain violence, graphic language, or sexually explicit scenes that are inappropriate for children.

My amendment will require cable companies to warn their customers well before a free weekend and to give those customers the option of having the service blocked.

It does not end promotional free weekends but it does give families the right to say they don't want sleazy movies shown in their homes.

It is an amendment that will once again put teeth into the sentiment that a family's home is its castle, and I urge my colleagues to vote for it.

Mr. SCHUMER. Mr. Chairman, I rise for the purpose of clarifying the intent of my amendment on franchiser immunity, which has been included in the chairman's en bloc amendment.

My amendment is based on H.R. 506, a bill I introduced to provide immunity to local fran-

chising authorities against damages claims. The amendment is needed to protect local authorities from being pressured into making unmeritorious franchising decisions by the threat of expensive damages litigation by cable companies. This is not just a hypothetical threat: In Los Angeles, a multimillion dollar suit has been filed against the local authority over past franchising decisions, in an attempt to extort a lucrative settlement and to influence future franchising decisions by that and other local authorities.

The amendment's adoption is essential to ensuring that local authorities can negotiate the best contracts possible on behalf of cable consumers, in order to fulfill the consumer protection intent of the underlying cable bill. Accordingly, the amendment has been endorsed by the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties.

To resolve questions that were raised about an earlier draft of my bill, the amendment makes clear that franchising authorities are not immune from damages claims based on discrimination of any type.

I want to thank Chairman BROOKS, Chairman DINGELL, and Chairman MARKEY for their support and assistance in drafting this amendment.

I would also like to clarify two elements of my amendment:

The only purpose of section 628(b) of the provision is to clarify that the provision does not apply retroactively to completed cases. In other words, neither the cable operator nor the franchising authority involved in a case that is no longer subject to review may argue that this amendment allows them to reopen the case and relitigate the issue of damages. Subsection (b) does not mean that the decision in a case in Los Angeles that is no longer subject to review, for example, is binding on a franchising authority litigating the same issues in New York City. The franchising authority in New York City would be entitled to damages immunity under this section.

Subsection (d) of the amendment clarifies that nothing in this section shall be construed as creating or authorizing liability of any kind under any law, for any action or failure to act relating to cable service or the granting of a franchise—including a decision of approval or disapproval with respect to a grant, renewal, transfer or amendment of a franchise—by a franchising authority or other governmental entity.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COOPER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 2, not voting 29, as follows:

(Roll No. 309)

AYES—403

Abercrombie	Downey	Klug
Ackerman	Dreier	Kolbe
Alexander	Duncan	Kopetski
Allard	Durbin	Kostmayer
Allen	Early	Kyl
Anderson	Eckart	LaFalce
Andrews (ME)	Edwards (CA)	Lagomarsino
Andrews (NJ)	Edwards (OK)	Lancaster
Andrews (TX)	Edwards (TX)	Lantos
Annunzio	Emerson	LaRocco
Applegate	Engel	Leach
Archer	English	Lehman (CA)
Army	Erdreich	Lent
Aspin	Espy	Levin (MI)
Atkins	Evans	Lewis (CA)
AuCoin	Ewing	Lewis (FL)
Bacchus	Fascell	Lewis (GA)
Baker	Fawell	Lightfoot
Bailenger	Fazio	Lipinski
Barnard	Fields	Livingston
Barrett	Fish	Lloyd
Barton	Flake	Long
Beilenson	Foglietta	Lowey (NY)
Bennett	Ford (MI)	Lukens
Bentley	Ford (TN)	Machtley
Berman	Frank (MA)	Manton
Bevill	Franks (CT)	Markey
Billrakis	Galleghy	Marlenee
Blackwell	Gallo	Martin
Bliley	Gaydos	Martinez
Boehert	Gejdenson	Matsui
Boehner	Gekas	Mavroules
Bonior	Geren	Mazzoli
Borski	Gibbons	McCandless
Boucher	Gilchrest	McCloskey
Boxer	Gillmor	McCollum
Brewster	Gilman	McCrery
Brooks	Gingrich	McCurdy
Broomfield	Glickman	McDade
Browder	Gonzalez	McDermott
Brown	Goodling	McEwen
Bruce	Gordon	McGrath
Bryant	Goss	McHugh
Bunning	Gradison	McMillan (NC)
Burton	Grandy	McMillen (MD)
Bustamante	Green	McNulty
Byron	Guarini	Meyers
Callahan	Gunderson	Mfume
Camp	Hall (OH)	Michel
Campbell (CA)	Hall (TX)	Miller (CA)
Campbell (CO)	Hamilton	Miller (OH)
Cardin	Hammerschmidt	Miller (WA)
Carper	Hancock	Mineta
Carr	Harris	Mink
Chandler	Hastert	Moakley
Chapman	Hayes (IL)	Molinari
Clay	Hayes (LA)	Mollohan
Clement	Hefner	Montgomery
Clinger	Henry	Moody
Coble	Herger	Moorhead
Coleman (MO)	Hertel	Moran
Coleman (TX)	Hoagland	Morella
Collins (IL)	Hobson	Morrison
Collins (MI)	Hochbrueckner	Mrazek
Combest	Holloway	Murphy
Condit	Hopkins	Murtha
Conyers	Horn	Myers
Cooper	Horton	Nagle
Costello	Houghton	Natcher
Cox (CA)	Hoyer	Neal (MA)
Cox (IL)	Hubbard	Neal (NC)
Coyne	Huckaby	Nichols
Cramer	Hughes	Nowak
Crane	Hutto	Nussle
Cunningham	Inhofe	Oakar
Dannemeyer	Ireland	Oberstar
Darden	Jacobs	Obey
Davis	James	Olin
de la Garza	Jefferson	Olver
DeFazio	Jenkins	Ortiz
DeLauro	Johnson (CT)	Orton
DeLay	Johnson (SD)	Owens (NY)
Dellums	Johnson (TX)	Owens (UT)
Derrick	Johnston	Oxley
Dickinson	Jones (NC)	Packard
Dicks	Jontz	Pallone
Dingell	Kanjorski	Panetta
Dixon	Kaptur	Parker
Donnelly	Kasich	Pastor
Dooley	Kennedy	Patterson
Doolittle	Kennelly	Paxon
Dorgan (ND)	Kildee	Payne (NJ)
Dorman (CA)	Kleczka	Payne (VA)

Pease	Savage	Swift
Pelosi	Sawyer	Synar
Penny	Saxton	Tanner
Perkins	Schaefer	Tauzin
Peterson (MN)	Scheuer	Taylor (MS)
Petri	Schiff	Taylor (NC)
Pickett	Schroeder	Thomas (CA)
Pickle	Schulze	Thornton
Porter	Schumer	Torres
Poshard	Sensenbrenner	Torricelli
Price	Serrano	Towns
Pursell	Sharp	Trafcant
Quillen	Shaw	Unsoeld
Rahall	Shays	Upton
Ramstad	Shuster	Valentine
Ravenel	Sikorski	Vander Jagt
Reed	Sisisky	Vento
Regula	Skaggs	Visclosky
Rhodes	Skeen	Volkmer
Richardson	Skelton	Vucanovich
Ridge	Slattery	Walker
Riggs	Slaughter	Walsh
Rinaldo	Smith (FL)	Waters
Ritter	Smith (IA)	Waxman
Roberts	Smith (NJ)	Weber
Roe	Smith (OR)	Weiss
Roemer	Smith (TX)	Weldon
Rogers	Snowe	Wheat
Rohrabacher	Solarz	Whitten
Ros-Lehtinen	Solomon	Williams
Rose	Spence	Wise
Rostenkowski	Spratt	Wolf
Roth	Staggers	Wolpe
Roukema	Stallings	Wyden
Rowland	Stark	Wyllie
Roybal	Stearns	Yatron
Russo	Stenholm	Young (AK)
Sabo	Stokes	Young (FL)
Sanders	Studds	Zeliff
Sangmeister	Stump	Zimmer
Santorum	Sundquist	
Sarpalius	Swett	

NOES—2

Hefley Hunter

NOT VOTING—29

Anthony	Hansen	Rangel
Bateman	Hatcher	Ray
Bereuter	Hyde	Tallon
Bilbray	Jones (GA)	Thomas (GA)
Coughlin	Kolter	Thomas (WY)
Dwyer	Laughlin	Traxler
Dymally	Lehman (FL)	Washington
Feighan	Levine (CA)	Wilson
Frost	Lowery (CA)	Yates
Gephardt	Peterson (FL)	

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So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAUZIN:

Page 65, after line 11, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 11. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

"(a) PURPOSE.—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the avail-

ability of satellite cable programming to persons in rural and other areas not currently able to receive such service, and to spur the development of communications technologies.

"(b) PROHIBITION.—It shall be unlawful for a cable operator or a satellite cable programming vendor in which a cable operator has an attributable interest in violation of any regulation prescribed under subsection (c) to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) PROCEEDING REQUIRED.—Within 180 days after the enactment of this Act, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to specify the conduct that is prohibited by subsection (b).

"(2) MINIMUM CONTENTS OF REGULATIONS.—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the price, terms, and conditions of sale of, satellite cable programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest in the price, terms, and conditions in the sale or delivery of satellite cable programming among or between cable systems, cable operators, or their agents or buying groups, or other multichannel video programming distributors; except that such a satellite cable programming vendor in which a cable operator has an attributable interest shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming;

"(iii) establishing different price, terms, and conditions which take into account reasonable volume discounts based on the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, or activities, including exclusive contracts for satellite cable programming between a cable operator and a cable satellite programming between a cable operator and a cable satellite programming vendor, which prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, pro-

hibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution. Nothing in this section shall apply to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite, and shall not apply to any internal satellite communication of any broadcast network or cable network, except that satellite broadcast programming shall be subject to the requirements of this section.

"(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this Act.

"(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of this section, or the implementing regulations of the Commission under this section, may commence an adjudicatory proceeding at the Commission.

"(e) REMEDIES FOR VIOLATIONS.—

"(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

"(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as

the Commission requires to carry out this section; and

"(3) provide for any penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1) of this subsection.

"(i) APPLICABILITY OF ANTITRUST LAWS; NO ANTITRUST IMMUNITY.—Nothing in this section shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"(j) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution of a satellite cable programming service for sale.

"(2) The terms 'cable system', 'multichannel video programming distributor', and 'video programming' have the meanings provided under section 602 of this Act.

"(3) The term 'satellite cable programming' has the meaning provided under section 705 of the Act.

"(4) The term 'satellite broadcast programming' means broadcast programming, other than programming of an affiliate of a national network, when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster."

Mr. MANTON. Mr. Chairman, I rise in opposition to the Tauzin amendment and I seek the 15 minutes provided in the rule.

The CHAIRMAN. Pursuant to the rule, the time will be equally divided 15 minutes each.

AMENDMENT OFFERED BY MR. MANTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. TAUZIN

Mr. MANTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment offered by Mr. MANTON as a substitute for the amendment offered by Mr. TAUZIN: In lieu of the matter proposed to be inserted by the amendment of the Gentleman from Louisiana insert the following:

SEC. 11. COMPETITION AND TECHNOLOGICAL DEVELOPMENT.

(a) PROHIBITION ON UNREASONABLE REFUSALS TO DEAL.—Part III of title VI of the

Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. PROGRAMMING ACCESS TO PROMOTE COMPETITION AND CONTINUING TECHNOLOGICAL DEVELOPMENT.

"(a) UNREASONABLE REFUSALS TO DEAL PROHIBITED.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1990, the Commission shall, in order to promote competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to prohibit any video programming vendor that controls, is controlled by, or is under common control with a multichannel video system operator and that engages in the regional or national distribution of video programming from refusing to deal with any multichannel video system operator with respect to the provision of video programming if such refusal would unreasonably restrain competition. Entering into or abiding by the terms of an exclusive contract that does not have the effect of unreasonably restraining competition shall not be considered an unreasonable refusal to deal. Nothing contained in this subsection shall require any person who licenses video programming for distribution to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(b) REMEDIES FOR VIOLATIONS.—Any multichannel video system operator aggrieved by conduct that it alleges constitutes a violation of the regulations prescribed under this section may commence an adjudicatory proceeding at the Commission. Upon completion of such proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video system operator.

"(c) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data as the Commission requires to carry out this section with respect to exclusive contracts or other practices and their effects on competitors, competition, or the video programming distribution market or on the development of new video distribution technologies; and

"(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) SUNSET.—The regulations prescribed under subsection (a)(1) of this section shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. Such regulations shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(e) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (a), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(f) EXEMPTIONS FOR PRIOR CONTRACTS.—Nothing in this section shall affect any con-

tract (or renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(g) DEFINITIONS.—

"(1) The term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming.

"(2) The term 'video programming vendor'—

"(A) means any person who licenses video programming for distribution by any multichannel video system operator;

"(B) includes satellite delivered video programming networks and other programming networks and services;

"(C) does not include a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(D) does not include a network or service distributing video programming that is carried as a secondary transmission of a signal broadcast by a television station.

"(3) The terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act."

(b) MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.—

(1) FINDINGS.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and non-discriminatory terms.

(2) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(2) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and

requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1992, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraph (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than \$500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection." and

(5) in subsection (h) (as redesignated) by striking " , based on the information gathered from the inquiry required by subsection (f) ."

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

The CHAIRMAN. The Chair announces that the time for the debate on both the amendment and the substitute will be fungible and that the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 30 minutes, and the gentleman from New York [Mr. MANTON] will be recognized for 30 minutes.

Mr. MANTON. Mr. Chairman, I ask unanimous consent that I be permitted to yield 15 minutes to the gentleman from New Jersey [Mr. RINALDO] under these 2 amendments and that he be permitted to yield slots of time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

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

Mr. Chairman, we are about to debate what I believe and what many believe in this Chamber and certainly on the subcommittee and committee to be the heart and soul of this legislation. There are many on both sides of the aisle who have complained during this debate that regulation, reregulation of the cable industry was not the way to go, that the best way to go was to create competition for the cable industry in America.

I happen to believe that that is correct. I happen to believe that whatever regulation we include in this bill will only have a modest effect upon cable rates. In fact, I believe that the regulations contained in this bill will do little more than control, regulate upward the price of cable of Americans.

Very little in this cable bill will do anything to create competition and, thus, drive prices down, unless the Tauzin amendment is adopted.

The other body saw the wisdom of that argument by a vote of 73 to 14.

They adopted a similar amendment to their cable bill.

The Tauzin amendment, very simply put, requires the cable monopoly to stop refusing to deal, to stop refusing to sell its products to other distributors of television programs.

In effect, this bill says to the cable industry, "You have to stop what you have been doing, and that is killing off your competition by denying it products."

It will do us little good to struggle with the C-band dish industry. It will do us little good to hope in vain for the advent of a DBS, direct broadcast satellite, industry or for the expansion of wireless cable in America as competition to this monopoly if none of it can get programming. Programming is the key.

Why did cable need network programming to get going? Why did cable need this Government to give it network programming free of charge to get going? Because without programming, cable could not get off the ground. Without programming, competitors of cable are equally stymied and who is the big loser? The big loser is everyone in America who pays a cable bill.

Listen, election day is shortly coming. There is a cynicism in the land. There is a belief in America that this Congress can no longer deliver for the American people. There is a belief that we are beholden to special interests. There is a belief that the big cable monopolies in this country are going to run this House tonight, are going to force this House to adopt a sham amendment instead of the true consumer amendment.

The choices we will have tonight will be between the Tauzin amendment, which guarantees that the cable cannot refuse to deal, must deal in fair and equitable terms with others who distribute television programs, which will give to consumers choice in the marketplace and which will bring rates down.

The FCC recently did a study on 1989 and 1990 rates. Those of my colleagues watching this tonight in their offices, those in the Chamber, I hope they will pay attention to these charts. These charts illustrate what the FCC discovered.

What the FCC discovered is that in the few communities, 65 in America, where there is competition to cable, guess what happens? Rates fall dramatically.

In 1989, a 23.5-percent reduction; in 1990, a 34-percent reduction in rates were achieved in the communities that had competition. In 95 percent of the communities that did not have competition, rates went up 61 percent.

What does that mean to Americans? It means that everybody's cable bill could come down if the Tauzin amendment is adopted. It means if we refuse

to adopt the Tauzin amendment, if we accept the sham Manton amendment drafted for and by the cable companies, rates will not only continue to go up but we will never see the benefit of reduced rates in American homes across this country.

Let me show my colleagues what it means in dollars. The next chart illustrates what America could be saving according to not my figures but the Federal Communications Commission of this administration. These are their numbers.

If America chose to adopt the Tauzin amendment in this House tonight, rather than to be beholden to the big few cable companies who run this show, Americans could have saved in 1989 some \$2.4 billion. Americans could have saved in 1990, \$4 billion. And the chart likely goes up.

We are not talking about peanuts here. We are talking about a major impact upon middle America. We cannot deliver a middle income tax cut this year, but we could give every American savings on his cable bill if we just had the decency to end this monopoly and to create some competition in television services.

How do we do it? We do it very simply. We prohibit the cable companies, those who control programming, from doing what they have been doing ever since we deregulated them.

Let me show my colleagues the graph and what they are currently doing to satellite services. In satellite services alone, we are not talking about what is happening in wireless services or what could happen in direct broadcast satellite. In C-band, that is a big dish industry alone, cable prices versus satellite dish prices are reflected on this chart. The average price per a subscriber for basic cable in the country is 17.34. Under this analysis, it is topped by 27.95 for a similar program package for those who dare to buy the dish, those who dare to buy some competitive system.

What does it mean? It means that cable is jacking the price upon its competitors so high that they can never get off the ground. In some cases they deny programs completely to those competitors to make sure they cannot sell a full package of services. So the hot shows are controlled by cable. The good shows, the good programs only come to you on the cable. And if you complain, you are told, like a constituent of mine in Homer, LA, recently, when she complained about having to buy a box and a controller, all of which she could have bought at Radio Shack very cheaply. Instead she had to rent it every month at 10 times its value from the cable company. She said, "Why do I have to do that?" She said, "They said 'That is our rule, ma'am.'"

She said, "What can I do about it?" They said, "you can move, if you don't like it. We are the only cable company in town."

I do not want her to have to move. And where would she move to except the 65 communities out of the 11,000 in America that have a little competition going on.

Folks, this is it in a nutshell. We either create competition for the American television viewing audience out there or we leave them strangled, in fact, raped by cable monopolies who can charge them what they want, force them to buy what they want in tiers they create and add to those services rental fees on equipment that could be easily purchased at Radio Shack, if we had the decency to think about the American consumer out there instead of big cable interests that control the situation.

It is this simple. There are only five big cable integrated companies that control it all. My amendment says to those big five, "You cannot refuse to deal anymore."

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You have to offer your programs to other competitors, and you cannot refuse to deal by saying 'We will only give it to you at a much higher price.' Prices need to be comparable and fair.

There is an argument against our amendment someone made. The argument is that we no longer allow for exclusive type programs that are important to people who develop a product. Not so. Read the DSG report on our bill. The DSG report clarifies it very well. It says and our amendment says that exclusive programming that is not designed to kill the competition is still permitted. The FCC can grant exclusive programming rights under our amendment.

Why is our amendment preferable to the amendment of the gentleman from New York [Mr. MANTON]? The gentleman from New York is offering a substitute amendment. I have called it an amendment drafted for and by the cable industry. Let me tell the Members why. It is weaker, it is weaker than the bill we passed 2 years ago. Not only is it weaker in terms of who it covers, because it sets a new legal standard on what companies are covered, a legal standard that will tie a company up in courts for years, a standard of control rather than affiliation, and it is much weaker in who it covers, so that more of the big companies can escape its coverage.

It also sets an almost impossible proposition for all the other competitors other than the C-band dish. What it says to them is that cable has to deal with you, but the terms and conditions can be as discriminatory as they want. They can say, in effect, law by Congress tells me I have to deal with you, but here is my deal. You either pay me 10 times what my program is worth to other cable systems, or you cannot have it. Under the Manton amendment that is the kind of effect it has.

Are we going to have any competition under those terms? I suggest that we will get more of the status quo. It is this simple. If we want to support the cable monopolies tonight, the gentleman from New York [Mr. MANTON] will give us the chance. The gentleman from New York [Mr. LENT] will give us his chance with a substitute bill. If we want to stand for American consumers for a change, if we want to end this year of political cynicism out there, do something real for America. Give them a break on something critical in their lives, their television. Give them a break on what they pay for their cable rights and create for the millions of Americans who cannot get cable because they live in the hinterlands of our country, in the country lands, create for them a chance to get it from direct broadcast satellite, to get it from wireless cable, to get it from other systems that will come across as technology develops.

None of that will be possible unless we stand up tonight to the big interests out there. I know it is tough sometimes. It is an election year and they make contributions. They stand tall. However, I think it is time we stand tall. I think it is time the American public counts on us and we deliver.

Their cynicism is deep. We can either prove their cynicism tonight or we can do something right for America. We can give America something that this free enterprise system has promised us and delivered in so many other places. We can give them competition in television, and we can give them lower prices.

We can give them choice. What do Americans want most in a free enterprise system? Two stores in town, so if one store treats you badly, charges you too much, refuses to answer the phone, tells you to move if you don't like the service you are getting, you can go to the next store and get treated fairly. Two stores in town, that is what this debate is all about.

With the Tauzin amendment we will create two stores in the television marketplace. With the Manton amendment we are stuck with one, we are stuck with monopoly, we are stuck with high prices, and we are stuck with the cynical argument that this Congress cannot do anything right for the American people.

Stand up for them tonight. Break the cable monopoly. Let us create some competition. Let us adopt the Tauzin amendment.

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

Mr. TAUZIN. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I hope my colleagues are listening to the gentleman in the well who is the sponsor of the amendment. Let me tell the Members what is happening out West, as one who represents both rural areas and people who live in small cities.

My rural families, whether they own their own dish or not and draw their signals from a satellite, because of monopolistic practices by big conglomerate cable companies, the people who live in rural Montana pay 500 percent more rates than do their neighbors who live just down the road in cities.

The gentleman is absolutely right about the unfair, arbitrary, anti-free market prices of the cable conglomerates, and I commend him.

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

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

Mr. Chairman, I am offering this substitute amendment with my good friend and colleague, the gentleman from North Carolina [Mr. ROSE], who has been at the forefront in the fight to protect the rights of rural Americans to receive quality video programming at reasonable rates.

Mr. Chairman, the Manton-Rose amendment offers the House a clear choice between our reasonable and balanced approach to program access and the far reaching, radical approach taken by my friend, the gentleman from Louisiana, [Mr. TAUZIN].

The Manton-Rose amendment is a strong but reasonable access to programming amendment that recognizes the need to promote competition in the multichannel video marketplace without abusing the legitimate rights of video programmers.

Our amendment is virtually identical to the program access provision contained in the cable reregulation legislation that unanimously passed the House during the 101st Congress.

This language was also included as a provision in H.R. 1303, cable reregulation legislation introduced earlier this Congress by the chairman of the Telecommunications Subcommittee, Mr. MARKEY.

Specifically, the Manton-Rose amendment would do the following:

First, it would prohibit vertically integrated video program suppliers from refusing to deal with any multichannel video system operator where such refusal to deal would unreasonably restrain competition.

In other words, a cable network, like CNN or Nickelodeon, could not refuse to deal with a cable competitor, such as a DBS operator or a wireless cable operator, in a manner that unreasonably restrains competition.

Second, the amendment expressly recognizes the validity of exclusive contracts between a programmer and a distributor that do not have the effect of unreasonably restraining competition.

Complaints alleging violations of this section would be resolved by the FCC in an expedited adjudicatory proceeding.

Furthermore, the FCC would be authorized to grant appropriate relief for

violations of this section, including the power to establish price, terms and conditions of sale.

Finally, the amendment contains strong protections for the C-band home dish industry to make certain that cable programming remains available to dish owners at rates comparable to cable. The amendment would prohibit programmers from discriminating in wholesale price, terms and conditions between cable operators, and C-band home dish distributors.

Mr. Chairman, our amendment strikes a balance between the need to promote competition in the multichannel video marketplace and the need to protect the legitimate intellectual property rights of video programmers. It is the product of bipartisan negotiation and compromise.

The Manton-Rose amendment is supported by the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the ranking minority member of the committee, Mr. LENT. The amendment is truly a bipartisan effort.

Proponents of the Tauzin amendment lament that competition is being stifled by cable programmers who are refusing to make their product available to alternative technologies. However, the facts simply do not support these contentions. Indeed, cable's competitors have access to almost all of the popular programming produced by cable companies.

In fact, in many areas of the country, wireless cable operators and direct broadcast satellites are successfully engaging in direct competition with cable companies.

Mr. Chairman, the Tauzin amendment would require that all video distributors obtain programming at a Government regulated wholesale price. The Tauzin amendment is not about access, it's about wholesale price regulation.

The Tauzin amendment is an unprecedented and unwarranted abridgement of intellectual property rights that would effectively prohibit all exclusive contracts between a video programmer and a cable operator.

Mr. Chairman, exclusive contractual arrangements play an important and beneficial role in the multichannel video marketplace. The recognition of exclusive rights gives programmers and cable operators an incentive to invest in new and improved programming, thereby increasing the quality of diversity of programming available to consumers. Barring exclusive arrangements will have a chilling effect on the development of new products.

Mr. Chairman, the gentleman from Louisiana has repeatedly claimed that his amendment is designed to foster the growth of alternative multichannel video technologies, specifically high power direct broadcast satellites. However, a leading force in the DBS industry, the U.S. Satellite Broadcasting

Co., believes the Tauzin amendment goes too far, and they have endorsed the approach taken in the Manton-Rose amendment.

In a letter to the Energy and Commerce Committee chairman, Mr. Stanley Hubbard, the president of the U.S. Satellite Broadcasting Co., stated the following:

USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for section (a) of the Manton amendment, * * * because the Manton amendment does not prescribe terms and conditions. Our only interest is that there be a level playing field whereby we can bargain in a free and open marketplace for our programming.

Clearly, this DBS operator understands that the Manton-Rose amendment takes a balanced approach to program access that affords all distributors an opportunity to negotiate on a level playing field and does not tip the scales in favor of any one company or industry.

Finally, Mr. TAUZIN has called the Manton-Rose substitute a phony amendment. Let me take this opportunity to share with my colleagues what Mr. TAUZIN had to say about this phony amendment when it was part of the bill that passed the House 2 years ago. Here's what Mr. TAUZIN said:

Finally, this bill really addresses the issue of competition. When services in video are delivered not simply by wire but through the air, through the advances in satellite technology and eventually the new KU-band satellites that will deliver services on a dish no bigger than the size of a table napkin. When those things are possible under this bill, the full-blown effects of competition will be realized, and I think consumers in America will greatly benefit.

And here is what the leading industry proponents of the Tauzin access language had to say in testimony before the Telecommunications Subcommittee just 1 year ago about the access provisions of H.R. 1303, which are virtually identical to the Manton-Rose substitute:

From Robert Bilodeau, Director of the Wireless Cable Association:

We are willing to take up the challenge to prove ourselves in the market, but without the meaningful program access provisions in H.R. 1303 becoming law, we may never have the chance.

From Bob Bergland, vice president, National Rural Electric Cooperative Association:

We can prove that we are being disadvantaged in pricing, and we think legislation like H.R. 1303 will give us the remedies we need so that we are not forced to pay more than cable companies would pay, and that is really the essence.

And from Charles C. Hewitt, president, Satellite Broadcasting and Communications Association:

We're here to support H.R. 1303 * * * as it relates to access to programming, we want to point out that it will be very difficult for us to develop K-band systems and the high

powered capability unless we have a jumpstart, and that jumpstart requires access to programming and the ability to provide competitive programming to the customer.

Mr. Chairman, now they apparently want more than a jumpstart—they want a free ride.

Mr. Chairman, there have been no dramatic changes in the marketplace over the past year that would warrant the radical and unprecedented abridgement of property rights proposed by Congressman TAUZIN.

I urge my colleagues to stick with the balanced, bipartisan and rational approach embodied in the Manton-Rose substitute. I urge a vote for the substitute.

□ 1950

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

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, there are almost 12,000 cable systems serving the American public. Of these, only 65 face head-to-head competition.

The Tauzin amendment is a positive step toward changing those numbers. It would prevent vertically integrated cable programmers—programmers, HBO or TNT for example, that are owned all or in part by cable system operators—from arbitrarily denying access to cable programming services to potential competitors.

At present 7 of the top 10 programming services on cable television are owned by cable operator parent companies.

As a result, when alternative systems seek out programming, often they are in effect buying it from the competition, a situation that is not conducive to competition.

In areas unserved by cable, home satellite dish owners often are charged five times more by cable programmers—CNN, HBO, etc.—for programs than are cable operators. The consumers have to bear the additional costs.

The Tauzin amendment, while it does not mandate access, does force programmers to negotiate with competitors.

There are those who argue that this amendment is unnecessary because the present antitrust laws can be used if there is truly no competition. That is a fine, but worthless, argument. Courts have consistently interpreted Robinson-Patman and other antitrust laws to exclude cable from the coverage of these laws as a "service" and not a "commodity" as is required.

Satellite T. Associates v. Continental Cable Vision of VA., 586 F.Supp. 973 (VA 1982); aff'd 714 F.2d 351 (4th Cir. 1983); cert denied, 465 U.S. 1027; HRM Inc. v. Telecommunications Inc., 653 F. Supp. 645 (Col. 1987); Rankin Co. Cablevision v. Pearl River Valley Water Supply District, 692 F. Supp. 691 (Miss. 1988); T.V. Communication Network v. ESPN, 767 F. Supp. 1062 (Col. 1991)

Moreover, the Tauzin amendment prevents programmers that are vertically integrated with cable system operators from discriminating in the price, terms, and conditions that they offer to competing cable system operators or alternative program distribution technologies.

The Manton-Rose amendment offers no such protection to the competing technologies. Moreover, Manton-Rose would allow exclusive contracts between a cable operator and a cable programmer. Further, it allows cable to charge exorbitant prices, and destroys the ability of the new technologies to compete.

The rights of the video programmers must be balanced with the interest of the public in receiving access to video programming.

In 1976 Congress took steps to aid the development of the infant cable industry.

With Congress' help, the industry has been able to maintain unprecedented growth.

In 1984 Congress deregulated cable. As a result cable has been able to raise rates, and use the proceeds to fund an extraordinary array of video programming choices.

Consumers have footed the bill, now it's time that they get a fair return on their investment.

The industry is now strong enough to stand on its own, and face a little competition.

Just as Congress aided the infant cable industry to grow, it now should give the same consideration to fledgling technologies.

Without access to programming, new program distribution services will not be able to compete against entrenched cable monopolies.

Areas currently unserved by cable, such as rural Oklahoma, will not be able to take advantage of new technologies, such as satellite dishes and wireless cable, that would make programming choices available to them.

Oppose Manton-Rose. Support the Tauzin amendment. Ensure competition in the cable industry and access to cable TV for all Americans.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I want to say to my good friend, the gentleman from Louisiana, I think he is one of the bright lights of Congress. I am proud to serve with him on the Merchant Marine and Fisheries Committee and on the Coast Guard Subcommittee. I believe with him in the concept of competition and diversity, so I agree with his goals, but I just disagree with the work product before us tonight.

Mr. Chairman, the Tauzin amendment is regulatory overkill. It would force cable programmers to sell their product to any competitor at a Government-regulated price.

The result would be a litigation nightmare for cable programmers, operators, and competing delivery systems. Every programming contract would be subject to court scrutiny. The FCC does not have the manpower or the resources to address all the claims that would potentially be made under this bill.

It is not Congress' role to dictate how a cable company must distribute its product to competing delivery systems.

Cable programmers have certain proprietary rights and should be able to exercise control over their own material and to decide who should distribute it.

The Tauzin amendment would deny cable programmers the right to differentiate their wholesale price based on each distributor's capital costs, marketing commitments, and financial stability.

Many competitors, like DBS, who want mandated programming are underwritten by large-scale companies like GE and Hughes Aerospace. These businesses have the financial resources to develop their own programming—they do not need any special treatment.

The Tauzin amendment is so restrictive on the issue of program exclusivity it would essentially deny these types of arrangements. If exclusive contracts were prohibited, a cable network like TNT would have never gotten off the ground. In order to gain commitments from cable operators to carry and pay for TNT, Turner had to offer exclusive distribution rights. Therefore, the Tauzin amendment would discourage programmers from investing in new products and would vastly diminish the diversity and quality of programming available to consumers.

REASONS TO SUPPORT THE PROGRAM ACCESS PROVISIONS IN MANTON SUBSTITUTE

The substitute ensures that cable's competitors have reasonable access to popular cable programming. It prohibits vertically integrated cable programmers from refusing to deal with any competitors to cable if such refusal would unreasonably restrain competition.

The provisions of the Manton substitute are virtually identical to those contained in the cable legislation that passed the House by unanimous voice vote in 1990. Moreover, the White House has indicated that the Manton language is acceptable while the Tauzin amendment would invite a veto.

The language allows exclusive contracts as long as those contracts do not impede competition.

□ 2000

Mr. MANTON. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, I rise today in support of the program access

amendment offered by Mr. MANTON and myself. Our amendment completely satisfies the concerns which have been raised by rural Americans who own C-Band backyard dishes.

Specifically, the Manton-Rose amendment requires cable networks to make their programming available to independent distributors who serve the C-Band backyard dish market at the same prices, terms, and conditions as are offered to cable operators. It thus protects the millions of rural Americans who depend on C-Band satellite dishes for their television.

Some of the supporters of the Tauzin program access amendment have contended that the Manton-Rose amendment will not protect rural America. This simply is not the case. In fact, the C-Band provisions of the Manton-Rose substitute amendment are identical to H.R. 3420, the C-Band satellite program access legislation introduced by Mr. TAUZIN earlier this Congress.

In conclusion, Mr. Chairman, the debate about program access is not about whether rural America's C-Band home dish owner's needs will be served. The Manton-Rose substitute amendment ensures that these needs will be met.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I would like to speak on behalf of the Tauzin amendment for two reasons.

First of all, the amendment is good in itself, and, second, it is a bit of damage control.

I am aware that many of you have already made up your minds, but I am also reminded of that wonderful admonition of Wilbur Mills that said that more votes have been changed at the House chapel than on the House floor. But I go ahead anyway.

Let me explain, 4850 is short of the mark. The reason is it puts a wet blanket over a particularly explosive industry.

In 1984, as you all have heard, cable was deregulated, but it really was not. Only the prices were. The access was not.

It was not possible for others to get in as they would like in most other businesses.

So what happened? Prices went up. There was no downward offsetting force to counteract that, and that means obviously competition.

So now we ask ourselves: What do we do? Do we free up competition as we did the prices, or do we go back to the old bureaucratic way, which is to regulate and reregulate and re-reregulate?

Sadly we have gone that second route, and this year when we face a Government deficit, and we put the Government into the equation where it was not before and we also charge the electorate for that privilege \$25 million. The other route would have been to allow the competition to work. As

you might have noticed, it does in other fields rather successfully. But enough of that. That is the philosophic stuff which is already sadly behind us.

We now face the issue: What can we do to make a porous bill livable? And that is the Tauzin amendment. Specifically it gives an even break to people who want to get in the business, and it does not jump-start, but it fairly helps other people get into the business. It helps the rural satellite people who need to get in here and who would not be wired anyway by the cable companies.

So this amendment, combined with an FCC decision on something called video dialtone, would help to put a semblance of good old American competition back into the process. It saves money, and it builds the business, and there are lots of jobs involved.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, I rise in support of the Manton amendment.

I do so, but would first like to commend the gentleman from Louisiana [Mr. TAUZIN] for seeking a competitive solution to the problems faced by a minority of cable consumers. In this respect, it is a far better approach than that taken by the underlying bill.

But in our rush to greater competition in the multichannel video marketplace—a goal we all support—we can't ignore the simple matter of fairness. The quality programming which has made cable such a desirable commodity didn't come by accident, but through the investment of millions of dollars in untested programming. Last year alone, the cable industry reinvested \$3½ billion in programming, nearly half of which went to basic.

In return for this investment, the cable industry has an understandable interest in protecting the identity and character of its product. Exclusivity has long been recognized as a legitimate means of not only guarding intellectual property, but as a way of encouraging program diversity as well. In this respect, exclusive rights actually work for, not against, competition.

I honestly cannot say I blame cable's current and future competitors for wanting access to that which has made cable television an enormous success. Nor could I fault the Colorado Rockies baseball team for wanting to pick and choose among the major league's best players rather than investing in their own untested rookies. It may make them more competitive sooner; it would undoubtedly sell more tickets; but it is anything but fair to the existing franchises.

The Manton amendment, on the other hand, recognizes the benefits of exclusive distribution arrangements—not only for the cable industry, but for consumers who appreciate diverse pro-

gramming as well. It is a balanced and reasonable approach far more worthy of our support, and I urge its adoption.

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

Mr. Chairman, the Manton amendment anticipates and offers a balanced solution to potential future problems, occurring when new technologies like direct broadcast satellites [DBS] transmit to smaller dishes in direct competition to cable operators. It prohibits cable companies that own programming from refusing to sell it to any competitors to cable if that would violate antitrust principles.

By providing these new competitors to cable with access to cable programming, a competitive environment is created. Competition will force consumer price for quality video programming to be driven down, while increasing the quality of service to consumers.

Moreover, by promoting access for these new competitors, consumers will be given a wider variety of choices in terms of the type of programming they want to receive in the manner they want to receive it.

The provisions of the Manton amendment are virtually identical to those contained in the cable legislation that passed the House by unanimous voice vote in September 1990. The Manton amendment represents a bipartisan approach to a delicate and far-reaching concern.

The Manton-Rose amendment is a balanced proposal to the controversial topic of program access. It ensures that the video marketplace is not unfairly monopolized by requiring cable operators that own or have an interest in cable programming to make such programming available to competitors. In this manner new technologies are given access to the programming needed to compete with cable, without placing cable at an unreasonable competitive disadvantage.

Moreover, the White House has indicated that the Manton amendment is acceptable, whereas the Tauzin amendment would invite a veto. Therefore, in order to create a piece of legislation which will ultimately become law, it is necessary to vote in favor of a programming access provision which promotes competition without giving an unfair advantage to any one side.

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

Mr. RINALDO. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I just want to underscore what the gentleman has said and subscribe to his views entirely.

I am also very much opposed to the Tauzin amendment and think certainly that the Manton amendment is clearly preferable. The amendment offered by the gentleman from Louisiana is actually punitive in nature, and we know

that it is going to invite and elicit a veto from the White House, and the potential harm to the cable industry by overregulation in the area of program access far outweighs any savings the amendment could shave from the cost of \$20 service, which is the average across the country for basic today.

□ 2010

The result could be a severe decrease in the type of educational, entertainment, and informational programming that the American consumer today enjoys across the United States.

Mr. RINALDO. Mr. Chairman, I want to thank my good friend, the ranking minority member of the full committee, for his support and for the approach that he just outlined.

Let me say in line with what Congressman LENT has said that the White House has indicated very strongly that the Manton amendment is acceptable, whereas the Tauzin amendment would invite the veto that the gentleman from New York [Mr. LENT] mentioned.

Therefore, if we really want to create a piece of legislation, if we want a piece of legislation that is acceptable, if we want a piece of legislation that is conferencable, if we want a piece of legislation that can get enacted and probably will be signed into law, then we should vote for the Manton amendment and let us create a piece of legislation that will ultimately become law and vote in favor of a programming access provision which promotes competition without giving an unfair advantage to any one side and without inviting a veto that will kill the entire bill.

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

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of the Tauzin amendment.

The gentleman from Louisiana [Mr. TAUZIN] and the Senator from Tennessee, Senator GORE, and the House and Senate proponents of this approach to ensuring that there is a more vigorous advance in the development of technology in our country.

Now, to many who are listening to this debate, there is a bit of haziness in terms of what it is that we are discussing. In much the same way that in 1983 and 1984 when we were discussing the cable bill, most of the Members in the House did not know what we were talking about since we had yet to deregulate cable, so they were voting on technologies that they had yet to in fact enjoy in their own homes as of 1984.

Well, that bill helped to telescope the time frame that it would take to get

that technology into everyone's home. That is what this debate is about here today, but it is a debate about another technology which is also in its nascent stage.

Now, the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Tennessee [Mr. COOPER], the gentleman from Alabama [Mr. HARRIS] and others, made reference to something called C-Band. We all say in Boston or Baltimore or New York, what is C-Band? Well, C-Band is those giant dishes about 8 feet wide that you see in people's backyards when you drive out there into the country—with their pickup trucks and their shotguns up against the back porch. It is those C-Band dishes. They cost about three to five grand and you got to get a zoning variance to put them in.

Now, there will not be many of us in Boston or in Baltimore or in Cleveland or other major cities in America that will be seeing too many of these 8-foot dishes in our backyards, not if we want to keep our neighbors as our friends.

So the C-Band technology is a nice technology and it has access to programming, but limited.

The K-Band technology, which is what this debate is all about, is about 12-inch dishes, dishes you can put between the petunias out in the backyard. No one will even know that it is there, but it cannot grow unless it has access.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

Mr. TAUZIN. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts.

Mr. MARKEY. This dish, Mr. Chairman, out there in the backyard, this is the new revolution. This is the competition to the cable industry. It is clear they are not going to compete against each other. In 99 percent of the communities that have cable, no other cable company competes against them. They have got some kind of nonaggression pact that they put together.

Well, the satellite industry solves that problem by bringing in the 12-inch dish that will cost you \$300. You put it out in the backyard, point it up in the air, and you are in business.

Now, we have got to make sure they have access to programming, and that is all this amendment does is just make sure that there is a sale of the video programming from the cable industry for a reasonable price over to the satellite industry, plain and simple competition, the same thing we did when we forced the broadcasters to give their signals for free over to the cable industry back in the mid-seventies so that we could give birth to that industry.

It is a very simple proposition, and by the way, by the year 2,000 it would obviate the need for any further rate regulation because you will have real

competition out in the marketplace, which is at least a mantra which is being uttered on a constant basis by all Members on both sides of the aisle.

This is the way to get there. Support the Tauzin amendment.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I am pleased to rise in support of H.R. 4850, the Cable Television Consumer Protection and Competitiveness Act of 1992 and the Tauzin amendment. As a long time proponent of cable reform, I hope that the American consumer, especially rural Americans, will benefit from this initiative.

Since Congress deregulated the cable industry in 1984, the American consumer has been the victim of unremitting rate increases. In less than 5 years, cable rates have increased 60 percent during a time when inflation has been negligible. This legislation responds strongly to unjustified rate increases through regulation in the short term and, more importantly, by making competition within the cable industry possible.

America was founded on free market principles—the belief that quality products at reasonable prices can best be delivered to the consumer through competition. Today, only 3 percent of Americans have a choice between cable companies. How can this be when the cable industry serves more than 51 million subscribers with annual revenues of \$20 billion—almost two times that of ABC, CBS, and NBC combined? There's obviously enough money in cable to be shared by many competitors.

New technologies, such as wireless cable and direct broadcast satellite, are ready to compete with cable. These competing technologies want to offer similar channel selections at competitive prices. But the cable industry has done everything in its power to keep these competitors from getting off the ground. Cable programmers, who also own local cable companies, have denied competing technologies access to their programming—either by refusing to sell or by charging ridiculously high prices. For example, C-SPAN charges cable competitors 500 percent more for the same programming received by current cable companies. H.R. 4850 and the Tauzin amendment would require that cable programmers sell their channels to cable competitors at fair prices.

As a result, competition will flourish, consumers will have a choice, prices will go down and quality of service will go up. In addition, the new technologies will provide cable services to rural areas which today do not have cable.

I commend the committee for giving Congress the opportunity to pass legislation which will restore basic competitive fairness to the Nation's cable

industry. In the short term, consumers will be protected from further unfair cable rates. And in the long term, cable rates and service will be regulated by the marketplace. Most importantly, the American consumer will finally have a choice.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN], a member of the committee.

Mr. LEHMAN of California. Mr. Chairman, I thank my colleague, the gentleman from New York, for yielding me this time.

Mr. Chairman, there is no doubt in my mind that the amendment offered by the gentleman from New York [Mr. MANTON] is fair and reasonable and does in fact provide for the type of access to programming that the competition, both present and prospective, needs to have in order to foster true market competition.

Does it go far enough to anticipate the technological and marketplace demands of tomorrow or the next decade? That remains to be seen.

The Manton substitute does, however, acknowledge the present issues and it is realistic in its approach.

The Manton substitute prohibits vertically integrated cable entities from refusing to deal with multichannel system operators where such refusal would reasonably restrain competition.

This provision provides adequate protection for existing programmers, yet it insures that other video delivery system operators have reasonable access to these programming courses.

Further, the Manton amendment insures that cable programming remains available to C-band satellite dishes at rates, terms, and conditions comparable to cable.

This provision is virtually identical to one included in the bill that overwhelmingly passed this Congress.

Mr. Chairman, the substitute is reasonable and fair.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

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

The best way to provide lower rates and better service is through competition. That is my preference. In spite of the fact that I had an amendment to reregulate the cable industry, my preference, is to have competition.

The cable operators tell me that is their preference, too; but then they do everything they can to prevent competition.

To start with, cable operators do not want telephone companies to provide cable services, but they also oppose the Tauzin amendment which will allow satellite cable companies, wireless cable companies, and telephone companies access to the same programs the cable companies have access to. It does not make sense.

There will not be any competition if these companies cannot offer programs that the consumer wants.

So what are we left with? A monopolistic industry that will continue to set its own price with nothing to restrain it. Any way you look at it, the consumer is being ripped off, because the consumer is having to pay too much. With no competition, they are paying a monopolistic price. They are paying billions of dollars they should not have to pay for.

Mr. Chairman, I urge all my colleagues to open the door to true competition and support the Tauzin amendment.

Mr. MANTON. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

I understand that the gentleman from New Jersey [Mr. RINALDO] may also yield the gentleman some time.

Mr. RINALDO. Yes Mr. Chairman, I yield 2 additional minutes to the gentleman from New Mexico [Mr. RICHARDSON].

The CHAIRMAN. The gentleman from New Mexico [Mr. RICHARDSON] is recognized for a total of 4 minutes.

□ 2020

Mr. RICHARDSON. Mr. Chairman, I come from a rural State. Per capita I have as many satellite dishes as anybody in this Chamber, and I will match my consumer rating with anybody on the other side of this issue.

I am supporting the Manton amendment for four reasons. First, it satisfies the problems raised by rural Americans who own backyard dishes; second, it guarantees access to programming in a reasonably balanced way; third, it promotes diversity and increases the choices available to consumers; and last, it protects the legitimate intellectual property rights of video programming creators.

Mr. Chairman, I am supporting the Manton-Rose amendment because it provides an effective and sufficient remedy for anticompetitive behavior. Cable programming networks will not be permitted to unreasonably refuse to deal with their competitors and cable programming must be made available to the C-band home satellite dish industry on nondiscriminatory prices, terms, and conditions. That is a sufficient and proper solution to the problems on program access.

The Tauzin amendment will take away a right from cable programmers that is given to everyone else in the entertainment industry: the right to control the use of their intellectual property.

Backers of the Tauzin amendment must really believe that money grows on trees, and programmers just go into the orchard to collect money when they have a programming idea. Let me remind my colleagues that money does not grow on trees—it is provided by en-

trepreneurs who are willing to take a risk in the marketplace and invest in a programming idea with the hope that if that program becomes a success, then they will have the legitimate right to exercise control over the pricing and distribution of that product.

If the Tauzin amendment passes, who in their right mind is going to risk their money in a programming idea. Because in the world envisioned by the gentleman from Louisiana, if your programming idea turns out to be a flop—too bad. And if it turns out to be a success, well then the Federal Government will step in and mandate that you sell it on certain terms, conditions, and prices. Now that is not an exciting investment opportunity, and it will starve the programming community of the investment needed for new program ventures.

The Manton-Rose amendment, by contrast, recognizes the benefits of exclusive distribution arrangements so long as they do not stifle competition. This is not some theoretical finepoint—this has real meaning for programmers in the marketplace. It has real meaning for someone like Mr. Robert Johnson, the president of Black Entertainment Television [BET]. Years ago, nobody wanted to invest in his programming idea for a black entertainment network—nobody would put up the financing for him. A cable operator did and with that investment, today Bob Johnson's BET is an enormous success. And if the Tauzin amendment passes, the Federal Government will reward Bob Johnson's success by forcing him to sell his product at Government-mandated wholesale prices, terms, and conditions. I urge my colleagues to reject Mr. TAUZIN's extreme approach on this issue.

The story of Bob Johnson and BET is not that uncommon in the cable industry. In fact, cable operators have provided much of the financing for cable networks like CNN, Nickelodeon, and the Discovery Channel. Cable operators' investment was \$1.5 billion for programming in 1991. It is this investment that is creating the programming everyone likes.

So let us be clear on what the Tauzin amendment is really about: it is not about access. Why is it not about access: Because alternative distribution technologies do indeed have access to popular cable programming. Forty-two cable program services are sold to MMDS wireless cable operators. The Wireless Cable Association has reported that all but one major cable program service is available to its members. So they do have access to cable programming.

What is this debate about: it is about wholesale pricing. It is not about the prices being charged to customers in rural areas. The National Rural Telecommunications Cooperative [NRTC]

offers home satellite dish owners a package of 47 services; satellite dish owners can receive a package of programming comparable in retail price to basic cable packages.

Are rural dish owners paying more than cable customers? Let's look at the facts: A typical satellite dish owner pays a retail price of \$16.93 and the price paid by cable customers for a comparable package is \$18.84.

So if satellite dish distributors and wireless cable operators already have access to programming, which they do, and can provide popular programs to customers at competitive prices, which they can, what is the purpose of the Tauzin amendment? It is clearly an effort pushed by a few companies to get Congress to pass a law that will give a bigger margin of profit to wholesale distributors of cable programming. That is not in the public interest and it should be rejected by the House.

The Tauzin amendment allows MMDS operators and DBS operators to enter into exclusive contract arrangements, and there is no reason why they should not be allowed to do so. Why is it then that cable programmers cannot enter into the same lawful exclusive contract arrangements as their competitors can for future programming investments. That is simply unfair, and represents nothing more than a punitive attack on the cable industry.

Finally, I will conclude by saying that the program access issue has deeply divided the committee. Each side has very strong views on this subject and on how Congress should go about establishing a policy that provides consumers with the greatest diversity of programming.

But we should not kid ourselves about what passage of the Tauzin amendment means. The Tauzin amendment is a cable bill-buster. It is a killer amendment that will prompt an absolute and certain veto from the White House and that veto will be sustained. So if the Tauzin amendment is adopted, the cable bill will not become law. And for consumers, that means no rate regulation, no customer service standards, and zero protection. I urge my colleagues not to lead us down the road of a certain veto and jeopardize for consumers the benefits of this bill.

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

Mr. ECKART. I thank the gentleman for yielding this time to me.

Mr. Chairman, a great philosopher once said, "Let me speak tender words because I may have to eat them."

Mr. MANTON was trying to force Mr. TAUZIN to eat his words, referring to the 1990 previous debate.

Well, the fact of the matter is that what BILLY said—the gentleman from Louisiana [Mr. TAUZIN]—said 2 years ago about 1303 was true. But the tragic thing is that what is unfair is that

what we have before us is not what the gentleman had spoke about several years ago.

The amendment before us is not what Mr. TAUZIN praised 2 years ago. It covers fewer programmers. It is not what Mr. TAUZIN praised 3 years ago; it covers fewer technologies. And it is not what we all agreed was good policy 2 years ago perhaps, because Mr. MANTON now wants to lower the standard.

In fact, it lowers the standard so much that what was a permanent law proposal in 1990 and which BILLY TAUZIN praised several years ago, is now only temporary law. Worse yet, the Manton substitute would sunset after only 7 years.

So to re-read the words back, let us do it in the context of understanding that what we have here is a very poor imitation, a very weak carbon copy.

Let me try to place this in some Members' contexts. Think about your word processor, your computer in your office. IBM, if they controlled the hardware for that unit, think what it would be like if you could only buy the word processing program from IBM. And that is what is at stake here. There is one single channel of programming, a choke point, a Straits of Hormuz through which the cable companies want to control the entire flow, not of oil, as happens in the Middle East, but of the programs that we use on our computers.

Until we fully understand that unless we open up that choke point, unless we allow more people to have access to that programming, it would be like the computer in your office where you are forced to go to IBM to buy only their programs because only their programs worked in our computers.

This is not what we should want for a true, free, democratic society. If you want real competition, you want more. More is Mr. TAUZIN's amendment and the programming access provision; it is not the cheap imitation of the Manton substitute.

Mr. Chairman, I rise in support of the Tausin amendment.

Although it is absolutely vital that we protect consumers from rate gouging in the near term, the long-term key to stopping runaway rate increases and improve cable service is to promote competition.

There have been many irresponsible and inaccurate statements about this amendment that must be corrected. It is not extreme. It is not regulatory overkill. Mr. TAUZIN has altered his language numerous times to respond to complaints by the cable industry—to no avail. They have not taken one step toward the middle.

The cable industry has never been accused of being dumb. They are throwing every false accusation and misrepresentation at this amendment to defeat it. They know that if they maintain their stranglehold on this programming, they can shut down competition—even the deep pockets of the telephone companies for a decade or more.

This is the Straits of Hormuz; this is the choke point. Mr. TAUZIN's amendment is the only way that free and fair commerce will be possible in this industry.

If we don't pass the Tausin amendment, we consign ourselves to returning to this issue in the next few years. We will be certain to hear an unending stream of complaints from our constituents asking "Why didn't we do our job?" "Why did we listen to the cable special interests instead of our constituents?"

RETRANSMISSION CONSENT

This debate also impacts on retransmission consent. I find it disingenuous that cable is arguing ferociously against being required not to arbitrarily refuse to sell cable programming when at the same time, day after day, year in and year out, they are walking away with broadcasters. I guess it is the old adage "we stole it fair and square." As we head into conference with the other house, I sincerely hope we can count on all those who would protect cable programmer rights to fight equally hard to protect broadcasters' programmer's rights with retransmission consent.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. SCHEUER. Mr. Chairman, will the gentleman yield to me?

Mr. BERMAN. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Manton amendment.

Mr. Chairman, this legislation must address the issue of program access, assuring that alternative video systems can procure quality video programming, and thus compete with the cable industry. Without a program access section, this legislation will not stimulate real competition to the cable monopoly.

However, we must protect program access while also preserving the right of programmers to control their product. The Rose-Manton amendment will achieve both goals; the Tausin amendment will not.

The Rose-Manton amendment would prevent programmers from unreasonably refusing to deal with alternative providers, such as wireless cable or direct broadcast satellite systems.

It would require programmers to make their products available to the home satellite dish industry on nondiscriminatory prices, terms, and conditions.

Last, it would provide an expedited review process by the FCC for any program access complaints.

This amendment is modeled after language approved by the entire House in 1990. Since that time, the availability of cable programming to alternative providers has increased, not decreased. In fact, these same alternative providers, such as wireless cable, endorsed the Rose-Manton amendment only 2 years ago. Why do they oppose it now? Because they know a handout when they see it, and the Tausin amendment is a handout like none other.

The Tausin amendment is unnecessary, and it will be a disincentive for future investment in quality cable programming. Only the Rose-Manton amendment will stimulate innovation and competition. I urge my colleagues to support Rose-Manton, and oppose the heavy-handed price controls offered by Mr. TAUZIN.

Mr. BERMAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Tausin program access amendment and in support of the Manton substitute.

To my colleagues who represent areas that are unserved or underserved by existing cable systems, I want to say that as a matter of equity, I share your concern that your constituents have access to cable programming. That is why I do support a solution to the problem you have articulated.

But the fair solution is the Manton substitute, not the Tausin amendment.

The amendment of the gentleman from Louisiana goes well beyond what is necessary to protect against anti-competitive behavior which may deprive alternative distribution technologies of popular programming. By barring exclusive distribution agreements even absent a showing of anti-competitive conduct, and by forcing the sale of programming at, in essence, uniform national prices, the amendment creates enormous new problems while purporting to solve others.

It is legitimate to consider what is fair to the competing commercial interests involved; certainly the interests of the C-band home satellite dish industry and the burgeoning direct broadcast satellite industry have been weighed in the debate today.

But by the same token, it is essential that we consider the impact of mandated program access at uniform prices on the commercial interests of program owners.

Program owners devote enormous creative powers and invest significant financial resources in their products. In marketing those products, it is only fair that they seek to get the best price they can. Denying them the ability to enter into exclusive contracts necessarily means that they cannot get top dollar from their customers.

Consider that there is no shortage of programming. Believe me, there is a proliferation of studios, large and small, which create television programming. Program owners seeking to sell their product in a highly competitive market often must guarantee exclusivity, and why not so long as they have not engaged in the anticompetitive behavior which the Manton substitute would proscribe?

In the name of fairness to consumers and commercial interests who have been the victims in those cases of demonstrable anticompetitive conduct by programmers who have flatout refused to deal, the Tausin amendment would deprive program owners of a fair return on their creative and financial investment.

That is not fair. The Manton substitute solves a problem. The Tausin amendment creates new ones, and I urge my colleagues to reject it.

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

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. I thank the gentleman for yielding time to me.

Mr. Chairman, many rural residents are not served by cable and because of the cost of laying the wire may never be. In order to get news, educational programs, and entertainment other than over-the-air broadcasts, they now must invest in satellite dishes at substantial expense. However, some cable programmers have chosen not to make available the very programming that rural viewers bought these dishes for or sell it at such grossly inflated charges that it prices rural citizens out of the information age.

There are new technologies that may soon be able to deliver programming to all American homes and businesses. However, without access to quality and diverse programs, these technologies may never get off the ground. Vertically integrated cable companies have the ability to choke off these potential competitors by keeping a stranglehold over programming.

The Tauzin amendment addresses these issues by preventing these cable programmers from unreasonably refusing to deal with alternative multi-video providers. It will also prohibit these programmers from discriminating in price terms and conditions in offering its programming. It does not set those prices, terms or conditions as its detractors claim, but rather encourages good faith negotiations.

It is important to remember that unlike the bill that the house passed during the 101st Congress, the Tauzin amendment includes all existing technologies—C-band satellite—as well as developing technologies. If the Tauzin language is adopted, the House will not be mandating which distribution systems will make it and which ones won't.

The Tauzin amendment is supported by the Alabama Rural Electric Association of Cooperatives, the National Rural Electric Cooperative Association, U.S. Telephone Association, the Consumer Federation of America, among others.

The Manton amendment is a weakened version of the program access section contained in H.R. 1303. It is so cable friendly as to raise suspicions and rightly so.

The exclusive contract language in the Manton amendment guts any real chance for competition by giving vertically integrated cable programmers a loophole big enough to drive a transfer truck through.

The Manton amendment will continue to allow cable companies to strangle at birth the development of any new multi-video distribution systems by failing to provide fair access with very limited exceptions to any other technology but C-band satellite service.

Vote "no" on Manton. It is a transparent attempt to include meaningful access to all Americans to the abundance of news, education and entertainment that we have come to rely on.

□ 2030

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, tonight some 50 to 60 million American households will be watching some form of cable television. Those watching C-Span will know that in short and simple terms the amendment of the gentleman from Louisiana [Mr. TAUZIN] offers them the chance to cut their monthly cable bills by one-third, 34 percent to be exact. The amendment of the gentleman from New York [Mr. MANTON], on the other hand, holds out the prospect of higher and higher monthly cable bills.

Mr. Chairman, I would urge all Members of this House to vote against the Manton amendment. They have to do that in order to have a chance to vote on the Tauzin amendment so that we can lower consumer bills all over American.

The Tauzin approach gives competition a chance. The Manton approach gives competition the runaround. This is proven by the groups that support these different bills. The Tauzin bill is supported by every competitor group that is out there: the satellite dish people, the telephone people, the wireless cable people, the other folks who want to have a chance to give us a choice in cable programming. The Manton approach, on the other hand, is supported by the giant monopolists.

"Look at the map of the country," I say to my colleagues, "and you'll see that almost all of America wants the Tauzin approach. They want their bills lowered, but in a few spots, a few spots with all the money, a few spots that own the cable companies and own the programming, they don't kind if prices go to the Moon."

Do not be fooled by this amendment, the primary force behind which is the second largest cable company in America, Time Warner, the company that has not only given us cop killer lyrics, but the company that wants to give us competition killer amendments. The Manton amendment is a step backward. It is weaker than the current bill that passed with a 3 to 1 majority in the Senate. It is weaker than 1303, which we passed here last year.

They are not virtually identical. It is true there may be a few words difference, but these words are all important. They amount to a \$4 billion a year difference, 4 billion dollars' worth of consumers' money that we should and could be saving with the Tauzin amendment.

Mr. MANTON. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. DINGELL].

Mr. RINALDO. Mr. Chairman, I also yield my remaining 1 minute to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 4 minutes.

Mr. DINGELL. Mr. Chairman, the character of this debate in the amendment shows that good men and honorable men dedicated to public interest can differ. There are no two better men on the committee, or anywhere, than the gentleman from New York [Mr. MANTON] and the gentleman from Louisiana [Mr. TAUZIN]. They are fine Members, and their differences, I believe, are honest and honorable.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York [Mr. MANTON]. The Manton substitute provides a balanced approach to the contentious issue of program access. Moreover, it does so in a form that is acceptable to the administration. If you are interested in enacting a cable bill into law, I urge you to support the Manton substitute because the Tauzin amendment will produce a veto that cannot be overridden.

Access to programming is an extremely complicated issue, with compelling arguments on both sides. With all respect to my dear friend, the gentleman from Louisiana [Mr. TAUZIN], however, in my view the Manton substitute provides a far more balanced approach.

The reasons are really quite simple.

First, the Manton substitute provides an effective remedy for the problems faced by independent distributors of programming. It requires video programming vendors to sell into the backyard dish market at the same rates, terms, and conditions as they sell to cable distributors of their product.

This is the relief they have sought for many years. It will provide real relief that ought to be reflected in lower prices. Those of our constituents who have invested in backyard Earth stations should realize real benefits as a result of the adoption of the Manton amendment.

With respect to the new, higher power satellites, the Manton substitute recognizes that a balanced approach to potential problems is in order. It prohibits cable program networks from refusing to deal with new technologies "if such refusal would unreasonably restrain competition."

Unlike the Tauzin amendment, it does not impose Government price controls. It does not micromanage an industry that doesn't yet exist. Its balanced approach will give the new technologies the opportunity to compete, without skewing the outcome of that competition to favor a particular competitor.

A lot has been said here today about exclusive distribution contracts. If this term is used in a pejorative fashion, it sounds most pernicious.

But exclusive distribution contracts are a fact of life in the video distribution business, and have been for more than 40 years. They are not evil. The CBS Television Network has exclusive distribution contracts—with the more than 200 CBS affiliates around the country. Likewise with NBC, ABC, and Fox.

Program syndicators enter into exclusive distribution contracts as well. Only one station per market can show programs like "Wheel of Fortune," or "Cosby" reruns, or any of the other shows that are syndicated.

Sports leagues do it too. ABC has an exclusive arrangement with the NFL to show "Monday Night Football."

Not only are exclusive distribution contracts a fact of life in the video marketplace. Exclusivity provides the mechanism to achieve diversity—an important policy goal that benefits the public. With access to more choices, the public has an increased opportunity to select what they want to see on television. Diversity helps to preserve our democracy, and is essential to enlightened self-governance.

The Manton substitute will promote diversity in media programming by preserving incentives for the new technologies to develop new programming products. The Tauzin amendment not only removes these incentives for the future. It also will make the artists who now create these programs less willing to enter the video marketplace by removing their ability to control who exhibits their creative works.

Mr. Chairman, I urge the House to reject the excesses of the Tauzin amendment, and support the Manton substitute. The Manton substitute is acceptable to the administration. The Tauzin amendment is veto bait.

The balanced approach of the Manton substitute offers Members the opportunity to support meaningful program access provisions that have a chance of being signed into law. I urge my colleagues to support this substitute, and provide real relief to the backyard Earth station marketplace.

Mr. TAUZIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] and in opposition to the amendment offered by the gentleman from New York [Mr. MANTON], and I urge my colleagues to vote likewise.

Mr. Chairman, on behalf of my constituents in Kentucky I urge my colleagues to vote "no" on the Manton amendment and "yes" on the Tauzin amendment.

I urge my colleagues to remember you must vote "no" on the Manton amendment in order to vote on the Tauzin amendment.

Let us vote for the millions of Americans who deserve fairness as to the cost of cable television.

Mr. TAUZIN. Mr. Chairman, I say to the members of the committee, "You ought to ask yourself why Senators from 46 States in America voted for the Tauzin amendment when it was offered to the Senate by Senator AL GORE. You ought to ask yourself why, why if it's such a bad amendment as it was just described to you."

Mr. Chairman, I will tell my colleagues why. Here is a map of the United States that shows the congressional districts where the sellers of programs are located, the big cable companies that sell programs, and control those programs and sell them at monopoly prices to American citizens. My colleagues should look for their district on that map, and, if they do not find their districts in red, if their district is in white, as is most of the United States of America under this map, I will understand why 46 States had Senators who voted for the Tauzin amendment when it was offered on the Senate side.

□ 2040

This is your chance to stand up for consumers. If you want to go back to your districts, your town hall meetings, and your campaign trails, and tell your constituents back home you like their cable rates, you like the monopoly cable companies, you understand cable did not want Tauzin to pass so you voted against it, you want to explain that to them, then vote for the Manton substitute.

If you want to lower cable rates in America, if you want competition in television, if you want to give consumers a break for a change, if you want to end this ugly cynicism in America that Congress cannot help the ordinary American citizen any more, you vote down Manton and vote for the Tauzin amendment. We will have competition and we will have lower cable rates for America.

Mr. THOMAS of Wyoming. Mr. Chairman, I want to thank Mr. TAUZIN for his leadership on this issue throughout this entire process. Mr. Chairman, I rise in support of the Tauzin amendment, and I do so for two simple reasons: To ensure rural access to cable programming and to encourage competition.

Of primary importance to me is the issue of access to programming. In Wyoming, as in rural areas throughout the country, many folks live in small, sparsely populated communities that are unserved by cable television. If this important group of Americans wants to receive the programming you and I take for granted, they must do it through other, sometimes costly technologies, such as satellite dish. I worked with these folks on a daily basis when I was with the Wyoming Rural Electric Association, and I hear from them today about the unfair prices they pay for programs, sometimes 500-percent more than cable subscribers, or their inability to even receive certain

programs. The Tauzin amendment simply and justly ensures that satellite dish owners will have access to these programs at a fair price. Rural people are not asking to receive this programming for free, which, frankly, is the deal the cable companies have enjoyed. They simply want fair access.

This setup is a perfect example of how monopolies work. Certain cable companies have unfairly raised their rates, used these monopoly profits to purchase and create programming, then denied that product to their competitors. If that is not tightening the monopoly grip, I do not know what is. The Tauzin amendment would see that this monopoly practice is brought to an end. There are emerging technologies that can provide competition to cable. We all know what has happened in those communities lucky enough to have competing systems—rates have come down. The only thing standing in the way of fully developing these emerging technologies is access to programming. Cable should understand this better than anyone. We all prefer competition to regulation, and we ought to give emerging technologies this foot in the door that will allow competition to develop. If you are for competition, you should be for this amendment.

So, again, I thank Mr. TAUZIN for his leadership on this issue so important to folks in Wyoming's rural areas, and I urge adoption of the Tauzin amendment, and adoption of H.R. 4850.

The CHAIRMAN. All time for debate has expired. The question is on the amendment offered by the gentleman from New York [Mr. MANTON] as a substitute for the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MANTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announced that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The vote was taken by electronic device, and there were—ayes 162, noes 241, answered "present" 1, not voting 24, as follows:

[Roll No. 310]

AYES—162

Ackerman	Boxer	Doolittle
Allard	Broomfield	Dornan (CA)
Allen	Burton	Edwards (OK)
Andrews (NJ)	Campbell (CO)	Engel
Annunzio	Carper	Espy
Archer	Carr	Fawell
Aspin	Chandler	Fazio
Barnard	Coble	Fields
Berman	Collins (MI)	Fish
Bilirakis	Conyers	Ford (TN)
Bliley	Cunningham	Franks (CT)
Boehlert	Dannemeyer	Gallely
Boehner	Darden	Gallo
Bonior	Dingell	Gekas
Borski	Dooley	Gephardt

Gilchrest Livingston Rinaldo Oberstar Roth Studds Cardin Ireland Pickle
 Gillmor Lowery (CA) Ritter Obey Rowland Sundquist Carper Jacobs Porter
 Gingrich Lowery (NY) Rose Oliver Roybal Synar Carr James Poshard
 Goodling Luken Rose Ortiz Sabo Tanner Jefferson Price
 Gradison Manton Roukema Owens (UT) Sanders Tauzin Jenkins Pursell
 Green Martin Russo Packard Sarpalius Taylor (MS) Clay Johnson (CT) Quillen
 Hall (OH) Matsui Sangmeister Pallone Savage Thomas (CA) Clement Johnson (SD) Rahall
 Hamilton McCollum Santorum Patterson Sawyer Torricelli Clinger Johnston Ramstad
 Hammerschmidt McGrath Saxton Payne (N.J.) Schulze Trafficant Coble Jones (GA) Johnston Rangel
 Hancock McHugh Schaefer Payne (VA) Schumer Unsoeld Coleman (MO) Jontz
 Hastert McMillen (MD) Scheuer Pease Sensenbrenner Valentine Collins (MI) Kanjorski Reed
 Hefley McNulty Schiff Penny Perkins Shays Vento Combust Kaptur Regula
 Henry Miller (CA) Schroeder Perkin Sikorski Siskowski Vislosky Richardsson
 Herger Miller (OH) Serrano Peterson (MN) Siskowski Volkmer Kennedy Ridge
 Hertel Miller (WA) Sharp Petri Skeen Vucanovich Kennelly Riggs
 Hobson Molinari Shaw Pickett Skelton Walsh Cox (IL) Kildee Roberts
 Holloway Moorhead Shuster Porter Slattery Slattery Washington Coyne Kleczka
 Hopkins Morella Skaggs Poshard Slaughter Waters Cramer LaFalce Roberts
 Horton Morrison Smith (NJ) Quillen Smith (FL) Wheat Cunningham Lancaster Roemer
 Hoyer Murphy Smith (OR) Rahall Whitten Darden Lantos Rogers
 Hunter Nowak Solomon Ravenel Smith (TX) Williams Davis LaRocco Ros-Lehtinen
 James Olin Stearns Reed Stark Snowe Wise de la Garza Leach Rose
 Jenkins Orton Stump Riggs Spence Wolf DeFazio Levin (MI) Rostenkowski
 Johnson (CT) Owens (NY) Sweet Roberts Spratt Wyden DeLauro Lewis (CA) Roth
 Johnson (TX) Oxley Swift Roe Staggers Wylie Dellums Lewis (FL) Rowland
 Johnston Panetta Taylor (NC) Roemer Stallings Yatrom Dickinson Lewis (GA) Roybal
 Kasich Parker Thornton Rogers Ros-Lehtinen Stenholm Dicks Lightfoot Russo
 Kildee Pastor Torres Towns Stokes Emerson Dicks Lightfoot Sabo
 Klug Paxon Upton Rees Young (FL) Zelfi Livingston Lipinski Sanders
 Kolbe Pelosi Vander Jagt Walker Weber Dooley Long Santorum
 Kopetski Pickle Waxman Weber Dorgan (ND) Lowery (CA) Sarpalius
 Kostmayer Price Waxman Weber Downey Machtey Sawyer
 Kyl Pursell Weber Duncan Manton Saxton
 Lagomarsino Ramstad Weldon Wolpe Durbin Markey Scheuer
 Lehman (CA) Rangel Regula Rhodes Young (FL) Schiff
 Lent Lewis (MI) Richardson Zelfi Thomas (GA) Schulze
 Lewis (CA) Ridge Zimmer Frost Levine (CA) Wilson Traxler Thomas (WY) Schumer
 Lewis (FL) Zimmerman Hansen Peterson (FL) Yates Edwards (OK) Matsui Serrano
 Emerson Mazzoli Sharp
 Engel McCandless Shaw
 English McCloskey Shays
 Erdreich McCollum Shuster
 Espy McCrery Sikorski
 Evans McCurdy Siskowski
 Ewing McDade Skeen
 Fascell McDermott Skelton
 Fazio McEwen Slattery
 Flake McHugh Slaughter
 Foglietta McMullan (NC) Smith (FL)
 Ford (TN) McMillen (MD) Smith (IA)
 Frank (MA) McNulty Smith (NJ)
 Gallegly Meyers Smith (OR)
 Gallo Mfume Smith (TX)
 Gaydos Michel Snowe
 Gejdenson Miller (CA) Solomon
 Gekas Mineta Spence
 Gephardt Moakley Spratt
 Geren Mollohan Staggers
 Gibbons Montgomery Stallings
 Gilchrest Moody Stark
 Gillmor Moorhead Stearns
 Gilman Moran Stenholm
 Gingrich Morella Stokes
 Glickman Morrison Studds
 Gonzalez Mrquez Sundquist
 Gordon Murphy Swett
 Goss Murtha Swift
 Grandy Nagle Synar
 Green Natcher Tanner
 Guarini Neal (MA) Tauzin
 Gunderson Neal (NC) Taylor (MS)
 Hall (TX) Nichols Taylor (NC)
 Hamilton Nowak Thomas (CA)
 Hammerschmidt Nussle Thornton
 Harris Oakar Torricelli
 Hastert Oberstar Towns
 Hayes (IL) Obey Trafficant
 Hayes (LA) Olver Unsoeld
 Hefner Ortiz Upton
 Henry Owens (NY) Valentine
 Hertel Owens (UT) Vander Jagt
 Hoagland Pallone Vento
 Hochbrueckner Panetta Vislosky
 Holloway Patterson Volkmer
 Horn Paxon Vucanovich
 Houghton Payne (NJ) Walker
 Hoyer Payne (VA) Walsh
 Hubbard Pease Washington
 Huckaby Pelosi Waters
 Cramer Hughes Waxman
 Crane Hutto Perkins Weber
 Davis Inhofe Peterson (MN) Weldon
 de la Garza Ireland Oakar

Roth Studds Cardin Ireland Pickle
 Rowland Sundquist Carper Jacobs Porter
 Roybal Synar Carr James Poshard
 Sabo Tanner Jefferson Price
 Sanders Tauzin Jenkins Pursell
 Sarpalius Taylor (MS) Clay Johnson (CT) Quillen
 Savage Thomas (CA) Clement Johnson (SD) Rahall
 Sawyer Torricelli Clinger Johnston Ramstad
 Schulze Trafficant Coble Jones (GA) Johnston Rangel
 Schumer Unsoeld Coleman (MO) Jontz
 Sensenbrenner Valentine Collins (MI) Kanjorski Reed
 Shays Vento Combust Kaptur Regula
 Sikorski Siskowski Vislosky Richardsson
 Siskowski Volkmer Kennedy Ridge
 Skeen Vucanovich Kennelly Riggs
 Skelton Walsh Cox (IL) Kildee Roberts
 Slattery Slattery Washington Coyne Kleczka
 Slaughter Waters Cramer LaFalce Roberts
 Smith (FL) Wheat Cunningham Lancaster Roemer
 Smith (OR) Rahall Whitten Darden Lantos Rogers
 Smith (TX) Williams Davis LaRocco Ros-Lehtinen
 Snowe Wise de la Garza Leach Rose
 Spence Wolf DeFazio Levin (MI) Rostenkowski
 Spratt Wyden DeLauro Lewis (CA) Roth
 Staggers Wylie Dellums Lewis (FL) Rowland
 Stallings Yatrom Dickinson Lewis (GA) Roybal
 Stark Stokes Emerson Dicks Lightfoot Russo
 Stenholm Dicks Lightfoot Sabo
 Stokes Emerson Dicks Lightfoot Russo

ANSWERED "PRESENT"—1

Weiss
 NOT VOTING—24

Anthony Hatcher Ray
 Coughlin Hyde Solarz
 Dellums Jones (NC) Tallon
 Dymally Kolter Thomas (GA)
 Feighan Laughlin Thomas (WY)
 Ford (MI) Lehman (FL) Traxler
 Frost Levine (CA) Wilson
 Hansen Peterson (FL) Yates

□ 2100

Mr. MCDADE and Mr. EDWARDS of California changed their vote from "aye" to "no."

Mr. HENRY changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MURPHY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise Members that this vote will be 5 minutes in duration.

The vote was taken by electronic device, and there were—ayes 338, noes 68, answered "present" 1, not voting 27, as follows:

[Roll No. 311]

AYES—338

Abercromble Ballenger Brewster
 Ackerman Barrett Brooks
 Alexander Bateman Broomfield
 Allen Bellenson Browder
 Anderson Bennett Brown
 Andrews (ME) Bentley Bruce
 Andrews (TX) Beruter Bryant
 Annunzio Beville Bunning
 Applegate Bilbray Bustamante
 Atkins Boehlert Byron
 AuCoin Borski Callahan
 Bacchus Boucher Camp
 Baker Boxer Campbell (CA)

NOES—247
 Abercromble DeFazio Jacobs
 Alexander DeLauro Jefferson
 Anderson DeLay Johnson (SD)
 Andrews (ME) Derrick Jones (GA)
 Andrews (TX) Dickinson Jontz
 Applegate Dicks Kanjorski
 Army Dixon Kaptur
 Atkins Donnelly Kennedy
 AuCoin Dorgan (ND) Kennelly
 Bacchus Downey Kleczka
 Baker Dreier LaFalce
 Ballenger Duncan Lancaster
 Barrett Durbin Lantos
 Barton Dwyer LaRocco
 Bateman Early Leach
 Bellenson Eckart Lewis (GA)
 Bennett Edwards (CA) Lightfoot
 Bentley Edwards (TX) Lipinski
 Beruter Emerson Lloyd
 Beville English Long
 Bilbray Erdreich Machtey
 Blackburn Evans Markey
 Boucher Ewing Marlenee
 Brewster Fascell Martinez
 Brooks Flake Mavroules
 Browder Foglietta Mazzoli
 Brown Frank (MA) McCandless
 Bruce Gaydos McCloskey
 Bryant Gejdenson McCrery
 Bunning Geren McCurdy
 Bustamante Gibbons McDade
 Byron Gilman McDermott
 Callahan Glickman McEwen
 Camp Gonzalez McMillan (NC)
 Campbell (CA) Gordon Meyers
 Cardin Goss Mfume
 Chapman Grandy Michel
 Clay Guarini Mineta
 Clement Gunderson Mink
 Clinger Hall (TX) Moakley
 Coleman (MO) Harris Mollohan
 Coleman (TX) Hayes (IL) Montgomery
 Collins (IL) Hayes (LA) Moody
 Combust Hefner Moran
 Condit Hoagland Mrquez
 Cooper Hochbrueckner Murtha
 Costello Horn Myers
 Cox (CA) Houghton Nagle
 Cox (IL) Hubbard Natcher
 Coyne Huckaby Neal (MA)
 Cramer Hughes Neal (NC)
 Crane Hutto Nichols
 Davis Inhofe Nussle
 de la Garza Ireland Oakar

Whitten
Williams
Wise
Wolf

Wolpe
Wyden
Wyllie
Yatron

Young (AK)
Young (FL)
Zimmer

House Calendar and ordered to be printed.

□ 2113

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] had been disposed of.

It is now in order to consider amendment No. 9 printed in House Report 102-687.

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

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

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

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS.

Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Between the passage of the Cable Communications Policy Act of 1984 and July 1990, rates for cable television services have been deregulated in 97 percent of all franchises. The deregulation has resulted in the provision of diverse and quality programming to over 52,000,000 Americans. A minority of cable operators, however, have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for the Federal Communications Commission to ensure that, where there is no effective competition, cable operators provide basic service at reasonable rates.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling interest in making all nonduplicative local public television services available on cable systems because—

NOES—68

Allard
Andrews (NJ)
Archer
Arney
Aspin
Barnard
Barton
Berman
Billrakis
Billey
Boehner
Bonior
Burton
Campbell (CO)
Coleman (TX)
Collins (IL)
Cox (CA)
Crane
Dannemeyer
Dixon
Doolittle
Dorman (CA)
Fawell

Fields
Fish
Franks (CT)
Goodling
Gradison
Hall (OH)
Hancock
Hefley
Herger
Hobson
Hopkins
Horton
Johnson (TX)
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Lehman (CA)
Lent
Luken
McGrath

Miller (OH)
Miller (WA)
Mink
Molinari
Myers
Orlin
Orton
Oxley
Packard
Parker
Pastor
Pickett
Rhodes
Rinaldo
Rohrabacher
Roukema
Schaefer
Schroeder
Skaggs
Stump
Torres
Zeliff

REPORT ON H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102-708), on the bill (H.R. 5677), making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

REPORT ON H.R. 5678, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102-709), on the bill (H.R. 5678), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

REPORT ON H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Rules, submitted a privileged report (Rept. 102-710) on the bill (H.R. 5679), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 523 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. 4850.

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—27

Anthony
Blackwell
Conyers
Coughlin
DeLay
Dymally
Early
Feighan
Ford (MI)

Frost
Hansen
Hatcher
Hyde
Jones (NC)
Kolter
Laughlin
Lehman (FL)
Levine (CA)

Peterson (FL)
Ray
Solarz
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Wilson
Yates

□ 2108

Mr. RINALDO changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MARKEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 2110

Accordingly the Committee rose; and the Speaker pro tempore (Mr. OBERSTAR) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5620, URGENT SUPPLEMENTAL APPROPRIATIONS, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-707) on the resolution (H. Res. 527) providing for the consideration of the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the

"(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

"(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of \$10,800,000,000 between 1972 and 1990 that provides public service programming that is responsive to the needs and interests of the local community;

"(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than \$3,000,000,000 in public broadcasting between 1969 and 1990; and

"(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems as a separate and distinct purchase option for subscribers.

"(9) Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the 'A/B' input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

"(10) Cable systems should be encouraged to carry low power television stations licensed to the communities served by those systems where the low power station creates and broadcasts, as a substantial part of its programming day, local programming.

"(11) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast tele-

vision stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(12) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audiences. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent reimposition of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(13) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operators provision of this access and the operator's economic incentives described in paragraph (12), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(14) The public interest will be served by the development of competition in the marketplace for video programming and by encouraging new multichannel video programming distribution technologies. Prohibiting video program vendors in which a multichannel video system operator has controlling interest from unreasonably refusing to deal with other multichannel video system operators with respect to provision of video programming is necessary to help establish a competitive marketplace.

"(15) It is necessary and appropriate to promote competition between cable operators and other multichannel video system operators by facilitating access of such other multichannel video system operators to video programming, subject to exclusive contractual arrangements between programmers and cable operators that do not have the effect of significantly impeding competition."

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) IN GENERAL; LIMITATIONS.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(b) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition, the rates for the provision of basic cable service shall be subject to regulation under subsection (c) of this section.

"(c) ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.—

"(1) COMMISSION REGULATIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) BASIC SERVICE TIER RATES.—A formula to establish the maximum price of the basic service tier, which formula—

"(i) shall take into account only—

"(I) the number of signals required to be carried on the basic service tier pursuant to paragraph (2);

"(II) the direct costs of obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(III) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs; and

"(IV) a reasonable profit (as defined by the Commission) on the provision of the basic service tier; and

"(ii) shall not take into account—

"(I) any additional video programming services carried on the basic service tier pursuant to paragraph (4);

"(II) any costs of obtaining, transmitting, marketing, or otherwise providing any such additional video programming services or any other signal not required to be carried on the basic service tier pursuant to paragraph (2);

"(III) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any fee, tax, or assessment of general applicability which is applied in an unduly discriminatory manner against cable operators or cable subscribers; or

"(IV) any amount required to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels.

"(B) EQUIPMENT.—A formula to establish the price for installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control. Such formula shall not apply unless the franchising authority certifies that compatible converter boxes or remote control units are not available locally from retail equipment vendors not affiliated with the cable system.

"(C) CONVERTER BOXES AND REMOTES.—Standards concerning the availability for lease or purchase and pricing of converter boxes and remote controls.

"(D) COSTS OF FRANCHISE REQUIREMENTS.—(1) A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise, and (i) procedures by which the cable operator will recover from subscribers—

"(I) the costs described in clause (i) of this subparagraph, and

"(II) the costs of any amounts assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers and any fee, tax, or assessment of general applicability which is applied in an unduly discriminatory manner against cable operators or cable subscribers.

"(E) IMPLEMENTATION AND ENFORCEMENT.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may oversee the administration of the for-

mulas, standards, guidelines, and procedures established by the Commission under this subsection; and

"(i) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method.

"(F) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to all other tiers of service. Such basic service tier shall, except as provided in paragraphs (3), (4), (5), and (6), consist only of the following:

"(A) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(B) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(3) SMALL SYSTEM EXCEPTION.—The requirements of this subsection shall not apply to—

"(A) any cable system with 12 or fewer usable activated channels that has 300 or fewer subscribers, or

"(B) if the Commission grants a waiver to the system upon a showing that the system lacks the technical or economic means to create a separately available basic tier, so long as such system does not delete any signal of a broadcast television station from carriage by that system.

"(4) ADDITIONS TO BASIC TIER PROHIBITED.—

"(A) PROHIBITION.—No cable operator may add any video programming to the basic tier that is not a signal or programming required to be included in such tier pursuant to paragraph (2). Any obligation imposed by a franchise that is inconsistent with this paragraph is preempted and may not be enforced. A contract or other agreement that requires carriage on the basic service tier, or that establishes a rate for carriage (as part of the basic service tier), of a signal or programming that is not required to be included in such tier pursuant to paragraph (2) may not be enforced by a video programming vendor (as such term is defined in section 705A(g) of this Act) unless such contract or agreement is applied to require carriage of such signal or programming on the next most widely subscribed level of service.

"(B) EXCEPTION.—Subparagraph (A) of this paragraph and paragraph (2) shall not prohibit a cable operator that does not have available for carriage pursuant to section 614 a qualified local commercial affiliate of a commercial broadcast network (as defined by the Commission regulation 73.3613(a)(1) (47 C.F.R. 73.3613(a)(1))), from carrying on the basic tier a channel that includes the video programming of that network.

"(5) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this

section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

"(6) TREATMENT OF EXISTING BROADCAST TIERS.—

"(A) CONTINUED CARRIAGE PERMITTED.—In the case of any cable operator that offered to subscribers a tier of programming as of January 1, 1992, consisting of not more than—

"(i) the signals of any broadcast television station carried on the system; and

"(ii) any public, educational, or governmental access or local origination programming;

the provisions of paragraphs (2) and (4) of this subsection shall not prohibit such operator from continuing to provide such tier.

"(B) RATE FORMULA ADJUSTMENT; RETIERING.—Any cable operator providing a tier of programming described in subparagraph (A) may—

"(i) continue to provide such tier to subscribers, subject to a formula for a maximum price established by the Commission, which formula shall comply with the requirements of paragraph (1), except that the Commission shall take into account additional costs described in subclauses (II) and (III) of paragraph (1)(A)(i) with respect to the signal of any broadcast television station not required by paragraph (2) to be offered on the basic service tier; or

"(ii) delete such programming from the tier described in subparagraph (A) as may be necessary to comply with the requirements of this subsection.

"(d) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic cable service, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(e) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry and making such recommendations as the Commission considers appropriate in light of such information.

"(f) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system; or

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than video programming required to be carried under subsection (c)(2) and video programming offered on a per channel or per program basis."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act.

SEC. 4. UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.

Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way."

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator, subject to section 325(b).

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to 33 percent of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such sig-

nals shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

“(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio transmission, and line 21 closed caption of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

“(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

“(4) SIGNAL QUALITY.—

“(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

“(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

“(C) SIGNAL QUALITY RESPONSIBILITIES OF STATION.—Notwithstanding any other provisions of this section, a cable operator shall not be required to carry any qualified local noncommercial television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission by regulation.

“(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which sub-

stantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

“(6) CHANNEL POSITIONING.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 2, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator.

“(B) EXCEPTION.—A cable operator may make a single election to carry all the signals of qualified local commercial television stations carried in fulfillment of the requirements of this section on channel numbers 2 through 13, inclusive. The channel position of any qualified local commercial television station carried on channels 2 through 13, inclusive, on July 19, 1985, or January 2, 1990, shall not be changed under this subparagraph without the consent of the station.

“(C) DISPUTES.—Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

“(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at reasonable rates.

“(8) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

“(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notifications provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

“(10) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

“(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

“(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

“(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

“(c) REMEDIES.—

“(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

“(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

“(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

“(d) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

“(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

“(2) to provide information to subscribers about input selector switches or comparable devices.

“(e) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this Act, the Commission shall, following a rule-making proceeding, issue regulations imple-

menting the requirements imposed by this section.

"(f) DEFINITION.—(1) For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station upon agreement to reimburse the cable operator for the incremental copyright costs assessed against such operator as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) For purposes of this section, a broadcasting station's market shall be defined as specified in section 73.3555 of title 47, Code of Federal Regulations as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include or exclude communities from such station's television market to better effectuate the purposes of this section."

SEC. 6. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each operator of a cable system (hereinafter in this section referred to as an 'operator') shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each operator shall carry, on the cable system of that operator, each qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), an operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that an operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond

the presence of any qualified local noncommercial educational television station—

"(i) the operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), an operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) An operator of a system described in subparagraph (A) which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990 shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular operator and a particular such station, upon the written consent of the operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—An operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—An operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which sub-

stantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by an operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—An operator shall retransmit in its entirety the primary video and accompanying audio transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the operator.

"(2) An operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with bank-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by an operator unless the operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, an operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of an operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier

that includes the retransmission of local television broadcast signals.

“(1) PAYMENT FOR CARRIAGE.—

“(1) An operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

“(2) Notwithstanding the provisions of this section, an operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the operator for the incremental copyright costs assessed against such operator as a result of such carriage.

“(j) REMEDIES.—

“(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that an operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such operator has failed to comply with such requirements and state the basis for such allegations.

“(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such operator an opportunity to present data, views, and arguments to establish that the operator has complied with the signal carriage requirements of this section.

“(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the operator has complied with the requirements of this section. If the Commission determines that the operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the operator has fully complied with such requirements, the Commission shall dismiss the complaint.

“(k) IDENTIFICATION OF SIGNALS.—An operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

“(l) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term ‘qualified noncommercial educational television station’ means any television broadcast station which—

“(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; or

“(ii) is owned and operated by a municipality and transmits only noncommercial programs for educational purposes; and

“(B) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B));

such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

“(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term ‘qualified local noncommercial educational television station’ means a qualified noncommercial educational television station—

“(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

“(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.”

SEC. 7. EXPANSION OF THE RURAL EXEMPTION TO THE CABLE-TELEPHONE CROSS-OWNERSHIP PROHIBITION.

Section 613(b)(3) of the Communications Act of 1934 (47 U.S.C. 533(b)(3)) is amended—

(1) by inserting “(A)” after “(3)”;

(2) by striking “(as defined by the Commission)”; and

(3) by adding at the end the following:

“(B) For the purposes of subparagraph (A), the term ‘rural area’ means a geographic area that does not include either—

“(i) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

“(ii) any territory, incorporated or unincorporated, included in an urbanized area (as defined by the Bureau of Census as of the date of the enactment of this subparagraph).”

SEC. 8. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

“SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

“(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may require, as part of a franchise (including a modification, renewal, or transfer thereof), provisions for enforcement of—

“(1) customer service requirements of the cable operator; and

“(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

“(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. The Commission, in establishing such standards, shall take into account differences in cable system size. Such standards shall include, at a minimum, requirements governing—

“(1) cable system office hours and telephone availability;

“(2) installations, outages, and service calls; and

“(3) communications between the cable operator and the customer (including standards governing bills and refunds).

“(c) AVAILABILITY OF TECHNOLOGY; PROCEEDING REQUIRED.—The Federal Communications Commission shall—

“(1) within 60 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to determine—

“(A) whether equipment standards are necessary to permit the commercial availability, from cable operators or retail vendors that are not affiliated with cable systems, of converter boxes and remote controls compatible with cable systems; and

“(B) the feasibility of including converter and addressability technology for cable systems and other multichannel video systems in television receivers shipped in interstate commerce or imported from any foreign country into the United States for sale or resale to the public, taking into account (i) the impact on domestic manufacturers of including such technology in such television receivers, and (ii) the need for cable operators and other multichannel video systems to protect their signals against unauthorized reception; and

“(2) prescribe any standards determined to be necessary under paragraph (1).

“(d) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

“(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law of general applicability, to the extent not specifically preempted by this title.

“(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b).”

SEC. 9. TECHNICAL STANDARDS.

Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

“(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems’ technical operation and signal quality. The Commission periodically shall update such standards to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection.”

SEC. 10. COMPETITION AND TECHNOLOGICAL DEVELOPMENT.

(a) PROHIBITION ON UNREASONABLE REFUSALS TO DEAL WITH MULTICHANNEL VIDEO SYSTEM OPERATORS.—Title VII of the Communications Act of 1934 is amended by inserting after section 705 (47 U.S.C. 605) the following new section:

“SEC. 705A. PROGRAMMING ACCESS TO PROMOTE COMPETITION AND CONTINUING TECHNOLOGICAL DEVELOPMENT.

“(a) UNREASONABLE REFUSALS TO DEAL PROHIBITED.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1990, the Commission shall, in order to promote competition and diversity in the multichannel video programming market and continuing development of communications

technologies, prescribe regulations to prohibit any video programming vendor that controls, is controlled by, or is under common control with a multichannel video system operator and that engages in the regional or national distribution of video programming from refusing to deal with any multichannel video system operator with respect to the provision of video programming if such refusal would unreasonably restrain competition. Entering into or abiding by the terms of an exclusive contract that does not have the effect of unreasonably restraining competition shall not be considered an unreasonable refusal to deal. Nothing contained in this subsection shall require any person who licenses video programming for distribution to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(b) REMEDIES FOR VIOLATIONS.—Any multichannel video system operator aggrieved by conduct that it alleges constitutes a violation of the regulations prescribed under this section may commence an adjudicatory proceeding at the Commission. Upon completion of such proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video system operator.

"(c) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data as the Commission requires to carry out this section with respect to exclusive contracts or other practices and their effects on competitors, competition, or the video programming distribution market or on the development of new video distribution technologies; and

"(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) SUNSET.—The regulations prescribed under subsection (a)(1) of this section shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. Such regulations shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(e) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (a), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(f) EXEMPTIONS FOR PRIOR CONTRACTS.—Nothing in this section shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(g) DEFINITIONS.—

"(1) The term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming.

"(2) The term 'video programming vendor'—

"(A) means any person who licenses video programming for distribution by any multichannel video system operator;

"(B) includes satellite delivered video programming networks and other programming networks and services;

"(C) does not include a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(D) does not include a network or service distributing video programming that is carried as a secondary transmission of a signal broadcast by a television station.

"(3) The terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act."

(b) REGULATION OF CARRIAGE AGREEMENTS.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS REQUIRED.—Within one year after the date of enactment of this Act, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators and video programming vendors.

"(b) PREVENTION OF UNREASONABLE RESTRAINTS ON COMPETITION.—The regulations required by subsection (a) shall, to the extent necessary to prevent conduct that unreasonably restrains competition, prohibit—

"(1) a cable operator or other multichannel video system operator from coercing a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) a cable operator or other multichannel video system operator from coercing a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system; and

"(3) a multichannel video system operator from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation in the selection, terms, or conditions for carriage of video programming vendors.

"(c) ADDITIONAL CONTENTS OF REGULATIONS.—The regulations required by subsection (a) shall also—

"(1) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(2) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(3) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) DEFINITIONS.—As used in this section, the terms 'video programming vendor' and 'multichannel video system operator' have the meanings provided by section 705A(g) of this Act."

SEC. 11. MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.

(a) FINDINGS.—The Congress finds that—

(1) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(2) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(3) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(4) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(5) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and non-discriminatory terms.

(b) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(2) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1992, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming,

but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraphs (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than \$500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking "based on the information gathered from the inquiry required by subsection (f).";

(c) **EFFECTIVE DATE.**—The amendments made by subsection (b) of this section shall take effect 90 days after the date of enactment of this Act.

SEC. 12. EQUAL EMPLOYMENT OPPORTUNITY.

(a) **FINDINGS.**—The Congress finds and declares that—

(1) despite the existence of present legislation governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast in-

dustries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

(b) **STANDARDS.**—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection."

(c) **CONTENTS OF ANNUAL STATISTICAL REPORTS.**—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

- "(i) Corporate officers.
- "(ii) General Manager.
- "(iii) Chief Technician.
- "(iv) Comptroller.
- "(v) General Sales Manager.
- "(vi) Production Manager.
- "(vii) Managers.
- "(viii) Professionals.
- "(ix) Technicians.
- "(x) Sales.
- "(xi) Office and Clerical.
- "(xii) Skilled Craftsmen.
- "(xiii) Semiskilled Operatives.
- "(xiv) Unskilled Laborers.
- "(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vi) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section."

(d) **PENALTIES.**—Section 634(f)(2) of such Act is amended by striking "\$200" and inserting "\$500".

(e) **APPLICATION OF REQUIREMENTS.**—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video system operator (as that term is defined in section 705A(g) of this Act)".

(f) **STUDY AND REPORT REQUIRED.**—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

SEC. 13. HOME WIRING.

Section 624 of the Communications Act of 1934 (17 U.S.C. 544) is amended by adding at the end the following new subsection:

"(g) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules and regulations concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber."

SEC. 14. CABLE CHANNELS FOR COMMERCIAL USE.

(a) **RATES, TERMS, AND CONDITIONS.**—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) by striking "consistent with the purpose of this section" in paragraph (1) and inserting "consistent with regulations prescribed by the Commission under paragraph (4)"; and

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

"(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

"(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

"(B) standards concerning the terms and conditions which may be so established; and

"(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section."

(b) **ACCESS FOR MINORITY PROGRAMMING SOURCES.**—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel

capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(i)(3)(C)(i) of this Act."

SEC. 15. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "\$25,000" and inserting "\$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "\$50,000" and inserting "\$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

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

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation."

SEC. 16. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

*SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if this incompatibility is not resolved, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators and electronics equipment manufacturers should, to the extent possible, develop technologies that will prevent signal thefts while permitting consumers to benefit from premium features and functions in such receivers and recorders.

"(b) RULEMAKING REQUIRED.—Within one year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary—

"(1) to ensure that the signals a cable system transmits to subscribers are compatible with all operational functions of cable-ready television receivers and video cassette recorders, taking into account the need for cable operators to protect their signals against unauthorized reception;

"(2) to prohibit cable operators from scrambling or otherwise encrypting any

local broadcast signal in any manner that interferes with or nullifies the special functions of subscribers' televisions or video cassette recorders, including functions that permit the subscriber—

"(A) to watch a program on one channel while simultaneously using a video cassette recorder to tape a different program on another channel;

"(B) to use a video cassette recorder to tape two consecutive programs that appear on different channels; or

"(C) to use advanced television picture generation and display feature;

"(3) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(4) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(A) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(B) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator;

"(5) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units; and

"(6) to establish technical standards and labeling requirements for television receivers and video cassette recorders that are marketed as 'cable-ready', such standards and labeling requirements to include information disclosing that all features of 'cable ready' television receivers and video cassette recorders may not be compatible with all cable systems.

"(c) EXCEPTION.—The regulations required by subsection (b)(1) may, if necessary to protect against the theft of cable service, permit a cable operator to scramble or otherwise encrypt video programming in accordance with such standards as the Commission shall prescribe consistent with the findings contained in subsection (a) of this section.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (e) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) COMPATIBLE INTERFACES.—Within one year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. Within 2 years after the date of enactment of this section, the Commission shall issue regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(f) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take

into account the cost and benefit to cable subscribers of such standards."

SEC. 17. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY.—The Commission shall conduct a review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such review and study, the Commission shall consider the necessity and appropriateness of—

(A) imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of such programming; and

(B) imposing limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(b) STUDY OF PROGRAMMING MARKET.—On or before January 1, 1996, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effects of exclusive licensing arrangements for video programming on competition between classes of multichannel video system operators. The Commission shall evaluate whether grantors or holders of exclusive licensing arrangements for video programming discriminate against classes of multichannel video system operators in a manner that deprives the public of access to diverse sources of programming. Such report shall include such recommendations for legislation as the Commission deems appropriate.

(c) PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee, or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video distribution, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

(d) STUDY OF LOW-POWER TELEVISION.—

(1) STUDY REQUIRED.—Within 12 months after enactment of this Act, the Federal

Communications Commission shall prepare and submit to the Congress a report on whether, and under what conditions, low power television stations (as defined in section 74.701(f) of title 47, Code of Federal Regulations, or any successor regulations thereto) which provide local origination programming should be entitled to carriage on cable systems whose service area encompasses the service area to which a low power television station is licensed.

(2) PUBLIC COMMENT; FACTORS FOR CONSIDERATION.—In preparing its report, the Commission shall provide an opportunity for public comment and take into account—

(A) whether and how many low power television stations provide local program services which serve the public interest, convenience and necessity;

(B) the status of low power television as a secondary service;

(C) the impact of carriage of low power television stations on the availability of channels for future communications needs;

(D) the burden on cable systems of carriage of low power television stations, the propriety of imposing such a burden, and any technical considerations relating to providing carriage limited only to the low power television station's community of license; and

(E) the extent of the burden presently imposed upon low power television stations as a result of charges for carriage imposed on stations by cable systems.

SEC. 18. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. LENT] will be recognized for 20 minutes and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from New York [Mr. LENT].

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

Mr. Chairman, this substitute amendment is similar to the major provisions of an amendment I offered in committee which was modeled on the bipartisan bill which passed this House on a voice vote just 2 years ago. That bill, H.R. 5267, reflected a balanced and reasonable approach to responding consumers' concerns about rates and services.

It was the hope of the Republican members of the Energy and Commerce Committee, that the bipartisan, cooperative approach which resulted in consensus legislation 2 years ago would guide our deliberations and actions this year. Unfortunately, given the nature of this very political year, that was not to be.

Energy and Commerce Committee Republicans sought to respond to the consumer's requests that Congress solve the specific problems with rates and services that our constituents have written and called about in recent years. Unfortunately, the committee chose to advance a bill which overregulates the cable industry and goes far beyond the clearly articulated concerns of our constituents.

This amendment focuses narrowly on the specific cable subscriber concerns. First, my substitute addresses the problems of rates. The amendment requires that all local, over-the-air broadcast signals and Government access channels be offered through a separate basic tier. Whenever there is no effective competition to the local cable companies, this tier must be regulated.

By regulating a separate and distinct basic tier composed only of over-the-air broadcast and Government access signals, my amendment gives all cable subscribers access to the system—and to the over-the-air broadcast signals they want—at the lowest possible rate. Regulation of this tier, moreover, would also serve to discipline the pricing of other cable programming offered by the cable operator.

I believe that this approach to rate regulation is a reasonable one. It is responsive to consumer needs. It is not overly intrusive, and it promotes the Communication Act's key principles of promoting localism and diversity. Finally, it reflects the approach overwhelmingly adopted 2 years ago.

In the area of programming access, my amendment again takes a balanced approach. It prohibits unreasonable refusals to deal, but recognizes the legitimate right of private parties to enter into exclusive contracts. This approach will ensure that cable competitors have a reasonable, and legally protected, opportunity to purchase programming. It also protects the intellectual property rights of copyright holders from unreasonable government intrusion. Consequently, my substitute does not create disincentives for future investment in the creation of new programming that might result from Federal interference.

My amendment also contains several other provisions designed to promote competition. The substitute would expand the rural exemption to the telephone cable cross-ownership restriction from an area serving 2,500 residents to an area serving 10,000 residents. Another provision would permit franchising authorities from granting exclusive franchises.

Overall, Mr. Chairman, I believe that my amendment is an appropriate and carefully measured response to the problems American consumers are confronted with today. Rather than simply regulating for the sake of regulating, I believe my amendment addresses today's problems without adversely impacting future investment in new cable programming and providing greater consumer choice.

Finally, let me say that the American consumer will be best served by this Congress passing legislation that will become law.

Unlike H.R. 4850, my amendment could become law and thus achieve the goal of resolving those concerns the American consumer has asked this Congress to address.

I urge my colleagues to support my substitute.

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

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 4850, and commend both Chairman MARKEY and Chairman DINGELL for their efforts on this legislation. Obviously, the issues addressed in the bill are contentious. While it will not please everyone, it draws an extremely fine line between addressing the problems of an industry and assuring the industry's continued viability.

The bill we pass today provides protection for cable consumers. The bill gives greater power to local authorities to ensure that service is responsive and prices reasonable. While I have my concerns over any increases in regulation, the bill only regulates the cable operator in the absence of effective competition. This means that when an alternate provider—be that satellites or telephone companies or other cable providers—gives some choice to consumers, then regulation will no longer be applicable or needed. This is particularly relevant in light of the recent FCC decision to allow telephone companies to carry video signals on a common carrier basis and own up to 5 percent of video programmers.

Specifically, H.R. 4850 will provide consumer protection by: first, setting customer service standards; second, requiring regulation in the absence of competition; third, establishing a formula for setting maximum price for basic cable service; and fourth, helping preserve local broadcasting through its must carry provisions. These are needed changes, and, again, apply only in areas where there is no competition.

Let us be clear. Monopolistic tendencies in any business are inherently self-destructive. Consumers do not benefit, and the complaints engendered by a few abusive operators, who have no competition, have brought on today's legislative efforts. It is an unfortunate reality that in the absence of competition, regulation is necessary to prevent such abuses. As the New York Times editorial stated earlier this week, "until the day that customers can pick and choose among multichannel providers, reregulation is needed."

The Lent substitute amendment undermines the pro-consumer steps of H.R. 4850, and does not address the fundamental issues of reform which are needed. Cable rates have jumped three times the rate of inflation since 1987, and in 1991 alone, cable rates rose at a rate 250 percent higher than other goods and services.

The primary problem with the Lent substitute is that it will provide relief for less than 10 percent of cable subscribers. The substitute proposal al-

lows for regulation of a closed basic tier which consists solely of local over-the-air broadcast stations and the public access channels. Less than 10 percent of existing cable consumers subscribe to this tier. Furthermore, the Lent substitute rolls back customer service standards to levels even less stringent than under current law. The amendment requires the FCC's minimum standards of customer service to be the highest permissible level of regulation, and prohibits municipalities from imposing stricter customer service requirements on cable operators. These provisions are even weaker than the language in H.R. 1303, the measure passed two years ago. Clearly, if you want to help the consumer, the substitute amendment does not suffice.

While the Eckart amendment on retransmission consent was not made in order, I would like to add my voice of support for this measure. The amendment will allow local broadcasters greater control over their signal, and will go a long way toward helping maintain the viability of local broadcasters.

Regarding the program access amendments, I have always felt that we need non-discriminatory language which recognizes exclusive contracts. Similar to my support for retransmission consent, there is a fundamental property right which needs to be respected when making policy decisions. While I felt the language in H.R. 4850, as reported out of subcommittee, did a fairly good job of avoiding the creation of a uniform pricing mechanism, I feel that the Manton amendment before us today does a better job of preventing discrimination while ensuring a fair degree of control over one's product.

I would briefly like to comment on two amendments which I sponsored during committee consideration and which were adopted. The first amendment increases the amount of education and public programming offered by cable companies. The second amendment calls for a study to review the number of local sporting events which are no longer being offered on broadcast television.

The first amendment will increase the amount of educational and public programming offered by cable companies. The amendment allows cable companies to substitute high-quality educational programming on channels which are currently set aside for public access programming. The original draft of H.R. 4850 allowed cable operators to reduce their leased access and public, educational and government [PEG] access obligations on a one to one basis, up to one-third, for minority programming. My amendment, which was adopted in committee, extends this exception to high quality educational programming.

Many of the access channels are underutilized. My amendment will en-

sure that there is sufficient access to national networks devoted to educational programming, while at the same time alleviating the problem of wasted channel space. It is important that positive, educational programming is available to everyone and be as accessible as possible. Television has been described as a vast wasteland—this amendment was designed to try and fill that void.

The amendment would ensure that only those channels which make sufficient programming investments to achieve quality could be substituted for channels that are currently dedicated to local public, educational, governmental and leased access purposes. Furthermore, while it would be at the operators discretion whether or not to utilize this option, such substitution could not exceed one third of the local and public access requirements. The amendment also would not alleviate any must-carry requirements defined in H.R. 4850.

The second amendment which I offered during full committee consideration dealt with the migration of sporting events from broadcast stations to cable and pay-per-view systems. The amendment requires the FCC to study the migration of programming, taking into consideration the economic and social consequences of this movement. The study will determine the effect of pay-per-view sports programming on the consumer as well as the various sports organizations. This study is an important first step toward assuring the accessibility of televised sports—especially local sports on broadcast stations. The commission will submit a sport by sport preliminary report by July 1, 1993, with their final report being due by July 1, 1994.

I would also like to briefly mention my support for the Lehman amendment to the sports migration study. This is a good amendment and I urge its adoption.

In conclusion, let me reiterate what I said during the committee consideration of this legislation. While I support the need for reform, we should strive to ensure that this is not a punitive bill. While many may wish to stick it to the cable industry, we shouldn't let a few bad actors bring disaster upon an industry. Cable TV has demonstrated that it has great potential. We shouldn't be quick to pass burdensome measures on a viable industry, and we should not allow a melt down to occur which would create a particularly onerous bill. I trust the conferees will heed this advice.

Again, I commend both the chairman of the full committee and the chairman of the subcommittee for their efforts on this legislation.

□ 2120

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from New

Jersey [Mr. RINALDO], the distinguished ranking member of the Subcommittee on Telecommunications.

Mr. RINALDO. Mr. Chairman, I rise in support of the substitute amendment offered by my good friend, the gentleman from New York who has contributed so much to this body and unfortunately is retiring at the end of the year.

This amendment that he is offering this evening effectively regulates the problem areas of the cable industry, maybe not enough for some people, but I think it does the job, and it does the job as far as excessive rates are concerned, it does the job as far as poor customer service, must-carry, and programming access.

The substitute seeks to improve upon the 1984 Cable Act without retreating to the burdensome regulatory regime that stifled the cable industry prior to the 1984 legislation.

The substitute offers a balanced approach to cable regulation which addresses those areas which need to be addressed, rates and services, without providing disincentives for investment and growth of the cable industry in general.

While some may argue, as my good friend from Maryland just did, that the substitute does not go far enough in its regulatory measures, the fact is that it reasonably balances the concerns of the broadcast industry, cable operators, cable video programmers, new competitors of cable, and most importantly, the consumer. Moreover, the substitute reflects the consensus that members of the committee, and House, reached just 2 years ago.

Finally, and I think most importantly, the substitute represents legislation which could become law.

I know there are some people here who say, "Put a bill on the President's desk that he will not sign and it gives certain people a political advantage," and it is a campaign year, and I recognize that, but this particular substitute is a fair and balanced piece of legislation which could be realistically implemented, and not simply a proposal that runs the risk that it will be vetoed and therefore be of no benefit to anyone.

If we want to protect consumers, if we are really sincere in our desire to do that, then we will pass a bill that can be signed into law, and we will forget about politics and do the job that the consumer demands. That is the main reason I am supporting this substitute.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, I rise in support of H.R. 4850, and I am in reluctant opposition to the amendment offered by my friend, the gentleman from New York [Mr. LENT].

We have been asked to vote today for this substitute as a moderate alter-

native to H.R. 4850 that will protect consumers without stifling the growth of the cable industry. In fact, the Lent substitute protects cable operators at consumers' expense.

The Lent substitute only regulates a basic tier consisting solely of over-the-air broadcast stations; no regulation of cable programming is permitted. Popular programming services such as CNN, C-SPAN, ESPN, and Arts and Entertainment would be put beyond the reach of Federal, State, or local regulators. However outrageous the price they charge or poor the service they offer, and we have seen much of both, cable operators would be exempt from all regulation of cable offerings.

Further, the Lent substitute regulates a service that few consumers want. According to the Wall Street Journal, only 10 percent of cable consumers nationwide subscribe to the basic broadcast service. The Lent substitute would, therefore, protect a handful of subscribers who use cable as an antenna service and leave the vast majority of consumers, especially on Long Island, powerless to fight skyrocketing rates for popular programming services.

Please, vote "no" on the Lent amendment and provide consumers with real protection.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, what a difference 2 years make. It was just that long ago that we in the House last considered legislation designed to address the concerns of the cable consumer. I vividly remember voting for legislation—H.R. 5267—which the National Association of Broadcasters claimed "goes a long way toward resolving many of the problems consumers and broadcasters face in the video marketplace." What made the occasion particularly memorable was receiving a press release from the Consumer Federation of America praising my vote cast for the good of the cable consumer.

Although the Lent substitute is substantially similar to the House-passed legislation of 2 years ago, I doubt my vote in its favor will produce similar commendations. In fact, one interest group has creatively characterized the modest re-regulatory provisions of the Lent amendment as "a serious blow to the interests of cable consumers." This leads me to wonder what has changed so significantly since the closing months of the 101st Congress to warrant such a change of heart.

The fact is, having participated in subcommittee and full committee consideration of H.R. 4850, I have yet to hear a compelling reason as to why the legislation of 2 years ago is not every bit as appropriate today. Even so, the Lent amendment goes farther than the

landmark agreement between broadcasters and cable on must-carry. It includes program access language which satisfies many of the concerns of the satellite dish owners. And it ensures the availability of an affordable "lifeline" tier while requiring compliance with customer service standards.

The most appealing quality of the Lent amendment from a cable consumer's perspective, however, may well be its future. Passage of this substitute will make it more likely that amendments to the Cable Act will be signed into law and less likely that we will be debating this issue two years from now. For as much as I know our constituents enjoy hearing us discussing issues of importance to them, they would probably prefer results.

I urge adoption of the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I rise to express my strong support for this vital cable television bill. For several years I have been concerned about the increase in cable rates and the service problems consumers are facing. I would also like to express my appreciation to Chairman MARKEY and Chairman DINGELL for their hard work in getting this bill before us today.

One of the prime motivations behind the passage of the Cable Communications Policy Act of 1984 was a desire to foster the development of a healthy cable television industry. By any standard, that goal has been achieved. Everything connected with cable television is up—profits, number of subscribers, value of individual cable systems, and of course, rates. The average price for cable service rose by nearly 20 percent in 1987 and 12.6 percent in 1988. This increase has far outdistanced increases in the Consumer Price Index. I think we can all agree that the performance of the cable industry has not lived up to the promise.

Cable television now reaches 60 percent of U.S. households. In most service areas, no meaningful competition exists for the local cable provider. When Congress deregulated cable prices in 1984, most of the leverage State and local franchising authorities had over cable companies was also removed. We are now faced with a situation in which cable operators can raise rates and the local authorities have no control over the increases.

Rates have been rising at an unreasonable rate that has surpassed inflation. In my hometown of Springfield, the rate for basic service has increased 73 percent since 1986. One rate increase was as high as 15 percent. These increases are not fair to the consumer.

The number of stations has increased, but many customers believe they are spending more money and receiving less programming in return.

None of this is news to many of you—our mail has included one letter after another complaining about cable service. Before 1984, there was local input into major cable television decisions in each community. With deregulation, that community involvement was lost. This bill restores a measure of local control over service and rates.

I am also greatly concerned over the loss of free television. The Olympics begin in less than a week. Many Olympic events this year are available only on pay cable channels. Many other sporting events are moving over to pay channels. It is a trend that threatens to lead to the day when major sporting events—including those involving teams and leagues that have greatly benefitted from tax breaks and other Government assistance—are available only to those who can pay to see them.

Mr. Chairman, in 1989 the House approved a cable television re-regulation measure that did not make it to the President's desk. Since that time the situation has only gotten worse. Cable rates are up, service has not improved and the consumers of America are clamoring for some commonsense regulations for this industry. The cable industry benefits from the use of public right-of-way and is—in most communities—a monopoly. The industry has not been responsive to local communities and these regulations are the result of their misuse of 8 years of deregulation and their grab for unreasonable profits. I urge passage of H.R. 4850.

□ 2130

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

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

Mr. Chairman, in our zeal to re-regulate and get rates under control, let us not squander the opportunity we have to pass meaningful and workable cable legislation.

H.R. 4850 goes way beyond simple rate regulation of the basic tier of the kind we passed in bipartisan fashion just a couple years ago.

I guarantee you this legislation will result in rate increases. Clearly, the \$5 billion or so investment for addressable converters that are going to be needed to comply with H.R. 4850 is recoverable from consumers under the rate regulations of the bill. Consumers will pay.

But I ask you, is the Government-mandated investment the right investment in this growth industry?

Also, let us not forget the largest cost of regulation will not be borne by the cable companies. Do you think all this regulation comes free? It will ultimately be paid in the billions of dollars in costs for lawyers and consultants. It will be paid by the consumers, and all these lawyers and consultants will be

involving themselves in cable rate regulation proceedings required under H.R. 4850 at the Federal court level, at the State court level.

In the last analysis, what will the consumer receive? Lower rates? I emphatically say "no." Rather, the consumer will experience higher rates and the thing that will gall him or her the most is that they will have received no value for their money. They will not have received new programming, not better technology, not better service, not protection.

No, but they will be burdened by a new and unseen bureaucracy.

The Lent substitute is modest. It is workable. It protects against rate increases at a basic tier. It does not get into the whole enchilada.

Vote for the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. AU COIN].

Mr. AU COIN. Mr. Chairman, I rise in opposition to the Lent substitute. The deregulated cable TV industry was supposed to create competition and increase consumer choice. But it did not.

Instead, what consumers got are price-gouging cable monopolies. According to a leading consumer group, those monopolies are overcharging American consumers more than \$6 billion a year. Six billion dollars.

You know, cable deregulation is a snapshot of the Reagan-Bush economic debacle.

The big cable companies have been made into a cash cow—and consumers are the goat. Cable monopolies have seen their revenues soar since 1986, consumers have seen cable rates skyrocket at more than twice the rate of inflation.

But that is only the national average. In places in Oregon—and other spots around the country—prices have hit the stratosphere, because there is no way to stop price gouging. Let me give you the example of Salem, OR.

In 6 years, cable costs in Salem skyrocketed 134 percent—with no end in sight.

That is not a license to do business. That is a license to steal.

Let us dump the failed Reagan-Bush experiment in deregulation—and put people first for a change. Oregon cable customers are sick and tired of paying more for less. It is time we revoke the cable monopolies' license—and put the American consumer back in the drivers seat.

The way to do that is to defeat this substitute. It is a wolf in sheep's clothing that would gut the consumer protections of the committee's bill.

The Senate defeated a similar measure offered by the junior Senator from Oregon, and the House should do the same today.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I would like to engage in a colloquy with the chairman of the subcommittee.

Section 618(e) of H.R. 4650 governs the time period that a franchising authority may consider a cable operator's transfer request. The subsection states

that a franchising authority has 120 days to act on such a request that, and I quote, "contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority." By this statement, is it the committee's intent that the time period not begin until the transfer request is accompanied by information required by both the FCC and the franchising authority?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield, yes, the committee does not intend for the 120-day period to begin until the transfer request is accompanied by information required by both the franchising authority and the FCC.

Mr. SCHUMER. I raise this issue because there is some confusion caused by the committee report accompanying H.R. 4850. The report language would indicate, consistent with the clear consistent language, that the 120-day period does not begin until the franchising authority has such information. Is that the committee's intent?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield again, yes. The franchising authority has the right to request information in addition to the information that is requested by FCC regulation.

Mr. SCHUMER. And one more question in this colloquy on consumer electronics equipment compatibility.

Section 624A(b) of H.R. 4850 requires that the Federal Communications Commission, in consultation with representatives of the cable industry and the consumer electronics industry, report to Congress on the means of assuring compatibility between televisions and video cassette recorders and cable systems.

Does the committee intend for the Commission to consult with such representatives in preparing the report to Congress and in drafting regulations?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield further, yes. The committee fully expects the Commission to consult representatives of franchising authorities and consumers in drafting the congressional report and regulations. In addition to such consultations, we expect the Commission, as it often does in creating congressional reports and implementing regulations, will institute rulemaking and inquiry proceedings that give all interested parties an opportunity to be heard.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for this colloquy and for his leadership on this issue.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD], a Member who is rapidly rising in seniority on the committee.

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

Mr. Chairman, I rise in support of the Lent substitute and I want to thank the gentleman from New York for his continuing efforts on behalf of sound and workable national cable policy.

I believe the Lent substitute is the proper balance between over-regulation and not enough regulation. I think it will control the excesses of cable while still allowing cable the latitude to grow and enhance its product.

It has an opportunity of being supported by the administration and becoming public law.

Most importantly, I think the Lent substitute will better serve the interests of our constituents who are cable customers.

It is very, very important that this bill not become a political exercise, but it be in such form that it can be enacted into law.

I think the Lent substitute makes it such that it will become law and give cable the proper amount of control that has been sadly lacking over the past few years.

I want to see a bill put into law and I think the substitute will do the job. I urge a yes vote on the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I rise in opposition to the Lent substitute.

I think it is important that we set down precisely what is occurring here. We just adopted a proconsumer amendment that establishes access to programming for competitive video systems. The House adopted that by a wide margin.

Were we to adopt the Lent substitute, we would be returning to the Manton proposal in essence.

Second, the Lent substitute is not even what we passed several years ago. The bad actor provisions are gone. It is less of a regulatory restraint on the cable companies being bad actors than even the modest bill we passed several years ago. An awful lot of bad acting has occurred, as we know, in the last 2 years.

But let me give a reason to those of you who have concerns about the regulatory features of the Markey bill, why you should vote against the Lent substitute and vote eventually for the bill as the House has now amended it with the Tauzin amendment.

You see, under the Markey bill, the regulations that are designed to prevent bad actor cable companies, the regulations that are designed to protect those communities where there is no competition, those regulations automatically disappear the moment that effective competition comes to your community.

The good news is that with the adoption of the Tauzin amendment just a little while ago, you have provided a mechanism for competition to come to your community I think very rapidly.

When that competition arrives, when effective competition occurs, you will not only see cable rates drop in your community so that regulations do not really become necessary, but under the Markey provisions those regulations are not even effective anymore.

□ 2140

The Tauzin amendment cures any concern that you ought to have if you had any about overregulation.

I urge you to reject Lent and support the Markey bill.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT], a member of the committee.

Mr. HASTERT. I thank the gentleman for yielding.

Mr. Chairman, it is interesting that the gentleman from Louisiana just comes up and talks about competition. Let me tell you, ladies and gentlemen, this bill is not a competition bill, it is a regulation bill. What does that mean? Let us talk about common sense. This bill says the FCC shall regulate. It does not say how it shall regulate, it does not say that it is going to regulate rate of return, it does not say it is going to regulate on a fixed-rate basis, it does not say it is going to regulate on a variable-rate basis, it just says "regulate."

It says to regulate every cable television station in this country, thousands of them.

Where do we need to be, and what does this do? If you regulate, you limit people's choice. When you regulate any entity that is not a monopoly or could not be or may evolve out of monopolism, what you do is you say you limit people's choice, you give them the very least menu of alternatives. What you also do is say that you, as the operator, get a fixed rate of return. You do not offer the new technologies, you do not offer the new ideas.

What do we have coming for us and toward us? We have new technologies. We have wireless cable, we talked about that. We have micro dishes. We have telecom entry. We have low-powered TV. Those are new technologies.

If you allow them to compete and give them the ability to compete—and that is what the Lent bill is, it is less regulatory, it opens up the future to new technology, and that is certainly the path that we ought to take, not heavy-handed regulation.

It does not work, the consumer does not win. This world and this country does not stay up with the technological base of the world.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, my colleagues, since the mid-1980's, cable has enjoyed the best of both worlds; no competition and no regulation.

Unfortunately, Mr. LENT only restores one-half of that equation here. He does not give them any competition, and he persists in ignoring the regulatory problems that the legislation we have before us seeks to address.

Everyone understands what the real problems are with the cable industry. Rapidly rising rates, miserable customer service, and little or no competition.

If you like the status quo, if you honestly believe that the consumers of America, who now find that cable TV has for better or for worse become a necessity to them—witness Americans glued to CNN during the war in the Middle East just 1 year ago—then go ahead and turn the clock back, because the reality is if you believe we made a mistake in 1984 by surrendering the authority of local government to participate in an important granting of a franchise for consumers, then you realize that we needed to correct that mistake today.

Let me draw my colleagues' attention to one other point: Over 330 of you joined us in supporting Mr. TAUZIN's amendment, which would truly lower rates by providing more alternatives, real competition.

If you voted for the Tauzin amendment, you cannot now vote for the Lent substitute. It would be the height of hypocrisy; we would marvel at the gymnastic routines on the floor of this House by voting for Lent after having voted for Tauzin that would earn you a gold medal in Barcelona in just 1 week.

The fact of the matter is that the most master contortionists cannot have it both ways. Having adopted the Tauzin substitute, we have now told our constituents that we want real competition in a regulatory framework that guarantees better customer service, lower rates and real opportunities in the future to insure real innovative competition.

Now, if you care about sports, I think you ought to care an awful lot about the Lent substitute because there is a little kicker in here that is real interesting. It takes out from the regulatory penumbra envisioned under the Markey legislation that we have before us a popular little item known as ESPN. If you want to move basic sports programming such as ESPN from the regulated tier to the unregulated tier, and thus pay-per-view, go ahead and vote for the Lent substitute. But be fully prepared to tell your constituents that the Discovery Channel, Arts and Entertainment, C-SPAN and CNN, which have now become part of the staple of television service in America, now, go to pay-per-view.

I am not prepared to do that. The reality is that the Lent substitute will prevent cable operators from offering popular cable programming; it will reduce customer service standards to a simple wish and hope over the telephone.

The Lent substitute is not much more than what we have enjoyed in the past, and that is business as usual, a business that has gotten too expensive for all our constituents.

The CHAIRMAN. The Chair wishes to advise Members controlling the debate that the author of the amendment has 6 minutes remaining and the Member in opposition has 6½ minutes remaining.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], a member of the committee.

Mr. FIELDS. Mr. Chairman, I rise in strong support of the substitute offered today by the ranking Republican member of the Energy and Commerce Committee, NORM LENT. The Lent substitute is a commonsense approach to the perceived problems in the cable industry.

As many of my colleagues are aware, this substitute is almost identical to cable legislation the House overwhelmingly approved 2 years ago. This measure provides the best solution to the problem of escalating cable rates by combining reasonable regulatory constraints on the cable industry with incentives such as improved market access to cable programming for competing video delivery systems such as satellite, DBS, and microwave services.

Those people who are standing up saying that you cannot vote for Lent if you voted for Tauzin, Tauzin is only one part, a small part of the bill.

I will admit that while the debate today lacks the important, procompetitive elements of retransmission consent and allowing the telephone companies to compete with cable, the Lent proposal is the only approach which has the potential of being enacted this year.

That's why, I urge my colleagues to support the Lent substitute.

So, if you want to see a cable bill, you had better vote for the Lent substitute. The administration has vowed to veto H.R. 4850 in its current form. Additionally, the FCC has warned that the costs of regulating cable rates under this legislation would be unduly burdensome. While the heavy-handed regulatory approach embodied in H.R. 4850 will do absolutely nothing to solve the problems of high cable rates and poor customer service, it will stifle cable's ability to offer new and innovative programming and services. That is why I urge my colleagues to vote for the only alternative that has a chance of being enacted, and that is that Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the chairman of the subcommittee.

Let me thank the gentleman from Massachusetts for yielding this time and commend him on a job very well done.

Mr. Chairman, I rise in support of his bill and in opposition to the substitute offered by the gentleman from New York. The bill before us, which I hope we retain tonight, is procompetitive, it is pro-consumer, it is a good bill.

The Lent substitute is better than today's situation, but it lacks the reforms that are in the Markey approach, particularly in rate-setting, in which under the bill before us tonight local governments will have a role to play in rate-setting. That is a big issue in my community of Louisville.

There is also additional consumer and customer service regulation in the Markey bill. This bill promotes cable competition, and it includes the Tauzin amendment, not in the Lent substitute, which I think is very important because it limits the ability of cable-affiliated programming from being somehow monopolized or kept away from cables multi-channel competitors or have excessively high rates charged for it.

□ 2150

So, all in all the substitute offered by the gentleman from New York [Mr. LENT] is an advance on today's cable situation, but the real bill before us, and we should vote for it, is the Markey approach.

Oppose Lent. Support Markey.

Mr. LENT. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY], a member of the committee.

Mr. OXLEY. Mr. Chairman, I rise in support of the substitute offered by the gentleman from New York [Mr. LENT].

I have before me three editorials, the first from the Boston Globe, the second one from the New York Times, and the third one from the Cleveland Plain Dealer, all saying that the Markey approach is overregulation, it is one that would kill competition, would set up a regulatory scheme and is the wrong way to go. Essentially the substitute is the alternative and, indeed, the only viable alternative to this overregulatory scheme that is proposed in the Markey approach. These three newspapers do not have a lot of friends in the cable industry, but they recognize how important it is to provide competition in this industry, and this bill simply does not do it. At least we can open the door to some competition with the Lent substitute, and it is the only bill that has a chance of passing in this legislative session.

I say to my colleagues, "I urge you to support the Lent amendment as the only real alternative to competition in the cable industry."

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time in opposition, and I will complete debate for our side.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 5½ minutes remaining and is recognized to close debate on his side.

Mr. MARKEY. Mr. Chairman, I rise in strong opposition to the amendment in the nature of a substitute to H.R. 4850 by the ranking minority member of the Committee on Energy and Commerce, the gentleman from New York [Mr. LENT].

This is billed as a moderate alternative to H.R. 4850. The substitute, however, is a mere figleaf of protection for consumers beleaguered by skyrocketing cable rates.

The gentleman from Michigan [Mr. DINGELL] and I, working over the last year, have tried to construct a bill here for presentation out on the floor that would reflect the need for consumer protection across this country and a dramatic increase in rates for consumers over the last 8 years. That is what this bill does, and that is why we are proud of it from the Committee on Energy and Commerce, and the full committee chairman, and I and all of the members of our committee have tried hard to construct that piece of legislation for our colleagues.

Now my colleagues will hear that the Lent substitute closely resembles H.R. 1303, which contains provisions identical to cable legislation that passed the House 2 years ago and, therefore, should be acceptable today. Nothing could be further from the truth. H.R. 1303, which was a bill which we did produce last year, is a bill which I know. I know H.R. 1303 because I wrote H.R. 1303. H.R. 1303 was a friend of mine. And, Mr. Chairman, the Lent substitute is no H.R. 1303. It in no manner, shape or form resembles the work which the gentleman from Michigan [Mr. DINGELL] and I brought out to this floor 2 years ago, nor that passed unanimously on this floor. In fact, the bill which we are talking about here tonight is about as opposite of 1303 as any bill could be. It is not the son of 1303; it is not even a distant cousin to 1303. In fact, the Lent substitute and H.R. 1303 do not even share a common strand of DNA. On every significant proconsumer and procompetition provision, the Lent substitute is weaker—far weaker—than H.R. 1303.

First of all, Mr. Chairman, the Lent substitute prohibits any regulation of rates for cable programming. Let me repeat, under the Lent substitute, no local, State, or Federal authority would be permitted to regulate the rate charged for any cable offering, including popular advertiser-supported channels like CNN and ESPN, and premium cable channels like HBO. No matter how high the rates charged or how meager the services offered by a cable operator, every cable operator would be free from regulation by any regulatory body whatsoever.

This amendment is a license for mischief—worse for consumers than the way things are today.

The only tier of service that would be regulated under the Lent substitute is

a tier of channels that most consumers can get for free today—a tier consisting only of local, over-the-air television stations and public access channels. The Wall Street Journal reports that less than 10 percent of cable subscribers nationwide purchase this basic tier. By its own terms, therefore, the Lent substitute promises to protect only 10 percent of Americans. And no one can seriously say that helping 10 percent of our constituents is consumer protection.

Second, the Lent substitute waters down the customer service protections of both H.R. 1303 and H.R. 4850. Under the Lent substitute, the minimum standard for customer service set by the Federal Communications Commission is the only permissible standard. State and local authorities are prohibited from enacting or enforcing any sort of tougher customer service standards to protect their own local consumers.

Third, the Lent substitute leaves cable systems vulnerable to takeover by foreign entities. It preserves a giant loophole in our existing telecommunications law that permits foreign ownership of cable television systems, direct broadcast satellite systems, and other new video distribution technologies while prohibiting foreign ownership of telephone and broadcasting companies. There is surely no reason for us to invite a breakdown of nearly 60 years of sound and consistent telecommunications policy, or to permit foreign ownership or domination of the next generation of telecommunications technologies.

Fourth, the Lent substitute forestalls the development of a competitive video marketplace. By enabling programmers—even vertically integrated ones—to enter into exclusive contracts with cable operators, the Lent substitute sanctions anticompetitive practices of cable operators that have the effect of denying access to programming to their would-be competitors.

Finally, the Lent substitute allows speculators to flip cable systems like flapjacks. It permits investors to trade cable systems anytime at will, to overextend their debt loads, and then to send cable subscribers the bill.

Voters say they want a change in our country. If the amendment offered by the gentleman from New York [Mr. LENT] is passed, the only thing consumers will have is spare change. There will be nothing left after they pay their cable bills.

The Lent amendment is bad for cable consumers. Vote "no" on the Lent substitute.

Mr. LENT. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. LENT] is recognized for 3 minutes.

Mr. LENT. Mr. Chairman, it is seldom that I agree with my distinguished

colleague, the gentleman from Massachusetts [Mr. MARKEY], but I have to agree with him tonight when he said this bill is not the bill he authored 2 years ago which passed this House, H.R. 1303. This bill is better. This substitute is leaner. This substitute is cleaner. And one very, very important difference: The Lent substitute will be signed into law, will be signed into law.

H.R. 1303 was a bipartisan bill, although it was authored by the gentleman from Massachusetts [Mr. MARKEY] initially, and let me say this for that legislation: It reflected a calmer and more balanced approach to responding to consumers' concerns about rates and services. When the Committee on Energy and Commerce this year began deliberating the cable issue, we Republicans thought that we could return, at least, to H.R. 1303 with all its imperfections as a starting point, but I do not need to remind anybody here tonight that this is an election year, and politics is what this is all about.

The cable landscape has not changed much in the past 2 years. As a matter of fact, if my colleagues look at the GAO report that the gentleman from Massachusetts, the distinguished subcommittee chairman, ordered about pricing of cable, it points out that nobody in pricing has changed in the last 2 years in terms of cable rates for basic service.

□ 2200

According to that study, prices have actually moderated over the past 2 years, and today essentially cable rates reflect the rate of inflation. But the political landscape has changed, with the result that we have a bill before us tonight, which, as my colleague from Ohio indicated, the gentleman's hometown newspaper, the Boston Globe, the Cleveland Plain Dealer, and even that bastion of liberalism, the New York Times, have criticized as going over the line in terms of overregulation and micromanagement.

Mr. Chairman, that ought to give every Member here who has any idea of voting for the underlying bill a question. This bill, this bill that underlies us here tonight, will never become law. We all know that as we sit here tonight. Yesterday, and we have all seen it, the administration issued a statement clearly signaling a veto.

Mr. Chairman, let me say in conclusion that if you are truly in favor of real legislation, I mean thoughtful, meaningful, measured controls on the cable industry, you should vote for this Lent substitute. This substitute is a measure that will be signed into law by the President. This is a measure that will resolve the concerns of constituents about cable. This is a measure that Members pretty much voted for 2 years ago. I urge Members to forego the meager political triumph they may be trumpeting here tonight and vote

for the substitute and against the Markey bill.

Mr. FRANKS. Mr. Chairman, why is it that when Congress votes on legislation we put business and the consumer at odds with each other? I believe the two go hand in hand. Good business cannot survive without consumers and consumers cannot survive without good business. The proponents of H.R. 4850 would like us all to think this is a pro-consumer bill because it puts an entire industry—a business—under the oppressive foot of government control. I believe H.R. 4850 is an overly regulatory bill, which is not only detrimental to the consumer but to good business.

I don't think there is a question in anyone's mind that there are some cable companies who have taken advantage of their subscribers. Consumers have the right to fair prices and service, which some have not received. These companies should and will be dealt with. The question is, how do we deal with the bad apples while not damaging the innovation of the good? I believe that answer is to increase competition.

We need to enact measures that will bring down barriers between industries and increase competition among cable companies. We need to encourage satellite broadcasters, wireless systems, and telephone companies to offer competitive video services. Minus heavy-handed regulation, cable has brought into our homes, a variety of creative programming. With increased competition, we will receive more of this inventiveness and originality. And with increased competition I believe we will see rates go down and customer service go up.

The New York Times reiterates this view. In an editorial on July 20, 1992, the Times explained that the answer to bad service and excessive rates is not equally excessive rate regulation. Times change, technology changes and encouraging competition is what will keep pace with these changes, not stiff regulations. These regulations also are not implemented free of charge. Oppressive regulations will force companies to pay for the additional cost by charging the consumer higher rates or severely limiting any work toward new and better programming and service.

I read an article in the Washington Post that described the effects of competition. The article related the story of a cable company that continued to raise its rates with no expansion in service. As soon as a competing system began laying wires in the area, the company's rates dropped and it upgraded its service. This is the effect of competition.

Mr. Chairman, today I will vote for the Lent substitute to H.R. 4850 because it focuses on bringing in competition. It would protect the consumer and business with limited regulation while encouraging much needed competition. H.R. 4850 would enact overly burdensome regulations that would drive up costs, to be paid by taxpayers and consumers. It is not pro-consumer. And if it is not pro-consumer, it is not pro-business. Mr. Chairman, it is time we recognize the positive relationship between good business and the consumer. If we don't we will continue to enact legislation which harms them both.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. LENT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LENT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 266, not voting 24, as follows:

[Roll No. 312]

AYES—144

Allard	Gradison	Olin
Allen	Green	Orton
Andrews (NJ)	Gunderson	Oxley
Archer	Hall (OH)	Packard
Army	Hammerschmidt	Parker
Baker	Hancock	Pastor
Ballenger	Hastert	Paxon
Barnard	Hefley	Payne (VA)
Barrett	Herger	Penny
Bentley	Hobson	Pickett
Billakis	Holloway	Porter
Bliley	Hopkins	Pursell
Boehner	Horton	Quillen
Broomfield	Houghton	Regula
Burton	Hunter	Rhodes
Callahan	Inhofe	Ridge
Camp	Ireland	Riggs
Campbell (CA)	James	Rinaldo
Campbell (CO)	Johnson (CT)	Ritter
Chandler	Johnson (TX)	Rogers
Clinger	Johnston	Rohrabacher
Coble	Klug	Ros-Lehtinen
Combest	Kolbe	Roth
Cox (CA)	Kyl	Roukema
Crane	Lagomarsino	Santorum
Cunningham	Lent	Saxton
Dannemeyer	Lewis (CA)	Schaefer
Darden	Lewis (FL)	Schiff
Davis	Livingston	Schroeder
DeLay	Lowery (CA)	Shaw
Doollittle	Luken	Shuster
Dornan (CA)	Marlenee	Smith (IA)
Dreier	Martin	Smith (NJ)
Duncan	McCandless	Smith (OR)
Edwards (OK)	McCollum	Smith (TX)
Emerson	McCrery	Spence
Ewing	McDade	Stearns
Fawell	McEwen	Stump
Fields	McMillan (NC)	Taylor (NC)
Fish	Michel	Thomas (CA)
Franks (CT)	Miller (OH)	Towns
Galleghy	Miller (WA)	Upton
Gallo	Molinar	Vander Jagt
Gekas	Moorhead	Walker
Gillmor	Morrison	Weldon
Gingrich	Myers	Young (AK)
Goodling	Nichols	Zeliff
Goss	Nussle	Zimmer

NOES—266

Abercrombie	Borski	Cooper
Ackerman	Boucher	Costello
Alexander	Boxer	Cox (IL)
Anderson	Brewster	Coyne
Andrews (ME)	Brooks	Cramer
Andrews (TX)	Browder	de la Garza
Annunzio	Brown	DeFazio
Anthony	Bruce	DeLauro
Applegate	Bryant	Dellums
Aspin	Bunning	Derrick
Atkins	Bustamante	Dickinson
AuCoin	Byron	Dicks
Bacchus	Cardin	Dingell
Barton	Carper	Dixon
Bateman	Carr	Donnelly
Bellenson	Chapman	Dooley
Bennett	Clay	Dorgan (ND)
Bereuter	Clement	Downey
Berman	Coleman (MO)	Durbin
Bevill	Coleman (TX)	Dwyer
Bilbray	Collins (IL)	Early
Blackwell	Collins (MI)	Eckart
Boehlert	Condit	Edwards (CA)
Bonior	Conyers	Edwards (TX)

Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Grandy
Guarini
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (GA)
Lightfoot
Lipinski

Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Oliver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (MN)
Petri
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Roberts
Roe
Roemer
Rose
Rostenkowski
Rowland

Roybal
Russo
Sabo
Sanders
Sangrmeister
Sarpalius
Savage
Sawyer
Scheuer
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Snowe
Solomon
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sunquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Trafcant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wyllie
Yatron
Young (FL)

NOT VOTING—24

Coughlin
Dymally
Felghan
Frost
Hansen
Hatcher
Hyde
Jones (NC)

Kolter
Laughlin
Lehman (FL)
Levine (CA)
Mineta
Moran
Peterson (FL)
Ray

Solarz
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Weber
Wilson
Yates

□ 2223

The Clerk announced the following pair:

On this vote:

Mr. Thomas of Wyoming for, with Mr. Yates against.

Mr. SKAGGS changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. MFUME, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, pursuant to House Resolution 523, 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.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 340, nays 73, not voting 21, as follows:

[Roll No. 313]

YEAS—340

Abercromble
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Bateman
Beilenson
Bennett
Bentley
Berester
Berman
Bevill
Billbray
Billrakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks

Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Cardin
Carper
Carr
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
Davis
de la Garza
DeFazio

DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)

Ford (TN)
Frank (MA)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martin

Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Oliver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland

NAYS—73

Allard
Archer
Army
Baker
Barnard
Barrett
Barton
Billey
Boehner
Burton
Campbell (CA)
Campbell (CO)
Chandler
Clinger
Combest
Cox (CA)
Crane
Cunningham
DeLay
Dornan (CA)
Dreier
Fawell
Fields
Franks (CT)
Gillmor
Gingrich
Goodling
Hastert
Hefley
Herger
Holloway
Hopkins
Horton
Hunter
Ireland
Johnson (TX)

Kolbe	Mollinari	Roukema
Kyl	Myers	Schaefer
Lagomarsino	Olin	Schroeder
Lent	Orton	Shuster
Lewis (CA)	Oxley	Skaggs
Lowery (CA)	Packard	Smith (OR)
Luken	Parker	Smith (TX)
Marlenee	Penny	Stump
McCandless	Pickett	Thomas (CA)
McCrery	Pursell	Walker
Michel	Rhodes	Zeliff
Miller (OH)	Ritter	
Miller (WA)	Rohrabacher	

NOT VOTING—21

Coughlin	Jones (NC)	Solarz
Dymally	Kolter	Tallon
Feighan	Laughlin	Thomas (GA)
Frost	Lehman (FL)	Thomas (WY)
Hansen	Levine (CA)	Traxler
Hatcher	Peterson (FL)	Weber
Hyde	Ray	Yates

□ 2242

Mr. SKELTON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MARKEY. Mr. Speaker, pursuant to the rule, I move to take from the Speaker's table the Senate bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY].

The motion was agreed to.

MOTION OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MARKEY moves to strike out all after the enacting clause of S. 12 and insert in lieu thereof the text of H.R. 4850, as passed by the House, as follows:

H.R. 4850

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 "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS; DEFINITION.

(a) FINDINGS.—Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Passage of the Cable Communications Policy Act of 1984 resulted in deregulation of

rates for cable television services in approximately 97 percent of all franchises. A minority of cable operators have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates. The Federal Communications Commission's rules governing local rate regulation will not provide any protection for more than two-thirds of the nation's cable subscribers, and will not protect subscribers from unreasonable rates in those communities where the rules apply.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for local franchising authorities and the Federal Communications Commission to prevent cable operators from imposing rates upon consumers that are unreasonable.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling interest in making all nonduplicative local public television services available on cable systems because—

"(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

"(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of \$10,800,000,000 between 1972 and 1990 that provides public service programming that is responsive to the needs and interests of the local community;

"(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than \$3,000,000,000 in public broadcasting between 1969 and 1992; and

"(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems.

"(9) Cable systems should be encouraged to carry low power television stations licensed to the communities served by those systems where the low power station creates and broadcasts, as a substantial part of its programming day, local programming.

"(10) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(11) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audience. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent reimposition of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(12) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operator's provision of this access and the operator's economic incentives described in paragraph (11), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(13) Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the 'A/B' input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

"(14) At the same time, broadcast programming has proven to be the most popular programming on cable systems, and a substantial portion of the benefits for which consumers pay cable systems is derived from carriage of local broadcast signals. Also, cable programming placed on channels adjacent to popular off-the-air signals obtains a larger audience than on other channel positions. Cable systems, therefore, obtain great benefits from carriage of local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster. This has resulted in an effective subsidy of the development of cable systems by local broadcasters. While at one time, when cable systems did not attempt to compete with local broadcasters, this subsidy may have been appropriate, it is no longer and results in a competitive imbalance between the two industries."

(b) DEFINITION.—Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(1) by redesignating paragraphs (11) through (16) as paragraphs (12) through (17); and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming;"

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

"(1) IN GENERAL.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

"(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b) of this section; and

"(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c) of this section.

"(3) QUALIFICATION OF FRANCHISING AUTHORITY.—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

"(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

"(4) APPROVAL BY COMMISSION.—A certification filed by a franchising authority under paragraph (3) shall be effective 30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

"(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

"(5) REVOCATION OF JURISDICTION.—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the

Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commission shall revoke the jurisdiction of such authority.

"(6) EXERCISE OF JURISDICTION BY COMMISSION.—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

"(b) ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.—

"(1) COMMISSION REGULATIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) BASIC SERVICE TIER RATES.—A formula to establish the maximum price of the basic service tier, which formula shall take into account—

"(i) the number of signals carried on the basic service tier;

"(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing such signals, including signals and services carried on the basic service tier pursuant to paragraph (2)(B), and changes in such costs;

"(iii) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(iv) a reasonable profit (as defined by the Commission) on the provision of the basic service tier;

"(v) rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(vi) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers; and

"(vii) any amount required, in accordance with subparagraph (C), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise.

"(B) EQUIPMENT.—A formula to establish, on the basis of actual cost, the price or rate for—

"(i) installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (3); and

"(ii) installation and monthly use of connections for additional television receivers.

"(C) COSTS OF FRANCHISE REQUIREMENTS.—A formula to identify and allocate costs attrib-

utable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

"(D) IMPLEMENTATION AND ENFORCEMENT.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may enforce the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection;

"(ii) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such formulas, standards, guidelines, and procedures;

"(iii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

"(iv) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

"(E) NOTICE.—The procedures prescribed by the Commission pursuant to subparagraph (D)(i) shall require a cable operator to provide 30 days advance notice to a franchising authority of any increase of more than 5 percent proposed in the price to be charged for the basic service tier.

"(F) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—

"(A) MINIMUM CONTENTS.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

"(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(iii) Any signal of any broadcast station that is provided by the cable operator to any subscriber.

"(B) PERMITTED ADDITIONS TO BASIC TIER.—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under paragraph (1)(A).

"(3) BUY-THROUGH OF OTHER TIERS PROHIBITED.—

"(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (2) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

"(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a

cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—

"(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

"(ii) 5 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

"(C) **STUDY; EXTENSION OF LIMITATION.**—(i) The Commission shall, within 4 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to consider (I) the benefits to consumers of subparagraph (A), (II) whether the cable operators or consumers are being forced (or would be forced) to incur unreasonable costs for complying with subparagraph (A), and (III) the effect of subparagraph (A) on the provision of diverse programming sources to cable subscribers.

"(ii) If, in the proceeding required by clause (i), the Commission determines that subparagraph (A) imposes unreasonable costs on cable operators or cable subscribers, the Commission may extend the 5-year period provided in subparagraph (B)(ii) for 2 additional years.

"(4) **NOTICE OF FEES, TAXES, AND OTHER CHARGES.**—Each cable operator may identify, in accordance with the formulas required by clauses (vi) and (vii) of paragraph (1)(A), as a separate line item on each regular bill of each subscriber, each of the following:

"(A) the amount of the total bill assessed as a franchise fee and the identity of the authority to which the fee is paid;

"(B) the amount of the total bill assessed to satisfy any requirements imposed on the operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels; and

"(C) any other fee, tax, assessment, or charge of any kind imposed on the transaction between the operator and the subscriber.

"(c) **REGULATION OF UNREASONABLE RATES.**—(1) **COMMISSION REGULATIONS.**—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

"(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any franchising authority or other relevant State or local government entity alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall set forth the minimum showing that shall be required for a complaint to establish a prima facie case that the rate in question is unreasonable; and

"(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of such complaint and that are determined to be unreasonable.

"(2) **FACTORS TO BE CONSIDERED.**—In establishing the criteria for determining in individual cases whether rates for cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

"(A) the rates for similarly situated cable systems offering comparable cable programming

services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

"(B) the rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

"(D) the rates, as a whole, for all the cable programming, equipment, and services provided by the system;

"(E) capital and operating costs of the cable system, including costs of obtaining video signals and services;

"(F) the quality and costs of the customer service provided by the cable system; and

"(G) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues.

"(3) **LIMITATION ON COMPLAINTS CONCERNING EXISTING RATES.**—On and after 180 days after the effective date of the regulations prescribed by the Commission under paragraph (1), the procedures established under subparagraph (B) of such paragraph shall be available only with respect to complaints filed within a reasonable period of time following a change in rates that is initiated after that effective date.

"(d) **REGULATION OF PAY-PER-VIEW CHARGES FOR CHAMPIONSHIP SPORTING EVENTS.**—A State or franchising authority may, without regard to the regulations prescribed by the Commission under subsections (b) and (c), regulate any per-program rates charged by a cable operator for any video programming that consists of the national championship game or games between professional teams in baseball, basketball, football, or hockey.

"(e) **DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.**—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(f) **NEGATIVE OPTION BILLING PROHIBITED.**—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(g) **REVIEW OF FINANCIAL INFORMATION.**—

"(1) **COLLECTION OF INFORMATION.**—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) **CONGRESSIONAL REPORT.**—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry. Such report shall include

such recommendations as the Commission considers appropriate in light of such information. Such report also shall address the availability of discounts for senior citizens and other economically disadvantaged groups.

"(h) **PREVENTION OF EVASIONS.**—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions of the rates, services, and other requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

"(i) **SMALL SYSTEM BURDENS.**—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 1,000 or fewer subscribers.

"(j) **RATE REGULATION AGREEMENTS.**—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

"(k) **REPORTS ON AVERAGE PRICES.**—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(l) **DEFINITIONS.**—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis."

"(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act, except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment.

SEC. 4. MULTIPLE FRANCHISES.

(a) **UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.**—Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction,

grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;
 "(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;
 "(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way."

(b) MUNICIPAL AUTHORITIES PERMITTED TO OPERATE SYSTEMS.—Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended—

(1) by inserting "and subsection (f)" before the comma in subsection (b)(1); and

(2) by adding at the end the following new subsection:

"(f) No provision of this Act shall be construed to—

"(1) prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the geographic areas within the jurisdiction of such franchising authority, notwithstanding the granting of one or more franchises by such franchising authority; or

"(2) require such local or municipal authority to secure a franchise to operate as a multichannel video programming distributor."

(c) CLARIFICATION OF LOCAL AUTHORITY TO REGULATE OWNERSHIP.—Section 613(d) of the Communications Act of 1934 (47 U.S.C. 533(d)) is amended—

(1) by striking "any media" and inserting "any other media"; and

(2) by adding after the period at the end thereof the following: "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction."

(d) LEASE/BUY-BACK AUTHORITY.—Section 613(b)(2) of the Communications Act of 1934 (47 U.S.C. 533(b)(2)) is amended by adding at the end the following: "This paragraph shall not prohibit a common carrier from providing multiple channels of communication to an entity pursuant to a lease agreement under which the carrier retains, consistent with section 616, an option to purchase such entity upon the taking effect of an amendment to this section that permits common carriers generally to provide video programming directly to subscribers in such carrier's telephone service area."

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator.

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to one third of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) SIGNAL QUALITY.—

"(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to

ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at rates in accordance with section 623(b)(1)(B).

"(8) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant

signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(d) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(e) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section. Such implementing regulations shall include necessary revisions to update section 76.51 of the Commission's regulations (47 C.F.R. 76.51).

"(f) SALES PRESENTATIONS AND PROGRAM LENGTH COMMERCIALS.—Nothing in this Act shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying on any tier, the signal of any commercial television station or video programming service that

is predominantly utilized for the transmission of sales presentations or program length commercials.

"(g) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to modify or otherwise affect title 17, United States Code.

"(h) DEFINITION.—

"(1) LOCAL COMMERCIAL TELEVISION STATION.—For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station for purposes of this section upon agreement to indemnify the cable operator for the increased copyright liability as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) EXCLUSIONS.—The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) MARKET DETERMINATIONS.—(A) For purposes of this section, a broadcasting station's market shall be determined in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

"(B) In considering requests filed pursuant to subparagraph (A), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

"(i) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

"(ii) whether the television station provides coverage or other local service to such community;

"(iii) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

"(iv) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

"(C) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this paragraph.

"(D) In the rulemaking proceeding required by subsection (e), the Commission shall provide for expedited consideration of requests filed under this subsection."

SEC. 6. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended

by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION.

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the cable operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the cable operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990, shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by franchising authority pursuant to section 611 of this title, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network non-duplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that cable operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—A cable operator shall retransmit in its entirety the primary video, accompanying audio, and line 21 closed caption transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the cable operator.

"(2) BAND-WIDTH AND TECHNICAL QUALITY.—A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with band-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by a cable operator unless the cable operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system. The notification provisions of this paragraph shall not be

used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local noncommercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local noncommercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

"(i) PAYMENT FOR CARRIAGE PROHIBITED.—

"(1) IN GENERAL.—A cable operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) DISTANT SIGNAL EXCEPTION.—Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the cable operator for the incremental copyright costs assessed against such cable operator as a result of such carriage.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that a cable operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data, views, and arguments to establish that the cable operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable operator has complied with the requirements of this section. If the Commission determines that the cable operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the cable operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the cable operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—A cable operator shall identify, upon request by any per-

son, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

"(ii) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B)); or

"(B) is owned and operated by a municipality and transmits predominantly noncommercial programs for educational purposes.

Such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system."

SEC. 7. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may establish and enforce—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the subscriber (including standards governing bills and refunds).

"(c) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b). Nothing in this title shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section."

SEC. 8. CUSTOMER PRIVACY RIGHTS.

Section 631(a)(2) of the Communications Act of 1934 (47 U.S.C. 551(a)(2)) is amended to read as follows:

"(2) For purposes of this section, other than subsection (h)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

"(C) the term 'cable operator' includes, in addition to persons within the definition of cable operator in section 602, any person who (i) is owned or controlled by, or under common ownership or control with, a cable operator, and (ii) provides any wire or radio communications service."

SEC. 9. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders.

"(b) COMPATIBLE INTERFACES.—Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. The Commission shall issue such regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(c) RULEMAKING REQUIRED.—

"(1) IN GENERAL.—Within 1 year after the date of submission of the report required by subsection (b), the Commission shall prescribe such regulations as are necessary to increase compatibility between television receivers equipped with premium functions and features, video cassette recorders, and cable systems.

"(2) FACTORS TO BE CONSIDERED.—In prescribing the regulations required by this subsection, the Commission shall consider—

"(A) the costs and benefits of requiring cable operators to adhere to technical standards for scrambling or encryption of video programming in a manner that will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, while providing effective protection against theft or unauthorized reception of cable service, including functions that permit the subscriber—

"(i) to watch a program on 1 channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(ii) to use a video cassette recorder to tape 2 consecutive programs that appear on different channels; or

"(iii) to use advanced television picture generation and display features;

"(B) the potential for achieving economies of scale by requiring manufacturers of television receivers to incorporate technologies to achieve such compatibility in all television receivers;

"(C) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers; and

"(D) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

"(3) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

"(A) to establish the technical requirements that permit a television receiver or video cassette recorder to be sold as 'cable ready';

"(B) to establish procedures by which manufacturers may certify television receivers that comply with the technical requirements established under subparagraph (A) of this paragraph in a manner that, at the point of sale is easily understood by potential purchasers of such receivers;

"(C) provide appropriate penalties for willful misrepresentations concerning such certifications;

"(D) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(E) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(F) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (c) and to reflect improvements and changes in cable systems,

television receivers, video cassette recorders, and similar technology.

"(e) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers and purchasers of television receivers of such standards."

SEC. 10. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d)) is amended by adding at the end the following new paragraph:

"(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

"(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge,

"(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge,

"(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked, and

"(iv) block the channel carrying the premium channel upon the request of a subscriber.

"(B) For the purpose of this section, the term 'premium channel' shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association as X, NR-17, or R."

SEC. 11. TECHNICAL STANDARDS; EMERGENCY ANNOUNCEMENTS; PROGRAMMING CHANGES.

(a) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection."

(b) EMERGENCY ANNOUNCEMENTS.—Section 624 of such Act is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations."

(c) PROGRAMMING CHANGES.—Section 624 of such Act is further amended—

(1) in subsection (b)(1), by inserting ", except as provided in subsection (h)," after "but may not"; and

(2) by adding at the end the following new subsection:

"(h) A franchising authority may require a cable operator to do any one or more of the following:

"(1) to provide 30 days advance written notice of any change in channel assignment or in the

video programming service provided over any such channel;

"(2) to inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority."

SEC. 12. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

"(a) **PURPOSE.**—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming to persons in rural and other areas not currently able to receive such service, and to spur the development of communications technologies.

"(b) **PROHIBITION.**—It shall be unlawful for a cable operator or a satellite cable programming vendor in which a cable operator has an attributable interest in violation of any regulation prescribed under subsection (c) to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) **PROCEEDING REQUIRED.**—Within 180 days after the enactment of this Act, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and the continuing development of communications technologies, prescribe regulations to specify the conduct that is prohibited by subsection (b).

"(2) **MINIMUM CONTENTS OF REGULATIONS.**—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the price, terms, and conditions of sale of, satellite cable programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest in the price, terms, and conditions in the sale or delivery of satellite cable programming among or between cable systems, cable operators, or their agents or buying groups, or other multichannel video programming distributors; except that such a satellite cable programming vendor in which a cable operator has an attributable interest shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming;

"(iii) establishing different price, terms, and conditions which take into account reasonable volume discounts based on the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, or activities, including exclusive

contracts for satellite cable programming between a cable operator and a cable satellite programming vendor, which prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) **GEOGRAPHIC LIMITATIONS.**—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution. Nothing in this section shall apply to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite, and shall not apply to any internal satellite communication of any broadcast network or cable network, except that satellite broadcast programming shall be subject to the requirements of this section.

"(4) **PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.**—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) **SUNSET PROVISION.**—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this Act.

"(d) **ADJUDICATORY PROCEEDING.**—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of this section, or the implementing regulations of the Commission under this section, may commence an adjudicatory proceeding at the Commission.

"(e) **REMEDIES FOR VIOLATIONS.**—

"(1) **REMEDIES AUTHORIZED.**—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) **ADDITIONAL REMEDIES.**—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

"(f) **PROCEDURES.**—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to ob-

tain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as the Commission requires to carry out this section; and

"(3) provide for any penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) **REPORTS.**—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) **IN GENERAL.**—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) **LIMITATION ON RENEWALS.**—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1) of this subsection.

"(i) **APPLICABILITY OF ANTITRUST LAWS; NO ANTITRUST IMMUNITY.**—Nothing in this section shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"(j) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution of a satellite cable programming service for sale.

"(2) The terms 'cable system', 'multichannel video programming distributor', and 'video programming' have the meanings to provide under section 602 of this Act.

"(3) The term 'satellite cable programming' has the meaning provided under section 705 of the Act.

"(4) The term 'satellite broadcast programming' means broadcast programming, other than programming of an affiliate of a national network, when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster."

SEC. 13. REGULATION OF CARRIAGE AGREEMENTS.

Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) **REGULATIONS.**—Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators or other multichannel video programming distributors and video programming vendors. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video programming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video programming distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaf-

filiated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or non-affiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors;

"(4) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(5) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(6) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(b) **DEFINITION.**—As used in this section, the term 'video programming vendor' means a person engaged in the production, creation, or wholesale distribution of a video programming service for sale."

SEC. 14. EQUAL EMPLOYMENT OPPORTUNITY.

"(a) **FINDINGS.**—The Congress finds and declares that—

"(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

"(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

"(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

"(b) **STANDARDS.**—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection."

"(c) **CONTENTS OF ANNUAL STATISTICAL REPORTS.**—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

- "(i) Corporate officers.
- "(ii) General Manager.
- "(iii) Chief Technician.
- "(iv) Comptroller.
- "(v) General Sales Manager.
- "(vi) Production Manager.
- "(vii) Managers.
- "(viii) Professionals.
- "(ix) Technicians.
- "(x) Sales.
- "(xi) Office and Clerical.
- "(xii) Skilled Craftspersons.
- "(xiii) Semiskilled Operatives.
- "(xiv) Unskilled Laborers.
- "(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of

such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section."

(d) **PENALTIES.**—Section 634(f)(2) of such Act is amended by striking "\$200" and inserting "\$500".

(e) **APPLICATION OF REQUIREMENTS.**—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video programming distributor".

(f) **STUDY AND REPORT REQUIRED.**—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

(g) **BROADCASTING EQUAL EMPLOYMENT OPPORTUNITY.**—Part II of title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section.

"SEC. 617. EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS OF MUST-CARRY STATIONS.

"(a) **APPLICATION OF SECTION.**—This section shall apply to—

"(1) the licensee for any television broadcasting station that is eligible for carriage under section 614 or 615; and

"(2) any corporation, partnership, association, joint-stock company, trust, or affiliate or subsidiary thereof engaged primarily in the management or operation of any such licensee.

"(b) **EQUAL EMPLOYMENT OPPORTUNITY REQUIRED.**—Equal opportunity in employment shall be afforded by each entity specified in sub-

section (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) **EMPLOYMENT POLICIES AND PRACTICES REQUIRED.**—Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices and to promote the hiring of a workforce that reflects the diversity of its community. Under the terms of its programs, such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d) **COMMISSION RULES REQUIRED.**—

"(1) **DEADLINE FOR RULES.**—Not later than 270 days after the date of enactment of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section.

"(2) **CONTENT OF RULES.**—Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, on an ongoing basis as a potential source of referrals for whenever jobs may become available;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its service area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the service of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

"(3) **REPORTS REQUIRED.**—Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories—

- "(A) Corporate officers.
- "(B) General Manager.
- "(C) Chief Technician.
- "(D) Comptroller.

- “(E) General Sales Manager.
- “(F) Production Manager.
- “(G) Managers.
- “(H) Professionals.
- “(I) Technicians.
- “(J) Sales.
- “(K) Office and Clerical.
- “(L) Skilled Craftspersons.
- “(M) Semiskilled Operatives.
- “(N) Unskilled Laborers.
- “(O) Service Workers.

“(4) **ADDITIONAL CONTENTS OF REPORTS.**—In addition, such report shall state the number of job openings occurring during the course of the year and (A) shall certify that the openings were filled in accordance with the program required by subsection (c), or (B) shall contain a statement providing reasons for not filling such positions in accordance with such program. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

“(5) **RULES AMENDMENTS.**—The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

“(e) **ENFORCEMENT.**—

“(1) **ANNUAL CERTIFICATION.**—On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

“(2) **LICENSE RENEWAL REVIEWS.**—The Commission shall, at the time of license renewal, review the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge minorities and women equal opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications and accurately reflect compliance with the equal employment opportunity plan in filing its annual reports.

“(f) **COMPLAINTS.**—Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The rules prescribed under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

“(g) **PENALTIES.**—

“(1) **IN GENERAL.**—Any person who is determined by the commission, through an investigation pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of \$200 for each violation. Each day of continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues sub-

sequent to such notification. In addition, any person liable for such penalty may also have any license under this Act conditioned, suspended, or revoked. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

“(2) **ADDITIONAL REMEDIES.**—The provisions of paragraphs (2)(D), (3), and (4), of section 503(b) shall apply to forfeitures under this subsection.

“(3) **NOTICE OF PENALTIES.**—The Commission shall provide for notice to the public of any penalty imposed under this section.

“(h) **EFFECT ON OTHER LAWS.**—Nothing in this section shall affect the authority of any State or local government—

“(1) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees; or

“(2) to establish or enforce any provision requiring or encouraging any entity specified in subsection (a) to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii)) or which have their principal operations located within the local service area of such entity.”

SEC. 15. HOME WIRING.

Section 624 of the Communications Act of 1934 (47 U.S.C. 544) is amended by adding at the end the following new subsection:

“(i) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.”

SEC. 16. SALES OF CABLE SYSTEMS.

Part II of title VI of the Communications Act of 1934 is further amended by adding at the end thereof the following new section:

“SEC. 618. SALES OF CABLE SYSTEMS.

“(a) **3-YEAR HOLDING PERIOD REQUIRED.**—Except as provided in this section, no cable operator may sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of such system by such operator.

“(b) **TREATMENT OF MULTIPLE TRANSFERS.**—In the case of a sale of multiple systems, if the terms of the sale require the buyer to subsequently transfer ownership of one or more such systems to one or more third parties, such transfers shall be considered a part of the initial transaction.

“(c) **EXCEPTIONS.**—Subsection (a) of this section shall not apply to—

“(1) any transfer of ownership interest in any cable system which is not subject to Federal income tax liability;

“(2) any sale required by operation of any law or any act of any Federal agency, any State or political subdivision thereof, or any franchising authority; or

“(3) any sale, assignment, or transfer, to one or more purchasers, assignees, or transferees controlled by, controlling, or under common control with, the seller, assignor, or transferor.

“(d) **WAIVER AUTHORITY.**—The Commission may, consistent with the public interest, waive the requirement of subsection (a), except that, if the franchise requires franchise authority approval of a transfer, the Commission shall not waive such requirements unless the franchise authority has approved the transfer.

“(e) **LIMITATION ON DURATION OF FRANCHISING AUTHORITY POWER TO DISAPPROVE TRANSFERS.**—In the case of any sale or transfer of ownership of any cable system after the 36-month period following acquisition of such sys-

tem, a franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.”

SEC. 17. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) **AMENDMENT.**—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

“SEC. 635A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.

“(a) **SUITS FOR DAMAGES PROHIBITED.**—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

“(b) **EXCEPTION FOR COMPLETED CASES.**—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

“(c) **DISCRIMINATION CLAIMS PERMITTED.**—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

“(d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.”

(b) **CONFORMING AMENDMENT.**—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting “and with the provisions of section 635(a)” after “subsection (a)”.

SEC. 18. CABLE CHANNELS FOR COMMERCIAL USE.

(a) **RATES, TERMS, AND CONDITIONS.**—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1), by striking “consistent with the purpose of this section” and inserting “consistent with regulations prescribed by the Commission under paragraph (4)”; and

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

“(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

“(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

“(B) standards concerning the terms and conditions which may be so established;

“(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section; and

"(D) procedures for the expedited resolution of disputes concerning rates or carriage under this section."

(b) ACCESS FOR QUALITY MINORITY PROGRAMMING SOURCES AND QUALIFIED EDUCATIONAL PROGRAMMING SOURCES.—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming or educational programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(i)(3)(C)(ii) of this Act.

"(3) For purposes of this subsection, the term 'qualified educational programming source' means a programming source which devotes significantly all of its programming to educational or instructional programming of such a nature that it promotes public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding \$15,000,000. Programming expenditures shall mean all annual costs incurred by the channel originator to produce or acquire programs which are scheduled to appear on air, and shall specifically exclude marketing, promotion, satellite transmission and operational costs, and general administrative costs. Nothing in this subsection shall substitute for the requirements to carry qualified noncommercial educational television stations as specified under section 615."

SEC. 19. CABLE FOREIGN OWNERSHIP RESTRICTIONS.

(a) FINDINGS.—The Congress finds that—
(1) restrictions on alien or foreign ownership of broadcasting and common carriers first were enacted by Congress in the Radio Act of 1912;

(2) cable television service currently is available to more than 90 percent of American households, more than 62 percent of American households subscribe to such services, and the majority of viewers rely on cable as the conduit through which they receive terrestrial broadcast signals;

(3) many Americans receive a significant portion of their daily news, information, and entertainment programming from cable television systems, and such systems should not be controlled by foreign entities; and

(4) the policy justifications underlying restrictions on alien ownership of broadcast or common carrier licenses have equal application to alien ownership of cable television systems, direct broadcast satellite systems, and multipoint distribution services.

(b) AMENDMENT TO COMMUNICATIONS ACT.—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following new paragraphs:

"(2)(A) No cable system (as such term is defined in section 602) in the United States shall be owned or otherwise controlled by any alien, representative, or corporation described in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection.

"(B) Subparagraph (A) of this paragraph shall not be applied—

"(i) to require any such alien, representative, or corporation to sell or dispose of any ownership interest held or contracted for on or before June 1, 1990, or acquired in accordance with clause (ii); or

"(ii) to prohibit any such alien, representative, or corporation that owns, has contracted on or before June 1, 1990, to acquire ownership, or otherwise controls, any cable system from acquiring ownership or control of additional cable systems if the total number of households passed by all the cable systems that such alien, representative, or corporation would, as a result of such acquisition, own or control does not exceed 2,000,000.

"(3)(A) For purposes of paragraph (1) of this subsection, a license or authorization for any of the following services shall be deemed to be a broadcast station license:

"(i) cable auxiliary relay services;
"(ii) multipoint distribution services;
"(iii) direct broadcast satellite services; and

"(iv) other services the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(B) Subparagraph (A) of this paragraph shall not be applied to any cable operator to the extent that such operator is eligible for the exemptions contained in subparagraph (B) of paragraph (2)."

SEC. 20. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "\$25,000" and inserting "\$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "\$50,000" and inserting "\$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

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

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation."

SEC. 21. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY AND RULEMAKING.—The Commission shall conduct a rulemaking proceeding to review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such proceeding, the Commission—

(A) shall consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributions may engage in the creation or production of such programming; and

(B) shall impose limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(3) PROCEEDING REQUIRED TO REVIEW DBS RESPONSIBILITIES.—The Federal Communications Commission shall, within 180 days after the date of enactment of this Act, initiate a rulemaking proceeding to impose, with respect to any direct broadcast satellite system that is not regulated as a common carrier under title II of the Communications Act of 1934, public interest or other requirements on direct broadcast satellite systems providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of the Communications Act of 1934 and the use of facilities requirements of section 315 of such Act to direct broadcast satellite systems providing video programming. Such proceeding also shall examine the opportunities that the establishment of such systems provide for the principle of localism under such Act, and the methods by which such principle may be served through technological and other developments in, or regulation of, such systems.

(4) PUBLIC SERVICE USE REQUIREMENTS.—The Federal Communications Commission shall require, as a condition of any initial authorization, or renewal thereof, for a direct broadcast satellite service providing video programming, that the provider of such service reserve not less than 4 percent or more than 7 percent of the channel capacity of such service exclusively for noncommercial public service uses. A provider of direct broadcast satellite service may use any unused channel capacity designated pursuant to this paragraph until the use of such channel capacity is obtained, pursuant to a written agreement, for public service use. The direct broadcast satellite service provider may recover only the direct costs of transmitting public service programming on the channels reserved under this subsection.

(5) STUDY PANEL.—There is established a study panel which shall be comprised of a representative of the Corporation for Public Broadcasting, the National Telecommunications and Information Administration, and the Office of Technology Assessment selected by the head of each such entity. Such study panel shall within 2 years after the date of enactment of this Act, submit a report to the Congress containing recommendations on—

(A) methods and strategies for promoting the development of programming for transmission over the public use channels reserved pursuant to paragraph (4)(A);

(B) methods and criteria for selecting programming for such channels that avoids conflicts of interest and the exercise of editorial control by the direct broadcast satellite service provider; and

(C) identifying existing and potential sources of funding for administrative and production costs for such public use programming.

(6) DEFINITIONS.—As used in this subsection—

(A) the term "direct broadcast satellite systems" includes (i) satellite systems licensed under Part 100 of the Federal Communications Commission's rules, and (ii) high power Ku-band fixed service satellite systems providing video service directly to the home and licensed under Part 25 of the Federal Communications Commission's rules; and

(B) the term "public service uses" includes—
(i) programming produced by public telecommunications entities, including programming furnished to such entities by independent production services;

(ii) programming produced by public or private educational institutions or entities for educational, instructional, or cultural purposes; and

(iii) programming produced by any entity to serve the disparate needs of specific communities of interest, including linguistically distinct groups, minority and ethnic groups, and other groups.

(b) **SPORTS PROGRAMMING MIGRATION STUDY AND REPORT.**—

(1) **STUDY REQUIRED.**—The Federal Communications Commission shall conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The study shall investigate and analyze, on a sport-by-sport basis, trends in the migration of such programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including the economic causes and the economic and social consequences for such trends.

(2) **REPORT ON STUDY.**—The Federal Communications Commission shall, on or before July 1, 1993, and July 1, 1994, submit an interim and a final report, respectively, on the results of the study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such reports shall include a statement of the results, on a sport-by-sport basis, of the analysis of the trends required by paragraph (1) and such legislative or regulatory recommendations as the Commission considers appropriate.

(3) **ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.**—In conducting the study required by paragraph (1), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The report required by paragraph (2) shall include a separate statement of the results of the analysis required by this paragraph, together with such recommendations for legislation as the Commission considers necessary and appropriate. For purposes of the paragraph, the term "preclusive contract" includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

(c) **PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.**—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video programming, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

SEC. 22. ANTITRUST IMMUNITY.

Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

SEC. 23. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4850) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. MARKEY. Mr. Speaker, I move that the House insist upon its amendment to the Senate bill, S. 12 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts.

The motion was agreed to.

The SPEAKER pro tempore. The Chair will appoint conferees on tomorrow.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4850, the bill just passed.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 12, CABLE TELEVISION CONSUMER PROTECTION AND COMPETITIVENESS ACT OF 1992

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that, in the en-

grossment of the House amendment to the Senate bill, the Clerk be authorized to correct section numbers, punctuation, spelling, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4850.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I rise to inquire of our Republican colleagues who are handling the rule that is forthcoming whether they anticipate a recorded vote on the rule this evening.

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

Mr. BONIOR. I yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for asking. I do not intend to ask for a vote on the rule, and I have heard no comment to the contrary.

Mr. BONIOR. Mr. Speaker, I thank my colleague.

PERSONAL EXPLANATION

Mr. KOPETSKI. Mr. Speaker, I had a medical emergency last night and this morning which prevented me from making the votes on rollcall Nos. 301, 302, 303, 304, and 305. If I had been present, I would have voted "nay" on rollcall No. 301, "aye" on rollcall No. 302, "nay" on rollcall No. 303, "nay" on rollcall No. 304, and "nay" on rollcall No. 305.

VOTING RIGHTS LANGUAGE ASSISTANCE ACT OF 1992

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 522 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 522

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 consideration of the bill (H.R. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(1)(4) of rule XI are waived. After general debate, which shall be confined to the bill and which shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It

shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. No further amendment shall be in order unless printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule XXIII prior to the beginning of consideration of the bill. Debate on each amendment to the committee amendment in the nature of a substitute, including any amendments thereto, may not exceed twenty minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

□ 2250

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, as we have heard read by the Clerk, House Resolution 522 is a modified open rule providing the consideration of H.R. 4312, the Voting Rights Language Assistance Act of 1992. The rule provides for 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute as an original bill for the purpose of amendment.

Only those amendments printed in the CONGRESSIONAL RECORD prior to today will be in order and will be debatable for 20 minutes each.

The resolution also waives clause 2(1)(4) of rule XI, requiring an inflation impact statement in the committee report, against consideration of the bill.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

H.R. 4312 amends section 203 of the Voting Rights Act of 1965 and reauthorizes it for 15 years. Section 203, which expires on August 6, provides for bilingual voting assistance in jurisdictions where a language minority is at least 10,000 persons or 5 percent of the population and is of limited-English proficiency.

Recognizing that language barriers to voting still exist, H.R. 4312 was in-

troduced by the Hispanic caucus, and, under the excellent leadership of Chairmen BROOKS and EDWARDS of the Judiciary Committee, is before us today.

Mr. Speaker, the right to vote is so fundamental to our citizenship, so vital, that we as Members of Congress must make every effort to ensure that this right is a reality across the length and breadth of this great Nation.

Last month we approved legislation to increase voter participation. Today we have before us reauthorization of the bilingual language assistance section of the Voting Rights Act. Later we are scheduled to consider the Voting Rights Extension Act.

We have a responsibility to the people of America to remove as many barriers as possible to effective voter participation. The lack of proficiency in the English language is one such barrier which has been addressed in the Voting Rights Act since 1975 and should not be forgotten or ignored now. Bilingual voting assistance is still desperately needed.

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

Madam Speaker, the gentleman from Missouri [Mr. WHEAT], has fully explained the provisions of this rule. While it is open, the rule does mandate that amendments be printed in the CONGRESSIONAL RECORD prior to consideration of the bill and limits debate to 20 minutes on each.

Madam Speaker, under current law, bilingual voting materials must be provided in States and political subdivisions where more than 5 percent of the voting-age citizens are members of a single language minority and are not proficient in English.

This legislation would extend current law for 15 years from August 6, 1992 when it expires. It would also expand it to include jurisdictions where more than 10,000, but less than 5 percent of the voting-age citizens are members of a single language minority and are not proficient in English. H.R. 4312 would treat Indian reservations as separate entities for purposes of determining whether political jurisdictions containing Indian lands must comply with the bill's requirements. Assistance provided would include printing additional information on ballots, notices, and forms and providing translators at polling places.

Madam Speaker, I would like to note that dissenting views were filed by some of the Republican members of the committee. They point out that there is no evidence that this law has been effective, and there is no evidence that it is needed. The administration, however, does support the bill. It would also support an amendment to increase from 10,000 to 20,000 the threshold at which bilingual voting assistance would be required.

Madam Speaker, I urge adoption of this rule.

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

Mr. WHEAT. Madam Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Madam Speaker, I rise in support of the rule making in order the consideration of the bill H.R. 4312. As we will discuss at greater length in the Committee of the Whole, H.R. 4312 reauthorizes an important provision of the Voting Rights Act of 1965 providing for assistance to citizens who speak a language other than English.

The bill extends the language assistance section of the Voting Rights Act for 15 years. Currently, a jurisdiction must provide targeted voting assistance—including registration information, ballots and instructions—if 5 percent of its voting age citizens belong to a language minority and are not proficient in English.

I am pleased that the rule makes in order all amendments printed in the RECORD before the House begins consideration of H.R. 4312. I believe the Rules Committee has crafted a fair and workable rule for the consideration of this important bill, and I urge adoption of the rule.

Mr. WHEAT. Madam Speaker, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Madam Speaker, I rise in support of the rule. This legislation has worked well, it has brought many into the mainstream of American life, and has given those who because of matters beyond their control, like lack of an education, the ability to participate in the political process. I urge my colleagues to support the rule and the legislation.

Mr. WHEAT. Madam Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Madam Speaker, this is a very important piece of legislation.

I wish to express my strong support for the Voting Rights Improvement Act which expands bilingual voting assistance and affirms our country's historical commitment to dismantling the obstacles to voting.

As a Representative of New Mexico's Third Congressional District, which is 40 percent Anglo, 40 percent Hispanic, and 20 percent native American, I am well aware of barriers to the political process and the significance of bilingual voting materials in this process. Restrictions on bilingual voting materials are among a host of discriminatory practices—in education, housing, employment—which Hispanics, and other language minorities, continue to endure in this country.

It is essential for Congress to assert the right of all Americans to participate in the political process, regardless of their proficiency in English. Voter surveys have demonstrated that a sig-

nificant percentage of Hispanics employ bilingual materials, when available. Exit polls in New Mexico, Texas, and California from 1984 to 1992 indicate that approximately 20 percent of Hispanics who were voting used bilingual ballots. In addition, an overwhelming percentage of Hispanic voters support bilingual voting materials. In one recent survey of Hispanic voters in Texas, 95 percent supported the continuation of printing bilingual ballots.

More importantly, the availability of bilingual voting assistance has coincided with a remarkable increase in the rate of voter participation among the Hispanic community. From 1980 to 1990, the rate of Hispanic citizens voting increased at a rate five times greater than the rest of the Nation. These figures reveal the significant role bilingual voting materials have played in the political empowerment of Hispanics.

This legislation also includes a much-needed measure for native Americans by basing eligibility for bilingual materials on the reservation, rather than county voting age population, thereby correcting an inequity which leaves many reservations ineligible for these materials. Without this correction, only 4 of over 500 native American tribes would be covered under existing bilingual voting assistance provisions. The alternative standard provided by this legislation reflects our commitment to the full participation of native Americans in the democratic process, as well as the preservation of native American languages which are among our Nation's cultural treasures.

Recently, a strong nativist movement has reemerged in our country. Numerous States have adopted English-only statutes and the English-only movement threatens to destroy many programs which provide vital services to non-English speakers. Just as literacy tests and poll taxes restricted minority access to the political process in past years, so do attempts to restrict bilingual voting materials. Bilingual voting materials do not divide us. Rather, they unite our Nation by bringing groups who have been the recipients of pervasive discrimination into the political arena, a process which joins millions of Americans.

For thousands of Hispanics, Native Americans, and Asian-Americans across the country, the right to vote in an informed manner remains at stake. Many Hispanics who use bilingual voting materials, especially those with low educational attainment and low incomes, have little other involvement in the political process. For these individuals, fair access to the voting process is all the more critical. I strongly support the Voting Rights Improvement Act and encourage its swift passage.

Mr. WHEAT. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 522 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. 4312.

□ 2255

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. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements, with Mrs. UNSOELD in the chair.

The Clerk read the title of the bill.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MICHEL was allowed to speak out of order.)

Mr. MICHEL. Madam Chairman, I have asked for this time that I might proceed for a moment to inquire of the distinguished majority leader how we intend to proceed for the balance of this evening and beginning tomorrow, so that Members will be better informed as to what the schedule is.

Mr. GEPHARDT. Madam Chairman, will the gentleman yield?

Mr. MICHEL. Yes, I am happy to yield to the distinguished gentleman from Missouri.

Mr. GEPHARDT. There will be no more votes this evening. The general debate will go forward on the Voting Rights Act which we just passed a rule for.

It would be our intention at 10 o'clock in the morning to go to the Voting Rights Act and try to finish it hopefully by 12:30, and then our hope is to go to the supplemental appropriations bill and try to finish it by 3 o'clock. We very much want Members to be done here by 3 o'clock.

Mr. MICHEL. I appreciate that. That will obviously require the cooperation of Members to do that. I think that seems to be the best way to proceed for the moment. We will I guess have to play it a bit by ear.

Mr. GEPHARDT. If everyone cooperates, we can finish both bills by 3 o'clock tomorrow.

Mr. MICHEL. Madam Chairman, I thank the distinguished majority leader.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS], will be recognized for 30 minutes and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes.

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

Mr. BROOKS. Madam Chairman, in 1965, with President Johnson's signa-

ture on the Voting Rights Act, this Nation began to address the compelling need to protect one of the most fundamental attributes—and obligations—of citizenship: the right to vote. Similarly, the enactment 10 years later of section 203 of the act, the language assistance section, marked the beginning of the end of practices and procedures which, in a more subtle fashion, effectively excluded citizens of language minorities from participation in the electoral process. Just as the Voting Rights Act represents a fundamental commitment to preserve a fundamental right for all our citizens, section 203 constituted an equal commitment to affirmatively promote the exercise of that right—to ensure that all voices may be heard in the electoral process.

Section 203 has worked well for 17 years. The legislation before us today simply extends that section so that it will expire at the same time as the other provisions of the act and ensures that its targeted assistance is provided to communities where language barriers remain as an obstacle to participation in our democracy. The bill continues the practice of current law which provides local jurisdictions with maximum flexibility to balance the needs of minority language voters with those of efficient administration of the electoral system.

Because this important section will expire on August 6, the Judiciary Committee has moved the legislation swiftly to ensure that there is no gap in coverage—particularly during this crucial election year. I want to salute subcommittee Chairman Don Edwards for his strong and abiding leadership in this effort and in his constant vigilance in protecting the civil rights of all Americans.

There is no more important step we can take to preserve the American people's confidence in our Government than to support legislation which protects the right of all citizens to participate in our Nation's democratic system through exercise of the right to vote. Because this legislation furthers that goal, I strongly support it and ask all my colleagues for their support in this important effort.

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

I rise to discuss this bill tonight for a few minutes.

Section 203 of the Voting Rights Act requires covered jurisdictions to provide multilingual assistance to voters. Proponents of H.R. 4312 wish to extend section 203 until the year 2007 and expand the number of jurisdictions subject to its provisions.

The purpose of enacting temporary provisions, such as section 203, is to allow the Congress to reexamine the effectiveness, use, and continued need for Federal action. The burden to justify the extension and broad expansion of

section 203, therefore, rests on those who seek to extend this law for an additional 15 years. Based on the evidence presented to the Congress, it is highly doubtful, in my judgment, that this burden has been met.

Since the subcommittee first held hearings on this issue, we have repeatedly asked for reliable statistical evidence which shows that section 203 works. We have been looking for evidence that multilingual assistance has increased minority language voter participation in jurisdictions covered by section 203.

Unfortunately, we have not been able to find any such evidence. The information from the Census Bureau's current population survey indicates that rates of Hispanic voter participation have declined since the enactment of section 203, even relative to the overall decline in voter participation nationwide and even taking into consideration large increases in the number of Hispanics becoming citizens.

□ 2300

How can we justify extending a provision for 15 years and expanding its coverage when we do not know whether or not it works? We do not know whether section 203 has had any impact on minority language voting.

We also need to ask the question—do bilingual ballots stop voting discrimination? Under the U.S. Constitution, the States have primary authority to regulate elections. Congress can only intervene where there is a finding of discriminatory treatment or an unjustified restriction of the opportunity for citizens to vote.

In 1975, when the multilingual voting provisions were first considered, Assistant Attorney General for Civil Rights Stanley Pottinger testified before a congressional subcommittee:

If a strong case were made of widespread deprivations of the right to vote of non-English-speaking persons * * * expansion of the special provisions of the act might be warranted. * * * In light of the other remedies available and in light of the stringent nature of the special provisions, the Department of Justice has concluded that the evidence does not require expansion based on the record before us.

There is no evidence that things have gotten worse since 1975. There is no evidence that there is widespread intentional use of English language ballots and voting materials to deprive citizens of their right to vote which would be remedied by the multilingual assistance provisions of section 203. Therefore, the record, this year, appears to be less compelling in 1992 than it did in 1975 or 1982.

If anything, it seems that this bill is directed toward alleged discrimination in educational opportunities. If the problem we are trying to solve is in education—we should pass an education bill. Passing a 15-year extension of voting language assistance won't

stop alleged discrimination in education and more important, it won't teach anyone English.

The assumption underlying this bill seems to be that once the number of non-English-speaking voters in a jurisdiction, for whatever reason, reaches a certain quantity, conducting elections in the English language becomes per se discriminatory, violating the 14th and 15th amendments. This assumption is quite extraordinary when one considers that most American political discourse is in English, that Americans of minority backgrounds strongly support English, and that our naturalization laws require a knowledge of English.

In addition to the lack of evidence of effectiveness and need, there is another reason why this proposal is troublesome. We all know that this Nation does not need to be further separated or fragmented along racial or ethnic lines. A Federal policy of multilingualism and ethnic separatism discourages our coming together as one people. By encouraging people to learn English, we encourage them to participate in a meaningful way in all aspects of this Nation's civic and social life. English, as our common language, is a unifying force and the federal government should not be discouraging its use.

In addition to extending section 203 for an additional 15 years—until the year 2007, H.R. 4312 will expand the number of jurisdictions subject to coverage by adopting an absolute population test of 10,000 voters and by covering native American reservations, if 5 percent of the population of the entire reservation is limited to English proficient. These new coverage tests will be extremely burdensome.

The 10,000 numerical trigger will require Los Angeles County, for example, to provide voting materials in six languages: Spanish, Chinese, Tagalog, Japanese, and Vietnamese. According to the Congressional Budget Office, Los Angeles County would have to endure a significant cost burden because its current election equipment cannot incorporate these additional languages.

While the administration supports reauthorizing section 203, it does not support the 10,000 voter trigger or the new Indian reservation formula. According to the Department of Justice, "lowering the trigger to 15,000 or 10,000 individuals would increase the number of jurisdictions required to provide language assistance without proportional increases in the number of individuals benefited by that assistance." Likewise, with respect to the Indian reservation formula, Attorney General John Dunne stated, "any effort to address [the Indian reservation situation] must target carefully those jurisdictions containing substantial numbers of native Americans who need language assistance." It is clear that the formulation as contained in the bill does not accomplish that task.

Under the 5 percent threshold, 18 jurisdictions are required to provide language assistance to 14,000 Indian voters. The new formula—as presently drafted—will add 59 new jurisdictions, but only cover an additional 4,900 voters. Over half of those new jurisdictions have fewer than 50 voters who will need assistance. Several of them have no native Americans who will need voting assistance, but they will still be covered under the act.

The new coverage formulas proposed by H.R. 4312, like those already found in section 203, are arbitrary and mechanical. They have no relationship to illegal discrimination and, as shown before in what I have said are burdensome and unworkable.

The intrusive nature of the bill is especially troubling when one considers that we have no data which tells us whether or not the language groups that will be covered in Los Angeles County or in other jurisdictions are already registering and voting. In addition, a number of these jurisdictions already provide bilingual voting assistance on a voluntary basis. How can we argue that they are discriminating against voters when they provide materials without a Federal mandate?

In conclusion, in the absence of evidence that multilingual ballots increase voter participation, in the absence of evidence of discrimination in voting, and with the certainty that our Nation is already being pulled apart and our divisive tendencies do not need to be further encouraged, serious doubts remain about the need to extend and expand section 203.

I will be offering two compromise amendments, which, if adopted will substantially address the concerns I have raised with respect to this bill. The first will extend section 203 for 5 years and require a study of effectiveness by the Bureau of the Census and the Department of Justice.

I do not believe that we need to extend this bill for another 15 years and that we certainly should not do it without a study to find out if it is working, the subject matter of what we are trying to do is working.

The second will require that jurisdictions subject to coverage under section 203 provide bilingual voting materials to citizens upon request. This amendment will reaffirm Congress' commitment that only citizens should vote and clarify, consistent with the Department of Justice regulations, that compliance with section 203 may be accomplished by targeting multilingual voting assistance to those who have the greatest need for such assistance.

It is surprising to me that, true, we do have jurisdictions in this country that are beginning to offer the opportunity to vote to noncitizens, and I certainly do not think we ought to be dictating the kind of voting requirements in this bill to those who are not citizens.

For those reasons, I have grave reservations about this bill, but I do have the amendments to offer.

Madam Chairman, I reserve the balance of my time.

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

Mr. MCCOLLUM. Madam Chairman, I yield 2 minutes to the gentlewoman from Florida, [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. I thank the gentleman for yielding time to me.

Madam Chairman, I urge my colleagues to support the voting rights improvement act, which will reauthorize and extend the federal requirement for bilingual ballots.

This important legislation will continue and improve section 203 of the Voting Rights Act which requires bilingual assistance in registering and voting. This requirement is scheduled to end next month. This bill will continue this section until the year 2007, the year the rest of the Voting Rights Act is scheduled to end.

Section 203 has ensured that language minority citizens, many of whom have resided in the United States for many years, are fully guaranteed the right to cast an independent, informed vote. It covers only those counties with a substantial language minority populations.

If this section is allowed to expire, minority language voters in 68 U.S. counties will have another barrier to overcome in participating in elections. Many of these voters are elderly American citizens who have contributed much to our Nation. By failing to continue this provision, they would be discouraged from participating in our system.

This bill will also improve the present section by expanding it to include many minority language communities which have previously not been covered, including such large areas as Los Angeles County and Cook County, IL. It will expand the present requirement that a county must provide bilingual assistance to voters if 5 percent of voting age citizens do not speak English well enough to make an informed vote. Under this bill, a county would also be covered if it has more than 10,000 voters who speak English poorly, that is, are classified as a single-language minority.

I can speak from personal experience, that bilingual ballots have been a major factor in opening the doors to many minority voters in south Florida who have registered for the first time. It has helped to open the doors to many who have fled tyranny to come to this Nation. It has permitted all of us to enjoy the fruits of participation in our democratic system.

I ask that you support this legislation which would help boost participation among many minority voters, who, in the past, have felt left out of our political system. That is why this

bill has received the support of many nonpartisan organizations, as well as the support of both the administration, and Members of Congress in both parties. At a time when fewer Americans are participating in our political system, let us keep going forward, not backward, in this important area of voting rights.

□ 2310

Mr. MCCOLLUM. Madam Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

Mr. SCHIFF. Madam Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding this time to me, and, as a member of the Committee on the Judiciary, I appreciate his hard work on this bill and many other bills before the committee.

Madam Chairman, I rise in favor of H.R. 4312. In my adopted State of New Mexico; my native State is Illinois, but at the age of 21 I moved to New Mexico, and it is now my State, my adopted State of New Mexico; since I moved there in 1969, two individuals, Hispanic individuals, have been elected Governor of the State of New Mexico. Today in New Mexico the Governor is not Hispanic, however the Lieutenant Governor is Hispanic. The secretary of state is Hispanic. The speaker of the State house of representatives is Hispanic. The senate president pro tempore of the State senate is Hispanic. The chairman of the county commission for the county that surrounds the Albuquerque area is Hispanic. The mayor of Albuquerque is Hispanic.

Now in New Mexico we have bilingual ballots and bilingual voting materials in English and Spanish universally throughout the State. In every voting machine in the State of New Mexico, for each election, regardless of what city, or county or what neighborhood that voting is located in, the ballot position of office, the referenda, if there are any, the voting materials, are always available in English and Spanish.

Now I cannot prove precisely that the availability of voting materials universally in English and Spanish is the proof positive cause of our having so many Hispanic officials elected in the State of New Mexico. But I can suggest that, if the facts I have just related occurred in any other State which I am familiar, including my native State of Illinois, it would be national headlines: "Hispanic elected Governor," "Hispanic elected Lieutenant Governor," "Hispanic elected secretary of state" and so forth. We just do it, we do not think about it, and I suggest to my colleagues that suggests at least a correlation between language assistance and voting and greater participation in the electoral process, and since we do want greater participation of all our citizens in the electoral process, I urge the adoption of H.R. 4312.

Mr. MCCOLLUM. Madam Chairman, I yield 7 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, I rise in opposition to H.R. 4312.

Madam Chairman, this legislation goes to the heart and soul of what America is all about, and I think it is really about time that some of us talked very frankly about this without fear of people calling each other names. There are a lot of people who believe in some of the things that I am going to say right now, but they have been afraid to say these things because they are afraid to be called racist, and I think that it is unfortunate that people of all religions and all faiths who love each other in a country like ours cannot be frank with one another because they are afraid that someone will relate this to some sort of malevolence in their heart, and I can assure my colleagues there is no malevolence in my heart toward anyone of any race or of any religion. Instead this is a heartfelt position, and I know it reflects that of a lot of other Americans of good will.

Madam Chairman, let us look at what America is all about and what this bilingual ballot, and bilingual education, and a bilingual America means.

What is America? America is a dream where people came here from every part of the world, from every race and every religion. They came here to this vast continent between two great oceans, and they came here from every ethnic background, speaking every language, from every race and religion. And they came here to live in peace and freedom and to use the opportunity that exists here and existed here that was available to all people to improve their lot, and to improve the lot of their families and to live in freedom.

There were two things that tied us together as a people. I am talking about the American people, all of those who came here. The two things that tied us together were, No. 1, a love of liberty, the love of the fundamental principles of freedom, and of dignity and decency for the individual. That kept us together as a people, and it kept us free.

But, yes, there was another factor that kept us together as a people and insured our freedom as a people, and that was that we were also tied together by the English language. Madam Chairman, my relatives did not speak English when they first came to America. Most people's relatives did not speak English when they came to America. They spoke many, many different languages, but they knew the importance of learning the English language. That had a lot to do, not only with the development of the United States of America and the protection of our freedom, but the fact that those individuals themselves were capable of enjoying the opportunity that existed in this great country.

Now throughout our history there have been few requirements as to being American. What an American meant was just anyone who came here who loved liberty and wanted to be part of this great experiment that God placed on this planet, that people who wanted to be together and live together in freedom could come here and enjoy this experiment. This experiment has been shown as an example and has been a hope for all mankind. Yes, there were a few requirements of being an American. We did not have a welfare system in those days, so self-sufficiency was a requirement, and, because we did not have a welfare system, anyone who wanted to be self-sufficient who could be was permitted to come to this country, and we had open doors. All they required was self-sufficiency, and they required a Pledge of Allegiance to our flag and to those principles of liberty that our Founding Fathers laid down, principles of liberty that were for all people, and they required a proficiency in English, and that was not a mistake.

Madam, Chairman, that was there because we knew to have one country, to have a country where opportunity for all was the order of the day, that we had to have a common language because it was an enabling language, not just for the people who came from England, but for the people who came from England, for the people who came here from Mexico, for the people who came here from France, the people who came here from every part of the world.

English has kept our Nation together, and I believe, I firmly believe, and I think many Americans of good will believe, that all official business in our country, Federal, State, or local, should be done in the English language. It was a mistake for our Federal Government to require State and local governments to print ballots in foreign languages in the first place. Command of the English language is a requirement for obtaining citizenship and for good reason. The English language binds us together as a nation, and separate language would divide us. If we require English proficiency as a requirement for citizenship, how is it we hear from proponents of this bill that printing ballots only in English is discrimination against non-English-speaking citizens? According to our nationalization laws, Madam Chairman, we should not even have non-English-speaking citizens. It is a requirement of becoming a citizen of this country.

The authors of this legislation are not content with simply perpetuating another mistake for another 15 years. They want to make it worse, and I think that tomorrow we will learn how; by lowering the threshold from a 5-percent requirement. They are changing the threshold from a 5-percent requirement, and that means 5 percent of the people speak another language, and they have to have a ballot in that lan-

guage. Now we are going to lower it to 10,000. Not only is that bad for those individuals who are involved now who do not have the incentive to learn the language that they had before, but it almost makes it impossible for the process to work in some of the parts of our country.

□ 2320

In southern California we have had a massive influx of immigration and there are some problems with that. The illegal immigration part of it, the people involved with public services are destroying the social fabric of our country. They are destroying the social services because we cannot afford to take care of everybody in the world. We cannot afford to provide government services for everybody in the world who can make their way here.

But the people who are here legally, which is a whole other question, those people too have a right to become part of this system. They have every right as every other American to be treated as every other American, and part of that used to be learning to speak English. But if we try to print ballots in all of these languages, in southern California what that means is in some instances we will have six, seven, or eight languages required on the ballot. It will swamp the electoral process.

Madam Chairman, my amendment will be heard on the floor tomorrow that tries to handle that problem. I would ask Members to reject the whole idea of bilingualism and also to vote for my amendment tomorrow.

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

Mr. BROOKS. Madam Chairman, I reserve the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. EDWARDS of California) having assumed the Chair, Mrs. UNSOELD, 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. 4312), to amend the Voting Rights Act of 1965 with respect to bilingual election requirements had come to no resolution thereon.

INTRODUCTION OF THE BANKRUPTCY JUDGESHIP ACT OF 1992

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

Mr. BROOKS. Mr. Speaker, today I am introducing—along with Congressman HAMILTON FISH, the ranking minority member of the Judiciary Committee—legislation to authorize 32 additional bankruptcy judgeships.

Bankruptcy courts are an essential element of the Federal judiciary and the American economic system. Unfor-

tunately, as clearly documented in a hearing in the Judiciary Committee's Subcommittee on Economic and Commercial Law earlier this year, extraordinary increases in bankruptcy filings over the past few years have overloaded—and in some cases overwhelmed—the courts.

In 1988, the year the most recent bankruptcy judgeship bill was enacted, 613,000 bankruptcy cases were filed nationwide. By 1991, that figure had soared to an estimated 944,000 cases—an increase of over 50 percent in just 3 years. This dramatic increase continued in the first 3 months of this year when more than 252,000 cases were filed—a pace that, if it persists, would result in more than 1 million filings for 1992.

The Brooks-Fish bill authorizing additional bankruptcy judgeships will relieve the staggering burden on the courts and help have these cases considered on a more timely basis—a move that would be of enormous benefit to debtors and creditors alike.

The case for additional bankruptcy judgeships is certainly compelling. But we cannot disregard another fact of life: The paucity of Federal funds that have resulted in immense Federal budget deficits. Each new judgeship, therefore, has been carefully targeted to assure the most efficient use of scant judicial resources. Every one of the judgeships authorized by the Brooks-Fish bill was recommended by the Judicial Conference of the United States after carefully weighing a number of factors, including the results of an objective new case-weighting analysis of the courts' workload.

Additionally, the Brooks-Fish bill enhances efficiency in the use of judicial resources by authorizing temporary judgeships—similar to the temporary judgeships authorized by law for article III courts—to avoid the permanent expense of bankruptcy judgeships that may well be unneeded as the economy recovers from the current recession. Seven of the thirty-two judgeships in the Brooks-Fish bill are designated as temporary and are, in effect, subject to a sunset provision. In each of the seven districts receiving a temporary judgeship, the first judgeship vacancy that occurs after 5 years and that results from the death, retirement, resignation, or removal of any judge in that district will not be filled. But, each individual appointed in a district that has a temporary judgeship will be eligible to serve a full 14-year term—and be eligible for reappointment to additional terms—the same as any other bankruptcy in any other district.

Mr. Speaker, this bill is carefully crafted, fiscally prudent, and urgently needed. I urge my colleagues to support it.

IN HONOR OF GEORGE ROEDING

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

Mr. STARK. Madam Speaker, I rise today to honor Mr. George C. Roeding, Jr., for his many contributions to the Fremont area and our State of California over the past 91 years. He has been a pillar of community service and activism and will be recognized on Sunday, July 26, 1992, by the Washington Township Historical Society for his work.

George Roeding and his California Nursery have been a force behind much of the beautification and park expansion in the Alameda County area. He was one of the first five citizens to support the foundation of the city of Fremont, served on the recreation commission, and fought unsuccessfully to bring my district's campus of the California State College—now University—system to Fremont. In 1940, George also helped save the Alameda County Fairgrounds in Pleasanton from sale.

George is a strong advocate for good planning and beautification efforts; he even supplied the plants for landscaping around the California State Capitol in Sacramento and trees for that national treasure, Golden Gate Park. Many of his suggestions to the Governor for state highway beautification were incorporated into State policy years ago. The Vallejo Adobe on the nursery grounds is a national historical site and was for almost 30 years the home of annual flower shows that were a delight to behold.

Madam Speaker, I ask my colleagues to join the Washington Township Historical Society in celebrating a lifetime of service and dedication to neighbors and fellow citizens. Since 1917, the people of Fremont have been fortunate to have George Roeding as a friend and neighbor. I salute him and his significant contributions to our community.

BALANCED BUDGET
ENFORCEMENT ACT OF 1992

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

Mr. PANETTA. Madam Speaker, today I am introducing legislation that would establish a strong and rational legislative enforcement process for achieving a balanced budget by 1998.

Earlier this year, the House conducted a lengthy and emotional debate over a proposed constitutional amendment to require a balanced budget by 1998. That amendment failed. But a powerful and focused message came out of that debate from both supporters and opponents of the constitutional amendment. That message is that there is a strong desire in the Congress and among the American people for tough measures to bring about dramatic reductions in the deficit and, preferably, a balanced budget.

During the debate, I laid out some of the difficult choices that must be addressed if we are truly going to balance the budget. It now appears that those issues will be raised soon, for the first time, in the national political arena as well. In light of the debate on the constitutional

amendment, it will be interesting to see the reactions of the public as well as the President and the Congress.

It is my view that no constitutional amendment will make it easier or more likely for elected leaders to face up to the tough choices. Therefore, I do not believe it makes sense to tinker with the Constitution and put unelected Federal judges into the position of making decisions about taxes and spending that the people's elected Representatives ought to be making.

What would be helpful, however, is a legislative mechanism that achieves the same goal as a constitutional amendment without raising the dangers associated with an amendment. Of course, such a mechanism would also have been necessary if the proposed amendment had been adopted and ratified.

During the period leading up to the House debate on the constitutional amendment, I introduced H.R. 5272, the Balanced Budget Enforcement Act of 1992. That legislation would have established a process leading to a balanced budget. It was designed to stand on its own, as a legislative means of balancing the budget, or as an implementing measure for a constitutional amendment.

During the debate on the amendment, I pledged, and the Speaker pledged, to bring to this floor either that bill or another bill establishing a process for reducing the deficit over the next several years.

Before the debate on the amendment even took place, I began meeting in bipartisan caucuses with the Democratic and Republican members of the Budget Committee to work on a balanced budget enforcement bill. We used H.R. 5272 as the basis for our discussions, but we considered a number of changes, based on concerns raised by both Democratic and Republican participants. We met nine times, beginning on May 28, with the last meeting taking place on July 22.

The bill I am introducing today is the product of those sessions.

Despite some differences, Budget Committee Democrats and Republicans had made a great deal of progress on some very difficult issues. But without bipartisan support, as everyone in this body is well aware, it is virtually impossible to face up to these issues.

The bill I am introducing today reflects a number of the changes discussed in the Budget Committee's bipartisan caucuses. It establishes a mechanism for achieving a balanced budget by fiscal year 1998, using a unified annual discretionary spending cap, entitlement and revenue targets, reconciliation, and sequestration as enforcement tools. It is a new approach in that it relies more heavily than past measures on the individual responsibility of congressional committees for achieving deficit reduction goals.

Like previous budget enforcement mechanisms, this measure seeks to pressure the President and the Congress to make the tough policy choices needed to achieve deficit reduction. And like those measures, it imposes across-the-board solutions when the regular budget, reconciliation, legislative, and appropriations processes fail.

Unlike those laws, however, it seeks to make sequestration as fair as possible, eliminating program exemptions and relying on a

targeted freeze when it comes to comprehensive sequesters, and adding taxes to the mix in order to ensure that the wealthy bear a share of deficit reduction and that everyone has a stake in the success of deficit reduction legislation.

The bill would require a gradually increasing amount of deficit reduction each year, leading to a balanced budget by 1998. The President's budget, the annual concurrent resolution on the budget, and enacted legislation would be required to meet those targets. If the goals were not met by the enactment of specific spending cuts or tax increases, sequestration—across-the-board spending cuts and taxes—would be ordered.

In the case of discretionary spending, a breach of the annual cap would result in an across-the-board sequester of discretionary spending.

A separate sequester would apply for the combined category of entitlement spending and revenues. The type of sequester would depend on whether the President and Congress had agreed on deficit reduction priorities by enacting a bill incorporating the priorities established in the Congressional budget resolution.

If such a bill were enacted, a sequester would be imposed only on the entitlement programs, or revenues, within the jurisdiction of individual committees that did not meet their deficit reduction goals. The amount of the sequester would depend on how short the committee had come. In the case of revenues, a personal and corporate surtax would be imposed if revenues fell short.

If no bill signifying agreement between the President and Congress were enacted, there would be a comprehensive across-the-board sequester of entitlement spending and revenues based on a freeze formula. For revenues, the freeze would apply to income tax indexing and would be accompanied by a temporary rate increase for those with income over \$250,000. This formula would produce about \$4 in spending cuts for every \$1 in increased revenues.

The bill also allows investment and growth initiatives to advance as long as they are paid for, a provision similar to the current budget process.

Madam Speaker, it is my hope that the committees with legislative jurisdiction over the bill will give it swift consideration and make sure that it comes before the full House in time to provide a real opportunity for action on the deficit this year.

A detailed explanation of the Balanced Budget Enforcement Act follows. I urge my colleagues to review it.

THE BALANCED BUDGET ENFORCEMENT ACT OF
1992

To achieve a balanced budget by 1998, the bill sets caps on discretionary spending and establishes entitlement/revenue deficit reduction requirements. The bill requires the President and Congress to meet those discretionary and entitlement/revenue savings requirements, and has automatic sequestration at the end of any session of Congress in which the requirements for the budget year are not fully met. To ensure that sound estimates are used by the President and Congress, the bill establishes a Board of Estimates to choose either OMB or CBO estimating assumptions and bill cost estimates.

(1) DEFICIT REDUCTION REQUIREMENTS

The bill sets required amounts of deficit reduction, which are in addition to the amounts required by the 1990 Budget Agreement, to reach a balanced budget by 1998. There are separate requirements for discretionary spending and for entitlements/reve-

enues. Discretionary savings will be achieved by limiting appropriations to a single annual cap. The bill sets the required entitlement/revenue savings; how these savings will be achieved will be determined annually in the budget resolution. The Congress, for example, could choose to meet the targets solely

through spending cuts. The deficit reduction amounts, as measured against the February 1992 current policy baseline, as well as the resulting interest savings (because the Government will have a smaller debt than if the policy savings had not occurred) are as follows:

[Savings in billions of dollars]

	1993	1994	1995	1996	1997	1998	Total
Discretionary	7	1	9	29	49	71	166
Entitlement/revenue	5	32	62	93	126	160	477
Debt service	*	2	5	12	23	39	82
Total	12	35	76	134	198	270	725

In 1993, the discretionary caps are set equal to the levels in the 1993 budget resolution. That is, the budget resolution already calls for the discretionary savings required in the bill for 1993; it cuts discretionary funding below the statutory caps set in the budget summit agreement. The bill also requires an additional \$4.6 billion in entitlement/revenue savings in 1993 that was not reconciled in the budget resolution. Beginning in 1994, the additional deficit reduction amounts required each year (i.e. the increase in one year's requirements compared to the previous year's) represent a constant percent of GDP. Thus the annual impact relative to the economy is stable over the period.

This bill is not a repeat of GRH I and II, because it does not specify fixed deficit targets through 1997. Thus, if major fluctuations occur in the baseline deficit because, for instance, of a major reestimate in the timing of deposit insurance outlays and collections, the deficit reduction requirement is not altered in that year. The bill requires \$35 billion in deficit reduction (including interest savings) for 1994 whether new estimates show the 1994 deficit to be higher or lower than currently projected.

If CBO's current projections prove too optimistic, the deficit reduction path specified in the bill will not achieve balance in 1998. Therefore, a fail-safe mechanism is included in the bill to ensure that the goal of a balanced budget is met in 1998. A projection will be made of the 1998 surplus or deficit assuming full compliance with the bill's basic deficit reduction requirements. If that projection shows a 1998 deficit rather than a balance or surplus, then the 1998 discretionary caps will be lowered and the 1998 entitlement/revenue savings requirements increased to eliminate that deficit. Although Congress can ultimately decide the distribution of these savings between discretionary programs and entitlements/revenues, the bill provides as a fallback that discretionary programs achieve one-third of the policy savings and entitlement/revenues the remaining two-thirds. The policy savings plus the attendant interest savings must eliminate the projected deficit. This process will also be used in 1999 and thereafter.

(2) USE OF SOUND ESTIMATES BY THE PRESIDENT AND CONGRESS

The bill establishes a Board of Estimates, whose members will be appointed by the President. The Board consists of the Chairman of the Federal Reserve and four private citizens, one each from lists made by the Speaker, the Minority Leader, and the Senate Majority and Minority Leaders. The Board is responsible for choosing either CBO's or OMB's major estimating assumptions, which must be used by the President and the Congress, and later the bill cost estimates. In addition, the bill requires CBO to provide bill cost estimates of unfunded man-

dates, consistent with a feature of the Financial Accountability, Impact, and Reform Act proposed by Rep. Moran.

At the beginning of the year, the Board will meet to choose the baseline and the major economic and technical assumptions to be used during the year. The assumptions are then locked in for the year; no updates or revisions are permitted. The Board makes its choice by selecting without change either all the calculations made by CBO or all the calculations made by OMB. The Board may not pick some of CBO's assumptions and others from OMB, nor may it make its own calculations. After Congress adjourns to end a session, the Board will meet to review the bill cost estimates made by CBO and those made by OMB and choose one set or the other (without modification). These bill cost estimates will then be used to measure compliance with the bill's deficit reduction requirements.

Although OMB and CBO are required to use the economic and major technical assumptions chosen by the Board in their subsequent calculations, that requirement does not by itself produce identical CBO and OMB bill cost estimates. Identical bill cost estimates are neither achievable nor desirable; each agency acts as a check on the other. However, this system is designed to accomplish three goals: (A) to have the most realistic assumptions used for establishing the presidential and congressional budgets; (B) to encourage OMB and CBO to converge rather than diverge in their initial estimates since a set of estimates that differs substantially from the mainstream is unlikely to be chosen; and (C) to have the deficit reduction requirements be the same for the President and the Congress.

Through 1997, by selecting the estimates of the deficit effects of enacted legislation, the board will determine the remaining deficit reduction needed each year to comply with the bill. Beginning in 1998, when the budget is required to be in balance, the baseline estimates chosen by the Board become more important. These estimates will show whether additional deficit reduction will be required to meet the goal of balance.

(3) SUBMITTING BALANCED BUDGETS

The bill requires that the President's budget use the assumptions chosen by the Board of Estimates, meet all discretionary caps and entitlement/revenue deficit reduction targets, achieve balance in 1998 and each year thereafter, and be voted on by Congress.

In addition, the bill requires that Congressional budget resolutions use the estimating assumptions chosen by the Board, meet all discretionary caps and entitlement/revenue deficit reduction targets, achieve balance in 1998 and each year thereafter.

(4) ENFORCEMENT

When faced with a deficit reduction requirement, Congress and President must

work together to meet that requirement. Major disputes over philosophy, economic goals, and politics will make the negotiations and decisions within Congress and between the two branches contentious and difficult. The contention and strife, however, should eventually lead to resolution through the legislative process. But stalemate—a legislative inability to enact any law achieving the necessary deficit reduction—is a possibility. Therefore, this bill, like the three previous incarnations of the Balanced Budget and Emergency Deficit Reduction Act, includes sequestration as the ultimate deficit reduction vehicle.

Because the bill's deficit reduction requirements are divided between discretionary programs and entitlements/revenues, there is a separate sequester mechanism for each category as described below:

Discretionary.—Enforcement for discretionary programs is similar to existing law. In 1993, the Budget Enforcement Act sequestration rules are maintained—that is, the walls between the three categories (defense, international, and domestic) remain, but the budget authority and outlay caps for defense and international are lowered to the levels set in the 1993 budget resolution. Beginning in 1994, there will only be a single budget authority cap limiting appropriations. Failure to stay within the annual limit triggers an across-the-board reduction of all discretionary programs. That is, if a sequester is needed, discretionary budget authority is reduced across-the-board by a single, uniform percentage. There are no longer any "walls" separating defense, international, or domestic appropriations; all accounts are cut to achieve the required savings.

Further, there are no longer any exemptions (formerly, WIC was exempt) or limitations (formerly, Veterans medical care and some other medical programs were limited to a 2 percent cut under any sequestration). The President retains the option of partially or fully exempting any military personnel from sequestration, but if he uses that option, the additional amount that needs to be saved must come entirely from other defense spending.

The bill includes a special rule that designates transportation trust fund budget authority and outlays as discretionary. (Currently, the outlays are treated as discretionary and the budget authority, which represents contract authority, is treated as mandatory.) In addition, that special rule will allow a bill to raise excise taxes dedicated to the transportation trust funds and to appropriate an amount equal to the net tax increase. The budget authority caps would be raised accordingly to allow the extra spending.

The budget authority caps will be set at \$515.7 billion in 1994 and each year thereafter. The caps will be adjusted each year for the following: changes in accounting con-

cepts; changes in inflation; the amount of new budget authority needed to renew expiring multi-year subsidized housing contracts or to provide contracts to replace units lost due to prepayments; cap breaches in the current year (this replaces the current "within-session" sequester); and emergencies. In 1998, when balance is required, the caps could also be lowered to help achieve a balanced budget as required. In 1999 and thereafter, the caps will have to be set each year based on the estimate of the deficit or surplus.

Relying on a single budget authority cap has at least two advantages over the current system where the focus is on constraining outlays. First, it stops the President or Congress from assuming an unrealistic mix of appropriations that relies too heavily on slow-spending programs. Manipulating the mix of programs is not a way to control spending. Although it may reduce outlays in the near term, eventually the funds will be spent. Second, budget authority caps remove any possible advantage to the recent practice of "delayed obligations." The Appropriations Committee will be judged by how much it appropriates, not by how slowly it lets funds be spent.

Entitlements/Revenues.—The mechanism to enforce the entitlement/revenue deficit reduction requirements is more complicated, in part because there are two possible types of sequestrations—targeted sequestration to enforce a budget reconciliation directive, or comprehensive sequestration. The type of sequestration applied in any year depends on whether a special law (the "spin-off bill," described below) is enacted codifying the reconciliation targets for each committee.

The entitlement/revenue deficit reduction priorities will be set each year through the annual budget process. The budget resolution (conference report) will include a reconciliation directive setting the dollar amount of deficit reduction to be achieved by each House committee through changes in entitlement and/or revenue law. Passage of the budget resolution will simultaneously generate a "spin-off bill" to be sent to the President stating those House committee deficit reduction targets. Enactment of the spin-off bill permits enforcement of the individual committee targets for direct spending and revenues. If a committee misses its entitlement target, all entitlement programs within that committee's jurisdiction will be sequestered by a uniform percentage to meet the target. If Ways and Means does not meet its revenue target, a uniform personal and corporate surtax will be imposed to meet that target (revenues cannot be used to meet the direct spending target).

If a spin-off bill is not enacted (and insufficient reconciliation savings are enacted), then a comprehensive sequestration formula will be applied. Under comprehensive sequestration, there will be a freeze of entitlement spending and some revenue provisions in the amount needed to hit the overall target for entitlement/revenue deficit reduction. The freeze formula will generate a percentage reduction in entitlement spending that will be applied uniformly at the program level to maintain equity among programs. For revenues, the freeze formula will be applied to tax indexing and annual income greater than \$250,000. The income tax will be "de-indexed" by the amount of the uniform freeze percentage (except for the EITC), and the marginal tax rate of those making more than \$250,000 will be increased by that percentage.

The freeze formula will produce about four dollars in spending cuts for every one dollar in revenue increases. The persuasiveness of

the sequester threat lies not only in the undesirability of relying on a mechanical process, but also on how widespread the impact of a sequester would be felt. All should be required to share the burden of a failure to reach a compromise regarding deficit reduction. Only if revenues are included as part of a comprehensive sequester will there be an equitable distribution of the required reductions. In addition, the bill eliminates virtually all sequestration exemptions and limitations—including those for Social Security and other Federal retirement programs, Postal Service, veteran's programs, and low-income programs—for both the comprehensive and targeted sequester.

Clearly, enforcement through targeted sequestration (which requires enactment of the spin-off bill) is superior to the comprehensive sequestration formula for a number of reasons. First, it protects all the parties that agreed to the budget resolution from any major change in priorities. Second, it provides both a carrot and a stick when it comes to complying with the entitlement/revenue deficit reduction targets in the budget resolution. The committees are sequestered in their own home if they fail to meet their deficit reduction target (with no one else to share the burden of their failure); at the same time, if they do meet their target, they have bought sequestration insurance for their home. It protects the innocent and punishes the guilty, which is important for institutional equity among the major committees of Congress. The lack of this feature was a major flaw with GRH I and II. And finally, if one committee achieves more than enough deficit reduction, no other committee can use it; the result is lower deficits. Given the magnitude of the task, every extra bit helps.

Both the direct spending and the surtax sequestrations would be permanent, rather than one-year, changes in law. Since the amount of deficit reduction that is required grows significantly from one year to the next, the Government cannot afford to enforce this year's targets by one-year, temporary sequestrations. The analogy is with reconciliation. Just as reconciliation savings must be permanent in order to ratchet down the deficit one year at a time, so must sequestration savings be permanent.

(5) OTHER FEATURES

The bill also includes the following other features:

Stabilization Reserve Fund.—The bill establishes a Stabilization Reserve Fund and requires that \$10 billion be paid into the Fund in 1999 and \$20 billion in each year thereafter. Because of that payment, the bill actually aims for a \$10 billion surplus in 1999 and a \$20 billion surplus each year thereafter. In addition, the Stabilization Reserve Fund will receive amounts equal to any actual surpluses that the Government runs. If the Government is provident enough to run surpluses during good economic times, then these surpluses can be transferred to the Treasury by enactment of a law during bad economic times, to help pay for the costs of a recession and to avoid depressing a weak economy. Thirty-four States specifically provide for such rainy day funds, and virtually every State achieves that result by putting the balances from the prior year on the books of the current year.

"De minimis" Sequesters.—The bill sets a "de minimis" amount before sequestration can be triggered. In theory, this means that very small shortfalls in deficit reduction are not offset by sequestration. The de minimis amount is set for each of the different types of sequester.

Suspension of Requirements.—As with previous versions of budget enforcement legislation, this bill's deficit reduction requirements can be suspended in the event of a recession or war. Under current law, however, this is an all or nothing choice—all the deficit reduction requirements must be either suspended or retained. Under this bill, the deficit reduction requirements can be modified, such that any portion of the requirements can be suspended if Congress and the President agree.

Budget Act Changes.—The Congressional Budget Act is changed in ways to make it consistent with the requirements of this Act. Primarily, this requires making budget resolutions enforceable over five-year periods. That is current law, but that feature is due to expire at the end of 1995; this bill makes it permanent. Likewise, the definition of budget authority needs to be made complete in order for the control of appropriations through limits on budget authority (rather than outlays) to be fully effective. Finally, given that approach, Senate points of order that depend on spendout rates and other aspects that purely affect outlays are eliminated.

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 Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 60 minutes each day, on July 27 and 28.

Mrs. BENTLEY, for 5 minutes today, in lieu of previous 60 minutes approved.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BACCHUS for 60 minutes, on July 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. AUCOIN during debate on H.R. 5503 in the Committee of the Whole today.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. RHODES in two instances.

Mr. SANTORUM.

Mr. HUNTER.

Mr. GUNDERSON.

Mr. DOOLITTLE.

Mr. GOODLING.

Mr. OXLEY.

Ms. MOLINARI.

Mr. VANDER JAGT.

Mr. BEREUTER in two instances.

Mr. BILIRAKIS.

Mr. EDWARDS.

Mr. SUNDQUIST in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. DINGELL.
Mr. MINETA.
Mr. ORTIZ.
Mr. NEAL of Massachusetts.
Mr. LANTOS.
Mr. VENTO.
Mr. BACCHUS.
Mr. MAVROULES.
Mr. WHEAT.
Mr. TRAFICANT in two instances.
Mr. LEHMAN of Florida.
Mr. SKELTON in two instances.
Mr. AUCOIN.
Mr. LEVINE of California.
Mr. TORRICELLI.
Mr. BROWN.
Mr. FORD of Michigan in four instances.
Mr. SPRATT.
Mr. COLEMAN of Texas.
Mr. KANJORSKI.
Mr. JOHNSON of South Dakota.
Mr. EARLY.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3007. An act to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center; to the Committee on Education and Labor.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System; and

H.R. 5343. An act to make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 249. An act for the relief of Trevor Henderson;

S. 992. An act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, NV;

S. 2938. An act to authorize the Architect of the Capitol to acquire certain property; and

S.J. Res. 295. Joint resolution designating September 10, 1992, as "National DARE Day."

ADJOURNMENT

Mr. GONZALEZ. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 25 minutes) the House adjourned until tomorrow, Friday, July 24, 1992, 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:

3956. A letter from the Comptroller General, the General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission by the President in the 4th through 101st special messages for fiscal year 1992, pursuant to 2 U.S.C. 685 (H. Doc. No. 102-364), to the Committee on Appropriations and ordered to be printed.

3957. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the U.S. Occupational Safety and Health Review Commission, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3958. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-239, "Temporary Panel of the Office of Employee Appeals Temporary Extension Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3959. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-240, "National Public Radio Revenue Bond and Real Property Tax Exemption Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3960. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-241, "National Learning Center Revenue Bond Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3961. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of the D.C. Act 9-242, "Howard University Revenue Bond Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3962. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-243, "Children's Hospital Revenue Bond Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3963. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-244, "Medilantic Healthcare Group Inc. Revenue Bond Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3964. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-245, "The Catholic University of America Revenue Bond Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3965. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-246, "Rental Housing Act of 1985 Elderly and Disabled Tenant Rental Housing Capital Improvement Relief Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3966. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. Act 9-247, "Handgun Possession Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3967. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-248, "Uniform Controlled Substances Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3968. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-249, "Free Flow of Information Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3969. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Annual Report on the D.C. Depository Act for fiscal year 1990 and fiscal year 1991," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

3970. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting copies of the original report of political contributions of John Cameron Monjo, of Maryland, to be Ambassador to the Islamic Republic of Pakistan; and of Harriet Isom, of Oregon, to be Ambassador to the Republic of Cameroon, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3971. A letter from the Inspector General, Department of Veterans Affairs, transmitting a correction to the semiannual report for the 6-month period ended March 31, 1992, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526, 2640); to the Committee on Government Operations.

3972. A letter from the Vice Chairman, Export-Import Bank of the United States, transmitting the 1991 management report, pursuant to Public Law 101-576, section 306(a) (104 Stat. 2854); to the Committee on Government Operations.

3973. A letter from the Farm Credit Bank of Baltimore, transmitting the annual pension plan report of the Farm Credit District of Baltimore Retirement Plan and Thrift Plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3974. A letter from the Deputy Executive Director, Federal Housing Finance Board, transmitting a copy of the actuarial and financial reports of the Federal Home Loan Bank System Pension Portability Plan for the years 1990 and 1991, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3975. A letter from the Seventh Farm Credit District, transmitting the annual pension plan report of the employees of the Seventh Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3976. A communication from the President of the United States, transmitting a draft of proposed legislation to designate certain lands in the State of Oregon as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

3977. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's annual report on the implementation of the Foreign Service Act of 1980, pursuant to 22 U.S.C. 4173; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3978. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the termination of the designation as a danger pay location for all areas in El Salvador, pursuant to 5

U.S.C. 5928; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3979. A letter from the Secretary of Commerce, transmitting the Secretary's annual report for fiscal year 1991; jointly, to the Committee on Energy and Commerce, Ways and Means, Government Operations, the Judiciary, Science, Space, and Technology, Post Office and Civil Service, Banking Finance and Urban Affairs, Foreign Affairs, and Merchant Marine and Fisheries.

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. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5291. A bill to provide for the temporary use of certain lands in the city of South Gate, CA, for elementary school purposes; with an amendment (Rept. 102-689). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 5056. A bill to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; with amendments (Rept. 102-690). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 4323. A bill to improve education for all students by restructuring the education system in the States; with an amendment (Rept. 102-691). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3956. A bill to amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the act, and to improve enforcement, and for other purposes; with an amendment (Rept. 102-692). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1168. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances (Rept. 102-693). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5636. A bill to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts (Rept. 102-694). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5637. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit, and for other purposes (Rept. 102-695). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5638. A bill to amend the Internal Revenue Code of 1986 to permit losses on sales of certain prior principal residences to offset gain on a subsequent sale of a prin-

cipal residence (Rept. 102-696). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5639. A bill to permit tax-exempt bonds to be issued to finance office buildings for the United Nations (Rept. 102-697). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5640. A bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions (Rept. 102-698). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5642. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain property and casualty insurance companies under the minimum tax, and for other purposes (Rept. 102-699). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5645. A bill to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes (Rept. 102-700). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5651. A bill to provide for the payment of retirement and survivor annuities to certain ex-spouses of employees of the Central Intelligence Agency and to provide for the tax treatment of certain disability benefits. (Rept. 102-701, Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5653. A bill to amend the Internal Revenue Code of 1986 to exempt the full amount of bonds issued for government-owned, high-speed intercity rail facilities from the State volume cap on private activity bonds and to require reporting of certain income and real property taxes (Rept. No. 102-702). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5660. A bill to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business, and for other purposes (Rept. 102-703). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 2694. A bill to amend title 11, District of Columbia Code, to remove gender-specific references (Rept. 102-704). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5622. A bill to authorize an additional Federal contribution to the District of Columbia for fiscal year 1993 for youth and anticrime initiatives in the District of Columbia (Rept. 102-705). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5623. A bill to waive the period of congressional review for certain District of Columbia acts (Rept. 102-706). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR: Committee on Rules. House Resolution 527. Resolution providing for the consideration of the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes.

(Rept. 102-707). Referred to the House Calendar.

Mr. NATCHER: Committee on Appropriations. H.R. 5677. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102-708). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 5678. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102-709). Referred to the Committee of the Whole House on the State of the Union.

Mr. TRAXLER: Committee on Appropriations. H.R. 5679. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102-710). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 918. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; with an amendment, referred to the Committee on Agriculture for a period ending not later than September 11, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X. (Rept. 102-711, Pt.1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4731. Referral to the Committee on Energy and Commerce extended for a period ending not later than August 7, 1992.

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. VANDER JAGT (for himself and Mr. THOMAS of California):

H.R. 5674. A bill to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes; to the Committee on Ways and Means.

By Mr. ANTHONY:
H.R. 5675. A bill to amend the Internal Revenue Code of 1986 to permit regulations waiving yield restrictions on tax-exempt bond arbitrage if the arbitrage rebate requirements are met; to the Committee on Ways and Means.

By Mr. PANETTA (for himself, Mr. STENHOLM, Mr. BEILENSEN, Mr. PEASE, Mr. WISE, Mr. SPRATT, Mr. OBERSTAR, Mr. PAYNE of Virginia, Mr. ESPY, Mr. COOPER, Mr. SKAGGS, Mr. PENNY, Mr. SLATTERY, Mr. HUGHES, Mr. VISCLOSKEY, and Mr. MORAN):

H.R. 5676. A bill to achieve a balanced Federal budget for fiscal year 1998 and each year thereafter, achieve significant deficit reduction in fiscal year 1993 and each year through 1998, establish a Board of Estimates, require the President's budget and the congressional budget process to meet specified deficit reduction and balance requirements, enforce those requirements through a multiyear congressional budget process and, if necessary, sequestration, and for other purposes; jointly, to the Committees on Government Operations, Rules, and Ways and Means.

By Mr. NATCHER:

H.R. 5677. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. SMITH of Iowa:

H.R. 5678. A bill making appropriations for the Departments of Commerce, Justice, and State, and Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. TRAXLER:

H.R. 5679. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. ACKERMAN (for himself, Mr. BORSKI, Mr. BROWN, Mr. FLAKE, Mr. HOCHBRUECKNER, Mr. LANTOS, and Mr. RINALDO):

H.R. 5680. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture.

By Mr. ATKINS (for himself, Mr. ENGEL, Mr. DONNELLY, Mr. MARKEY, Mr. FRANK of Massachusetts, Mr. KENNEDY, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. STUDDS, Mr. MFUME, Mr. BORSKI, Ms. KAPTUR, and Mr. BLACKWELL):

H.R. 5681. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself, Mr. FOGLIETTA, and Mr. PALLONE):

H.R. 5682. A bill to provide more effective protection for marine mammals; jointly, to the Committees on Merchant Marine and Fisheries and Agriculture.

By Mr. DEFAZIO (for himself and Mr. AUCOIN):

H.R. 5683. A bill to authorize land consolidation and a recreational facility in the Willamette National Forest, OR; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. GLICKMAN:

H.R. 5684. A bill to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for purposes of safety; to the Committee on Energy and Commerce.

By Mr. MURPHY:

H.R. 5685. A bill to prevent States from reducing unemployment compensation benefits

by certain remuneration for services in the military reserves; to the Committee on Ways and Means.

By Mr. RHODES (for himself, Mr. AUCOIN, and Mr. BEREUTER):

H.R. 5686. A bill to make technical amendments to certain Federal Indian statutes; to the Committee on Interior and Insular Affairs.

By Mr. SHAYS (for himself and Mr. MFUME):

H.R. 5687. A bill to amend title I of the Housing and Community Development Act of 1974 to establish an economic development block grant program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS (for himself and Mr. FISH):

H.R. 5688. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. OLVER:

H. Res. 525. Resolution relating to the privileges of the House; considered and withdrawn.

By Mr. WALKER:

H. Res. 526. Resolution relating to the privileges of the House; laid on the table.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

503. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the shipment of solid waste; to the Committee on Energy and Commerce.

504. Also, memorial of the Legislature of the State of Alaska, relative to implementation of the Indian Child Welfare Act; to the Committee on Interior and Insular Affairs.

505. Also, memorial of the Legislature of the State of Alaska, relative to commonwealth status for Guam; to the Committee on Interior and Insular Affairs.

506. Also, memorial of the Legislature of the State of Alaska, relative to native allotments process for the benefit of native military veterans; to the Committee on Interior and Insular Affairs.

507. Also, memorial of the Legislature of the State of Alaska, relative to Federal funding for the Alaska Volcano Observatory; to the Committee on Interior and Insular Affairs.

508. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to persecuted Haitians; to the Committee on the Judiciary.

509. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the Rodney King verdict; to the Committee on the Judiciary.

510. Also, memorial of the Legislature of the State of Alaska, relative to the Pan-American energy alliance; to the Committee on Ways and Means.

511. Also, memorial of the Legislature of the State of Alaska, relative to missing American service personnel; jointly to the Committees on Foreign Affairs and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SANTORUM:

H.R. 5689. A bill for the relief of Wayne T. Alderson; to the Committee on Armed Services.

H. Con. Res. 351. Concurrent resolution expressing the sense of the Congress that the President should award a Medal of Honor to Wayne T. Alderson in recognition of acts performed at the risk of his life and beyond the call of duty while serving in the U.S. Army during World War II; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of July 22, 1992]

H.R. 112: Mr. MCCANDLESS.

H.R. 252: Mr. TOWNS.

H.R. 481: Mr. GOSS.

H.R. 643: Mr. PALLONE.

H.R. 1218: Mr. BENNETT.

H.R. 1311: Mr. DIXON, Mr. GONZALEZ, Mr. JOHNSON of South Dakota, Mr. OLIN, Mr. PURSELL, Ms. SLAUGHTER, and Mr. ZELIFF.

H.R. 1312: Mr. DIXON, Mr. GONZALEZ, Mr. JOHNSON of South Dakota, Mr. OLIN, Mr. PURSELL, Ms. SLAUGHTER, Mr. ZELIFF, and Mr. McMILLEN of Maryland.

H.R. 1475: Mr. MCCLOSKEY.

H.R. 1495: Mr. THOMAS of California and Mr. BROWDER.

H.R. 1536: Mr. AUCOIN and Mr. SCHEUER.

H.R. 1886: Ms. HORN.

H.R. 2070: Mr. KOPETSKI.

H.R. 2089: Mr. DIXON.

H.R. 2248: Mrs. BENTLEY.

H.R. 2407: Mr. TAYLOR of North Carolina, Mr. HALL of Texas, and Mr. ATKINS.

H.R. 2872: Mr. SHAW and Mr. GREEN of New York.

H.R. 2890: Mr. FAZIO.

H.R. 2916: Mr. JONTZ and Mr. PALLONE.

H.R. 3071: Mr. HAYES of Louisiana.

H.R. 3138: Mr. ATKINS and Mr. BACCHUS.

H.R. 3210: Ms. DELAURO.

H.R. 3360: Mrs. ROUKEMA.

H.R. 3598: Mrs. MORELLA.

H.R. 3710: Ms. NORTON, Mr. GUARINI, and Mr. BEILENSEN.

H.R. 3780: Mr. ALLEN.

H.R. 3871: Mr. VENTO, Mr. ENGEL, Mr. PORTER, Mrs. BOXER, Mr. ACKERMAN, Mr. EVANS, Ms. SLAUGHTER, and Mr. FRANK of Massachusetts.

H.R. 3973: Mr. PALLONE.

H.R. 4034: Mr. FRANK of Massachusetts.

H.R. 4141: Ms. KAPTUR.

H.R. 4206: Mr. CARPER.

H.R. 4207: Mr. ALLARD and Mr. ANDERSON.

H.R. 4278: Mr. HANCOCK.

H.R. 4399: Mr. CARDIN, Mrs. COLLINS of Michigan, and Mr. LEWIS of Florida.

H.R. 4427: Mr. THOMAS of Georgia, Mr. MARLENEE, and Mr. MORRISON.

H.R. 4507: Mr. DOWNEY and Mr. HALL of Texas.

H.R. 4551: Mr. ENGEL, Mr. MILLER of Washington, and Mr. OWENS of Utah.

H.R. 4595: Mr. UPTON.

H.R. 4600: Mr. PALLONE.

H.R. 4601: Mr. PALLONE.

H.R. 4602: Mr. PALLONE.

H.R. 4603: Mr. PALLONE.

H.R. 4604: Mr. PALLONE.

H.R. 4608: Mr. PALLONE.

H.R. 4695: Mr. PALLONE.

H.R. 4754: Mr. ROTH and Mr. SHAYS.

H.R. 4846: Mr. KOPETSKI, Mr. LEVINE of California, Mr. FROST, Mr. RANGEL, Mr. MARKEY, Mr. GUARINI, and Mr. MACHTLEY.

- H.R. 5000: Mrs. BYRON, Mr. MFUME, and Mrs. BENTLEY.
 H.R. 5010: Mr. TORRES.
 H.R. 5070: Mr. TORRES, Mrs. MINK, Mr. ACKERMAN, Mr. BROWN, and Mr. HUGHES.
 H.R. 5177: Mr. CLINGER, Mr. ALLARD, Ms. HORN, Mr. WILSON, Mr. SISISKY, Mr. BALLENGER, Mr. DUNCAN, Mr. BILIRAKIS, Mr. BAKER, Mr. EWING, Mr. DELAY, Mr. PAXON, Mr. BATEMAN, and Mr. ZELIFF.
 H.R. 5208: Mr. ACKERMAN.
 H.R. 5216: Mr. CAMPBELL of Colorado.
 H.R. 5250: Mr. BUNNING.
 H.R. 5282: Mr. JONTZ.
 H.R. 5297: Mr. KLECZKA, Mr. DUNCAN, Mr. TALLON, Mr. RINALDO, Mr. GEREN of Texas, Mr. BURTON of Indiana, Mr. STEARNS, Mr. HALL of Texas, Mr. BEREUTER, Mr. ROWLAND, Mr. LEWIS of Florida, Mr. THOMAS of Wyoming, and Mr. WOLF.
 H.R. 5317: Mr. HAYES of Illinois.
 H.R. 5357: Mr. TOWNS, Mr. RANGEL, Mrs. SCHROEDER, Mrs. UNSOELD, Mr. DEFazio, Mr. ATKINS, and Mrs. COLLINS of Illinois.
 H.R. 5370: Mr. EMERSON.
 H.R. 5424: Mr. ATKINS and Mrs. COLLINS of Illinois.
 H.R. 5434: Mr. TRAFICANT, Mr. APPLGATE, Mr. FRANK of Massachusetts, and Mr. DORNAN of California.
 H.R. 5456: Mr. WAXMAN, Mr. BLACKWELL, and Mr. STARK.
 H.R. 5491: Mr. ANDREWS of Texas, Mr. ARCHER, Mr. ARMEY, Mr. BARTON of Texas, Mr. BROOKS, Mr. BRYANT, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. COLEMAN of Texas, Mr. COMBEST, Mr. DE LA GARZA, Mr. DELAY, Mr. FIELDS, Mr. FROST, Mr. GEREN of Texas, Mr. GONZALEZ, Mr. HALL of Texas, Mr. JOHNSON of Texas, Mr. LAUGHLIN, Mr. ORTIZ, Mr. PICKLE, Mr. SARPALIUS, Mr. SMITH of Texas, Mr. STENHOLM, Mr. WASHINGTON, Mr. WILSON, Mr. MONTGOMERY, and Mr. BLAZ.
 H.R. 5507: Mr. PETERSON of Florida and Mrs. KENNELLY.
 H.R. 5549: Mr. SHAYS.
 H.R. 5550: Mr. PALLONE and Mr. JONTZ.
 H.R. 5551: Mr. ALLEN.
 H.R. 5552: Mr. ALLEN.
 H.R. 5553: Mr. LEWIS of Florida.
 H.R. 5565: Ms. PELOSI, Mr. RANGEL, Mr. SERRANO, and Mr. TORRES.
 H.R. 5583: Mr. BLAZ.
 H.R. 5599: Mr. MINETA.
 H.R. 5610: Mr. PAXON and Mr. GORDON.
 H.J. Res. 216: Mr. ENGEL.
 H.J. Res. 391: Mr. HALL of Texas, Mr. BARNARD, Ms. SLAUGHTER.
 H.J. Res. 399: Mr. YOUNG of Alaska.
 H.J. Res. 450: Mr. ATKINS, Mr. OLVER, Mr. THOMAS of California, and Mr. SISISKY.
 H.J. Res. 453: Mr. DIXON, Mr. GRADISON, Mr. HAMMERSCHMIDT, Mr. HOCHBRUECKNER, Mr. HUBBARD, Mr. SAVAGE, Mr. STOKES, Mr. TAUZIN, Mr. VALENTINE, Mr. BLACKWELL, Mr. DELLUMS, Mr. DUNCAN, Mr. GREEN of New York, Ms. HORN, Mr. JOHNSTON of Florida, Mr. KASICH, Mr. MOODY, Mr. SOLARZ, Mr. SWETT, Mr. WILSON, Mr. BARNARD, Mr. CLAY, Mr. COUGHLIN, Mrs. COLLINS of Michigan, Mr. FLAKE, Mr. LAFALCE, Mr. MCGRATH, Mr. MAVROULES, Mr. MILLER of California, Mr. NEAL of North Carolina, Mr. OWENS of New York, Mr. ROWLAND, Mr. TALLON, Mr. WALSH, Mr. DYMALLY, Ms. NORTON, Mr. PICKLE, Mr. SARPALIUS, Ms. SLAUGHTER, Mrs. BYRON, Mr. CONDIT, Mr. DAVIS, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. GEKAS, Mr. GINGRICH, Mr. HANSEN, Mr. HARRIS, Mr. POSHARD, Mr. ROBERTS, Mr. SPRATT, Mr. WHITTEN, Mr. DANNEMEYER, Mr. WAXMAN, Mr. OWENS of Utah, Mrs. BENTLEY, Mr. DICKINSON, Mr. LEWIS of Georgia, Mr. MFUME, Mr. ASPIN, Mr. JACOBS, Mr. CARPER, Mr. EDWARDS of Texas, Mr. RUSSO, Mr. KOSTMAYER, Mr. BILBRAY, and Mr. BALLENGER.
 H.J. Res. 475: Mr. EMERSON.
 H.J. Res. 476: Mr. VALENTINE.
 H.J. Res. 479: Mr. HUCKABY, Mr. KENNEDY, Mr. WALSH, Mr. LAGOMARSINO, Mr. HALL of Ohio, Mr. GONZALEZ, Mr. WYLIE, Mrs. LLOYD, Mr. ROEMER, Mr. KLECZKA, Mr. ZELIFF, Mr. WILSON, and Mr. PANETTA.
 H.J. Res. 483: Mrs. MORELLA.
 H.J. Res. 508: Ms. SLAUGHTER, Mr. MCDERMOTT, Mr. KOSTMAYER, and Mr. WASHINGTON.
 H.J. Res. 520: Mr. COBLE, Mr. HALL of Texas, Mr. HUBBARD, Mr. MURTHA, and Mr. NICHOLS.
 H. Con. Res. 326: Mr. RITTER, Mr. KOSTMAYER, Mr. GAYDOS, Mrs. COLLINS of Michigan, Mr. FOGLIETTA, and Mr. WHEAT.
 H. Con. Res. 345: Mr. PETERSON of Florida, Mr. SISISKY, Mr. ZELIFF, Mrs. MEYERS of Kansas, Mr. SHAYS, Mr. JACOBS, and Mr. RAHALL.
 H. Res. 515: Mr. TORRES.
 [Submitted July 23, 1992]
 H.R. 25: Mr. WILSON.
 H.R. 75: Mr. PORTER.
 H.R. 999: Mr. SMITH of New Jersey.
 H.R. 1527: Mr. SMITH of New Jersey.
 H.R. 1590: Mr. HERTEL and Mr. KANJORSKI.
 H.R. 2390: Mr. ENGEL.
 H.R. 3122: Mr. JAMES.
 H.R. 3145: Mr. ALLEN and Mr. INHOPE.
 H.R. 3164: Mr. HOCHBRUECKNER and Mr. GILCHREST.
 H.R. 3373: Mr. DOWNEY.
 H.R. 3475: Ms. SNOWE, Mr. FEIGHAN, Mr. STOKES, Mr. FOGLIETTA, Mr. BORSKI, Mr. HERTEL, and Mrs. SCHROEDER.
 H.R. 3476: Ms. SNOWE, Mr. FEIGHAN, Ms. NORTON, Mr. STOKES, Mr. FOGLIETTA, Mr. BORSKI, and Mrs. SCHROEDER.
 H.R. 3677: Mr. SIKORSKI.
 H.R. 3780: Mr. PALLONE.
 H.R. 3794: Mr. MATSUI, Mr. ANDREWS of Maine, Ms. PELOSI, Mr. ZIMMER, and Mr. PALLONE.
 H.R. 4230: Mr. FOGLIETTA.
 H.R. 4325: Mr. SMITH of Iowa, Mr. HUGHES, Mr. BEILSON, Mr. BROWN, Mr. ANDREWS of Maine, Mr. MRAZEK, and Mr. JONTZ.
 H.R. 4326: Mr. SMITH of Iowa, Mr. HUGHES, Mr. BEILSON, Mr. BROWN, Mr. ANDREWS of Maine, Mr. MRAZEK, and Mr. JONTZ.
 H.R. 4327: Mr. SMITH of Iowa, Mr. HUGHES, Mr. BEILSON, Mr. BROWN, Mr. ANDREWS of Maine, Mr. MRAZEK, and Mr. JONTZ.
 H.R. 4343: Mr. HAYES of Illinois.
 H.R. 4406: Mr. PORTER.
 H.R. 4543: Ms. HORN, Ms. KAPTUR, and Mr. HERTEL.
 H.R. 4544: Mr. DEFazio.
 H.R. 4700: Mrs. MEYERS of Kansas.
 H.R. 4725: Mrs. ROUKEMA.
 H.R. 4729: Mr. OWENS of New York, Mr. SWETT, and Mr. PASTOR.
 H.R. 4755: Mr. LIGHTFOOT.
 H.R. 4836: Mr. JOHNSON of South Dakota and Mr. ZELIFF.
 H.R. 4882: Mr. KLECZKA, Mrs. UNSOELD, Mr. MCCLOSKEY, and Mr. FRANK of Massachusetts.
 H.R. 4883: Mr. MARTINEZ, Mr. KLECZKA, Mrs. UNSOELD, Mr. MCCLOSKEY, and Mr. FRANK of Massachusetts.
 H.R. 4884: Mr. SISISKY.
 H.R. 4897: Mr. SOLOMON and Mr. BARTON of Texas.
 H.R. 4912: Mr. BOEHNER, Mr. DELAY, and Mr. GALLEGLY.
 H.R. 5201: Mr. PEASE and Mr. SCHEUER.
 H.R. 5211: Ms. NORTON.
 H.R. 5216: Mr. HUNTER.
 H.R. 5237: Mr. DORGAN of North Dakota.
 H.R. 5310: Mr. KENNEDY, Mr. FROST, Mr. JEFFERSON, Mr. BLAZ, and Mr. EVANS.
 H.R. 5419: Ms. MOLINARI, Mr. JOHNSON of South Dakota, Mr. ASPIN, Mr. EVANS, Mr. GEREN of Texas, Mr. FOGLIETTA, and Mr. ATKINS.
 H.R. 5449: Mr. LEVIN of Michigan, Mr. EVANS, Mr. OWENS of New York, and Mr. FOGLIETTA.
 H.R. 5468: Mr. MCCLOSKEY and Ms. SNOWE.
 H.R. 5475: Mr. BARNARD.
 H.R. 5514: Mr. KOLTER.
 H.R. 5538: Mr. EVANS, Mr. LIPINSKI, Mr. MURTHA, Mr. TORRES, and Mr. VENTO.
 H.R. 5600: Mr. MATSUI, Mr. BORSKI, Mr. AUCOIN, Mr. FOGLIETTA, Ms. NORTON, Mr. SANDERS, Mr. BLACKWELL, Mr. HERTEL, Mr. DYMALLY, Mr. LAFALCE, Mr. HAYES of Illinois, Mr. MAZZOLI, Mr. SCHEUER, Mr. SIKORSKI, Mrs. SCHROEDER, Mrs. UNSOELD, Mr. KOPETSKI, Mr. RAHALL, Mr. BERMAN, and Mr. MARKEY.
 H.J. Res. 1: Mr. LANTOS and Mr. SIKORSKI.
 H.J. Res. 152: Mr. MOAKLEY, Mr. BLACKWELL, Mr. TORRICELLI, and Mr. TRAFICANT.
 H.J. Res. 237: Mr. JOHNSON of South Dakota, Mr. PALLONE, Mr. DURBIN, Mrs. LLOYD, and Mr. COLEMAN of Texas.
 H.J. Res. 336: Mr. ROSE.
 H.J. Res. 353: Mr. BONIOR, Mr. DWYER of New Jersey, Mr. FISH, Mr. HASTERT, Mr. MANTON, Mr. MRAZEK, Mr. MURPHY, Mr. ROSE, Mr. SCHEUER, Mr. SOLARZ, Mr. STAGGERS, and Mr. YATRON.
 H.J. Res. 380: Mr. PAXON, Mr. APPLGATE, Mr. BEVILL, Mr. BLILEY, Mr. POSHARD, Mr. JOHNSON of South Dakota, Mr. HAMMERSCHMIDT, Mr. BOUCHER, Mr. BILBRAY, Mr. BROWN, Mr. HERTEL, Mr. DE LUGO, Mr. DORNAN of California, and Mr. BLACKWELL.
 H.J. Res. 398: Mr. BONIOR, Mr. STOKES, Mr. STAGGERS, Mr. MOAKLEY, Mr. PACKARD, Mr. RINALDO, Mr. SISISKY, Mr. GEREN of Texas, Mr. PRICE, Ms. SLAUGHTER, Mr. WELDON, Mr. RIDGE, Mr. BLACKWELL, Mr. BUSTAMANTE, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. ROE, Mr. HANSEN, Mr. COLORADO, Mr. HOUGHTON, Mr. BROOKS, Mr. HOCHBRUECKNER, Mr. SCHIFF, Mr. LEWIS of Florida, Mr. GRANDY, Mr. GILCHREST, Mr. SCHULZE, Mr. MORAN, Mr. BLAZ, Mr. ALLEN, and Mrs. VUCANOVICH.
 H.J. Res. 399: Mr. COYNE.
 H.J. Res. 452: Mr. ALEXANDER, Mr. KASICH, Mr. TALLON, Mr. DELAY, Mr. ANTHONY, Mr. MURPHY, Mr. STALLINGS, Mr. ROBERTS, Mr. ORTON, Mrs. UNSOELD, Mr. CALLAHAN, Mr. OXLEY, Mr. HUBBARD, Mr. HOBSON, Mr. YOUNG of Alaska, Mr. RHODES, Mr. WOLPE, Mr. ROSE, Mr. FISH, Ms. LONG, Mr. BRUCE, Mr. MCCLOSKEY, Mr. KILDEE, Mr. PARKER, Mr. PURSELL, Mr. JONTZ, Mr. FEIGHAN, Mr. RAVENEL, Mr. ANDREWS of Maine, Mr. HALL of Ohio, and Mr. KLUG.
 H.J. Res. 483: Mr. ENGEL.
 H.J. Res. 489: Mr. GEKAS, Mr. MCHUGH, Mr. ANDERSON, Mr. COX of California, Mr. HOCHBRUECKNER, Mr. HOUGHTON, Mr. BLILEY, Mr. LEWIS of California, and Mr. CONDIT.
 H.J. Res. 523: Mr. KOLTER, Mr. NAGLE, Mr. HEFNER, Mr. KENNEDY, Mr. ARCHER, Mr. REGULA, and Mr. TOWNS.
 H. Con. Res. 223: Mr. BLACKWELL, Mr. GILMAN, Ms. MOLINARI, Mr. PALLONE, Mr. VIS-CLOSKEY, and Mr. ZIMMER.
 H. Con. Res. 344: Mr. ANDREWS of New Jersey, Ms. SLAUGHTER, Mr. PALLONE, Mr. DEFazio, Mrs. LLOYD, Mrs. UNSOELD, Mr. TOWNS, Mrs. KENNELLY, and Mr. FEIGHAN.
 H. Con. Res. 347: Mr. MONTGOMERY, Mr. WAXMAN, Mr. DORNAN of California, Mr. BOUCHER, Mr. RITTER, Mr. FROST, Mr. FRANK of Massachusetts, Mr. TOWNS, Mr. BLACKWELL, and Mr. FAWELL.

- H. Res. 388: Mr. GILMAN, Mr. SWETT, and Mr. BORSKI.
- H. Res. 415: Mr. ANNUNZIO, Mr. ZIMMER, and Mr. HERTEL.
- H. Res. 422: Ms. NORTON.
- H. Res. 502: Mr. BAKER, Mr. SHAYS, and Mr. COX of California.
- H. Res. 515: Mr. KOSTMAYER, Mr. SCHEUER, Mr. MAZZOLI, Mr. TOWNS, Mrs. JOHNSON of Connecticut, and Mr. HAYES of Illinois.

forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

(B) The period referred to in subparagraph (A) is—

(i) a congressional review period of 20 calendar days of session under subsection (e), during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval of disapproval;

(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message shall run beginning after such first day.

(d) DEFINITIONS.—For purposes of this section the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of discretionary budget authority for fiscal year 1993, in whole, rescinded in a special message transmitted by the President under this section.

(c) CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS.—

(1) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this section, the President shall transmit to both Houses of Congress a special message specifying—

(A) the amount of budget authority rescinded;

(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(C) the reasons and justifications for the determination to rescind budget authority pursuant to this section;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

(E) all factions, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(2) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(A) Each special message transmitted under this section shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(B) Any special message transmitted under this section shall be printed in the first issue of the Federal Register published after such transmittal.

(3) REFERRAL OF RESCISSION DISAPPROVAL BILLS.—Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(4) CONSIDERATION IN THE SENATE.—

(A) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

(B) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to 1 hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

(5) POINTS OF ORDER.—

(A) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission budget authority transmitted by the President under this section.

(B) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

(C) Subparagraph (A) and (B) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

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. 1218: Mr. EDWARDS of Oklahoma.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5620

By Mr. SOLOMON:

—On page 21, after line 11, add the following:

TITLE IX.—LEGISLATIVE LINE ITEM VETO ACT

SEC. 901. LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1992."

(b) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority for fiscal year 1993 which is subject to the items of this Act if the President—

(1) determines that—

(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

(B) such rescission will not impair any essential Government functions;

(C) such rescission will not harm the national interest; and

(D) such rescission will directly contribute to the purpose of this Act of limiting discretionary spending in fiscal year 1993; and

(2) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act for fiscal year 1993 or a joint resolution making continuing appropriations providing such budget authority for fiscal year 1993. The President shall submit a separate rescission message for each appropriations bill under this paragraph.

(c) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this section as set

EXTENSIONS OF REMARKS

THE INTRODUCTION OF H.R. 5674

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. VANDER JAGT. Mr. Speaker, today I am introducing H.R. 5674, a bill to amend the Internal Revenue Code. H.R. 5674 will:

Foreclose endless and expensive litigation between taxpayers and the Internal Revenue Service, by clarifying the eligibility of intermodal cargo containers for the investment tax credit and accelerated depreciation;

Remove a tax impediment that affects taxpayers saving for college education expenses;

Encourage competition in the property and casualty insurance industry by providing a special deduction for eligible small companies; and

Provide a level playing field for corporate taxpayers who acquire their outstanding debt from debtholders by issuing stock with a value less than the amount of the indebtedness.

I will describe briefly each major provision of H.R. 5674.

INTERMODAL CARGO CONTAINERS

H.R. 5674 will reverse a substantial retroactive change in the ability of U.S. companies to claim the investment tax credit and accelerated depreciation on the intermodal cargo containers which they lease to shipping companies and businesses. The legislation is specifically intended to overrule Revenue Ruling 90-9 with respect to containers placed in service by U.S. container lessors prior to January 1, 1991.

From its original enactment in 1962 until its general repeal in 1986, the investment tax credit generally was not allowed for property used predominantly outside of the United States. However, exceptions to this rule were provided for certain categories of assets used to transport people or property to and from this country. These exceptions sanction the predominant foreign use of transportation-related property as part of the credit's general goal to improve our competitive position in the world economy. One of these exceptions applies to containers used in the transportation of property to and from the United States.

Before January of 1990, there were no Treasury regulations or rulings interpreting the exception for containers, even though that provision had been in the law for more than 25 years. Consequently, container owners relied on a commonsense reading of the statute and the apparent congressional intent for the container provisions when determining how the credit applied to their containers. This interpretation also determined which containers qualified for accelerated depreciation. For more than 20 years, the audit practice of the Internal Revenue Service was to confirm the general availability of credits and deductions claimed by two groups of container owners—

U.S. shipping companies and U.S. container leasing companies. For lessors, the container credit was by far the largest item on each tax return and could not have been simply overlooked by the audit agents. Over the years, the IRS also issued liberal interpretations of other transportation-related exceptions which further confirmed the lessor's general approach to the container exception.

Then, in 1984, IRS agents radically altered their audit practices with respect to container lessors and began disallowing the credit for containers because the lessors could not prove that each container touched the United States each year. In January of 1990, this approach was formally published in Revenue Ruling 90-9, which requires all container owners to demonstrate on a container-by-container basis that a substantial portion of a particular container's activity during the taxable year is in the direct transportation of property to or from the United States. "Substantial" is not defined or described in the ruling, so taxpayers have no basis on which to argue that they have met the ruling's requirement. The ruling defines "direct transportation" as involving only those trips that begins and end in the United States; trips between foreign ports are not taken into account, even if the property inside the container may eventually come to the United States. Neither of these adjectives—substantial and direct—is used in the statute, and neither has any support in the legislative history. Yet, the IRS applied the ruling retroactively.

Whatever the merits of the approach adopted by the revenue ruling, it represents a dramatic change from established practices. I believe it is fundamentally unfair for the IRS to retroactively interpret—and modify—the statutory container exception in this manner. First, while we could debate the intellectual niceties of whether the new position of the IRS represents a change in its position or, instead, the establishment of a position where none previously existed, such a debate could not obscure the fact that in the 20-year period following enactment of the credit, container lessors never had any indication that their records were inadequate to support their claiming the credit and deductions despite numerous audits. The IRS had opportunities to issue regulations or rulings on the container exception, but did not provide these or any other form of guidance. Indeed, an IRS project to provide guidance on the container exception that began in 1981 was closed a year later, after meetings with the container leasing industry, without any apparent change in existing practices.

Second, the IRS interpretation is inconsistent with judicial precedents which have liberally interpreted the investment tax credit provisions in general. I believe this interpretive approach of the courts, which is also reflected in IRS interpretations of other transportation-related exceptions which accompany the con-

tainer provision, is consistent with congressional intent.

Third, as the Treasury and the IRS apparently have recognized in this case, such a major change in interpretive policy is a tax policy decision that requires careful review by the IRS and the Treasury, followed by publication in a national policy statement such as a published revenue ruling. Only through such a national pronouncement can all affected taxpayers be fairly put on notice that such a change has occurred. Any such major change of policy should be prospective only and should include complete relief under section 7805(b) of the Internal Revenue Code.

Fourth, any change in interpretive policy by the IRS with respect to the container exception should balance the IRS's strict—and possibly incorrect—reading of the statute against the need for a practical and reasonable resolution of the controversy. It is clear that Congress, in creating the container exception, did not contemplate that the IRS would interpret the provision in a manner which makes it practically impossible to utilize the benefits of the provision. The revenue ruling would require lessors to document retroactively the daily movements of individual containers. Providing such documents prospectively will be difficult enough, given that container lessors now typically manage fleets in excess of 200,000 containers that are used in carrying goods for lessees who are not under the control of the lessors. But retroactively providing such documents probably will be impossible. Lessors keep detailed records about their containers, but they cannot maintain records regarding container movements when they are not in control of the containers. Lessee documents, to the extent they have not already been disposed of, focus on shipments of cargo, not on the specific containers, and the cost of attempting to reconstruct the travel of a particular container probably would exceed the value of the credit. The willingness of lessees to provide such records to lessors—assuming the records exist—is a factor which lessors cannot reasonably be expected to influence retroactively.

The revenue ruling would apply to open taxable years, which generally include all of the 1980's for the leasing companies. That is a long period, but the lessors' exposure is even greater because the ruling also applies to containers placed in service in closed taxable years but which generated credit carryovers to open years. This extends the ruling's effect back as far as 1974.

If container lessors had had the benefit of a ruling or regulations 25 years ago, they could have taken the appropriate steps to qualify for the credit or to challenge the IRS interpretation in a timely manner. In any event, they could have set leasing rates and information requirements based on the costs of complying with the interpretation. But the retroactive imposition of a restrictive interpretation at this late date is unreasonable and unjustified.

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

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

As an alternative to the substantive and recordkeeping requirements of the revenue ruling, a safe harbor has been provided in Revenue Procedure 90-10, published at the same time as the revenue ruling. It is interesting to read the portion of the revenue procedure which confirms that the revenue ruling's recordkeeping requirements are unfair, noting that a safe harbor is necessary because separate tracing of containers is too costly and difficult given the numbers of containers and the fact that lessees have physical control over the containers.

However, the safe harbor effectively allows little more than half of the credits at issue for prior years. This is not an adequate solution to the retroactive problem posed by the revenue ruling. Moreover, the practical effect of the IRS's proposed safe harbor is not only to require a predominant use test but to impose an exclusive use test for purposes of determining whether the credit is allowed in full. By way of example, I believe that the containers used by the affected taxpayers could achieve a 100-percent qualification for the investment tax credit under the theory of the proposed safe harbor only if every trip made by containers worldwide was either to or from the United States. Likewise, a majority of the credit would be allowable only if a majority of all container trips are to or from the United States. I believe that this is clearly inconsistent with the language and the intent of the statute.

Taxpayers have argued with the IRS for several years about this issue in an effort to achieve an administrative result which would fairly resolve the controversy. They will likely now challenge the IRS in court. A legislative resolution is essential to prevent the unfair retroactive impact of the IRS revenue ruling, and to avoid wasteful and protracted litigation.

HIGHER EDUCATION EXPENSES ANNUITIES

H.R. 5674 will also take a modest step in the direction of assisting parents to save for the staggering costs of their children's higher education expenses.

The compelling need for assistance is now more apparent than ever. The cost of sending a child to a private university for 4 years averages more than \$50,000, while the cost of a 4-year public university education averages \$18,000. By the year 2007, the Department of Education estimates the total cost to attend a private university will increase to \$200,000 and to \$60,000 for a public university. These statistics spotlight a major financial problem facing parents.

Accumulating the funds necessary to cover these costs will be very difficult with after tax dollars for most, if not all, middle-income parents. With the stress on higher education by the Federal Government and the need for parents to accumulate the funds to cover the escalating cost, middle-income taxpayers should receive some tax assistance to enable them to meet their future educational expenses.

Under H.R. 5674, assistance would be made available by providing that when a taxpayer purchases a predesignated annuity for him or herself, or for a child or grandchild, to cover qualified higher education costs, the withdrawal of funds from the annuity to pay such education costs would be exempt from the 10-percent penalty for premature distributions from annuity contracts that is now im-

posed under Internal Revenue Code section 72(q). Safeguards would be provided by requiring that the annuity be designated for education costs at time of purchase. Qualified higher education costs are defined to include only undergraduate expenses incurred at institutions of higher education. Finally, under the terms of the legislation, annuity premium payments for a higher education expenses annuity would not count as a gift for gift tax purposes.

Other Internal Revenue Code sections provide direct benefits to taxpayers financing the cost of higher education. Section 135 of the code allows income from U.S. savings bonds to be excluded from income under certain circumstances if the income is used to pay educational costs. Section 2503 generally allows an unlimited gift tax annual exclusion for gifts which pay higher education tuition costs. H.R. 5674 would provide a mechanism to directly address the needs of middle-income taxpayers to save for the higher education costs of their children, which will be financially overwhelming.

SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES

H.R. 5674 will begin to correct a gross inequity that exists between the current tax treatment of small property and casualty insurance companies and the current tax treatment of small life insurance companies, and improve the competitiveness of the property and casualty industry.

Small property and casualty insurance companies play an essential function in the insurance industry, by offering competition to the large insurance companies and by providing coverage in areas where the large companies often fear to tread. However, small property and casualty companies are more at risk than are the large diversified companies to the vagaries of nature. Massive earthquakes and damaging hurricanes can result in bursts of policy claims that can drive small property and casualty insurance companies to the brink of financial ruin. Small property and casualty insurance companies also are subject to surplus requirements that limit the amount of premiums they can write, thus making it difficult for such companies to grow. The Tax Reform Act of 1986 resulted in a significant increase in taxes on such small companies, thus hindering their ability to accumulate surplus.

Instead of imposing an impediment to the existence of small property and casualty companies, the tax law should at least provide a level playing field for such companies in relation to small life insurance companies.

Life insurance companies have the benefit of actuarial tables to aid in the prediction of losses, which makes the life insurance business inherently less risky than the property and casualty business. Small life insurance companies—those with total assets of less than \$500 million—are entitled to the small life insurance company deduction under section 806 of the Internal Revenue Code.

H.R. 5674 will, over a 6-year period, put small property and casualty insurance companies and small life insurance companies closer to being on an equal footing for tax purposes. Under H.R. 5674, the small company deduction now limited to life insurance companies would be made partially available to property

and casualty companies of similar size. However, due to revenue constraints, the exclusion percentage will be smaller and phased in as follows: 1992, zero percent; 1993, zero percent; 1994, 3 percent; 1995, 7 percent; 1996, 9 percent; and, 1997, 15 percent.

The same limitations that currently apply to small life insurance companies, for purposes of determining their assets and their insurance income, would apply to the deduction allowable to small property and casualty companies.

REPEAL OF THE STOCK-FOR-DEBT EXCEPTION

Finally, H.R. 5674 would provide for a level playing field by repealing the stock-for-debt exception that can now be used only by corporations that are in bankruptcy or that are insolvent.

The stock-for-debt exception is a judicially developed doctrine that is not grounded in sound tax policy.

The basic rule that applies to most taxpayers requires a taxpayer to recognize income when a debt is forgiven or otherwise canceled without full repayment by the taxpayer. When a corporation that is not insolvent or in bankruptcy transfers its stock to a creditor in satisfaction of its indebtedness, the corporation is treated under the code as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock. Thus, to the extent the indebtedness exceeds the value of the stock, the corporation has income.

However, two special rules apply to corporations that are insolvent or in bankruptcy court. Under this first special rule, a bankrupt or insolvent corporation whose debt is forgiven and which otherwise would have income as a result of the forgiveness is not required to include the amount in its gross income. The corporation is required to reduce its net operating losses and other tax attributes by the amount of debt cancellation.

Thus, a bankrupt or insolvent corporation will never incur a current tax when its debts are forgiven, but also will not have available the net operating losses and other tax benefits generated by the borrowed funds which the corporation no longer has to repay. That result strikes a proper balance between allowing financially distressed taxpayers a fresh start and treating all taxpayers fairly and equally.

The second special rule applicable to bankrupt or insolvent corporations does not strike that proper balance. Under the stock-for-debt exception, a bankrupt or insolvent corporation is deemed not to have a cancellation of indebtedness when it exchanges qualifying stock for outstanding debt, even though the stock is worth less than the face amount of the debt. Because no cancellation of indebtedness is deemed to occur for tax purposes under this special rule, the exchanging corporation is not required to reduce any of its tax attributes. Thus, by using the stock-for-debt exception, an eligible corporation can retire its debts while preserving its net operating losses as a tax shelter to use against future income—an advantage not available to other taxpayers. That result goes beyond what is necessary to give bankrupt and insolvent corporations a fresh start, and is plainly unfair to other taxpayers not eligible to use the special rule. Therefore, the stock-for-debt exception should be repealed.

In conclusion, so that these necessary changes to the Internal Revenue Code can be made, I strongly urge my colleagues to work for the prompt enactment of H.R. 5674.

TRIBUTE TO SYLVIA ARMENI
SCOCCA AND GIOVANNI MONACO

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. TRAFICANT. Mr. Speaker, I rise before my colleagues today to honor Italian woman of the year, Sylvia Armeni Scocca, and also Italian man of the year, Giovanni Monaco. These upstanding citizens of my 17th Congressional District are fine role models for all.

Sylvia was born in Bovalino Marina in 1902 and immigrated to the United States in 1912. She has raised her seven children to be successful and productive members of society. Sylvia began her career in volunteering positions with the Sons of Italy Auxiliary Lodge. She has been an active member and volunteer at St. Anthony's Church since 1932. Recently, Sylvia passed her driver's test in order to relieve the burden of others driving her places.

Giovanni was born in 1897 in Santa Christina, Reggio Di Calabria. After serving in the Italian Army Alpine Corps, Giovanni emigrated to the United States and became a citizen on February 14, 1935. A lifetime member of Our Lady of Mt. Carmel Church, he has also assisted numerous immigrants in settling here, helping them find housing and employment, and helping them become an integral part of the community. Giovanni and his wife are enjoying 68 years of marriage.

These two citizens have been well-chosen for their positions as Italian woman and Italian man of the year for the 1992 Greater Youngstown Italian Festival. While raising outstanding families, they have also been leaders of their community. I extend my congratulations to Sylvia and Giovanni on their honorable achievements.

BETTY ISELIN—"MY FAIR LADY"

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, July 25, 1992, Mrs. Betty Iselin will be feted as "My Fair lady" at the Monmouth Park Charity Ball in Oceanport, NJ.

Mrs. Iselin is certainly a most deserving recipient of this high honor, and Saturday's tribute represents an expression of deep gratitude on the part of everyone involved with the Monmouth Park Charity Ball. Mrs. Iselin has served as chairwoman of the ball for 42 years, and has been active on the ball committee for 45 years. During those years, her strong leadership and deep sense of community commitment have been in large part responsible for making the charity ball the great institution that it is in Monmouth County and the State of New Jersey.

Mrs. Iselin's list of other associations and affiliations is indeed quite impressive. She has served on the New Jersey State Board of Institutions and Agencies, on the board of the Monmouth County Office of Social Services, and on the board of Monmouth Medical Center in Long Branch, NJ. She has also been active with the Monmouth Museum.

Her husband, the late Philip Iselin, was the president of Monmouth Park Race Track and the owner of the New York-New Jersey Jets. She is the mother of James Iselin and Kay Ahlstrom, and she has three grandchildren.

Mr. Speaker, I can think of no more fitting tribute for Betty Iselin than to be honored on the occasion of the event for which she has contributed so much of her time, talents, energy and concern. It is a great honor to cite her accomplishments before this House.

SAVINGS AND LOAN INDUSTRY
BAILOUT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. VENTO. Mr. Speaker, the Bush administration's management of the bailout of the savings and loan industry has been erratic, particularly the resolution of institutions by the RTC and the Office of Thrift Supervision [OTS]. They have preferred programs with fancy acronyms—ERAM and ARP—that are really no more than Government gambles, a roll of the dice. The idea was that in keeping institutions open, troubled S&L's and banks would bloom into health, prosperity, and profitability. This rainbow chasing idea is touted as being less costly than liquidation. Director Ryan regularly and boldly predicts he can reap savings in the millions and billion of dollars if only Congress will provide him the billions of dollars he needs to prop up these weak institutions. It is also interesting to note that this sort of behavior is contagious as some Members of Congress now espouse their own panacea and deny the reality of S&L problems.

I have repeatedly asked Director Ryan to provide me with actual data from an ERAM or an ARP, or even from the various adventures into open thrift and open bank assistance that characterized the decade of the 1980's. After much back and forth, he provided me with a so-called transaction summary which he asserted provided a conservative estimate of savings to be gained by Government gambles rather than conducting a straight liquidation.

In an effort to be fair, I asked Congressional Budget Office [CBO] to review this transaction summary, although it didn't seem to me to advance the debate over whether the Government ought to or is capable of, winning at the open thrift gamble.

The CBO has reviewed Director Ryan's transaction summary, and I would like to place their response into the record so that my colleagues in the House of Representatives can judge for themselves whether there is any basis, other than wishful thinking, for concluding that allowing regulators to out guess the market and gamble taxpayer dollars on which institutions will actually survive, is a viable

public policy. The CBO concludes that prompt closure of a weak institution may be the least cost option. But Director Ryan's transaction summary rules out this possibility entirely.

This House is being asked to take the cost savings of a fancy acronym policy on faith. Until I see bottom-line data from actual transactions that unequivocally show that savings have been realized over the long run, I must conclude that accepting such weak justifications or granting such faith to the regulators, in view of their irresponsible record of poor management, would be seriously misplaced. The American taxpayer will not be any better served by the 1990's pattern of the Bush administration's regulators of S&L's and banks—postponing closures and granting forbearance—than they were by the 1980's pattern of the Reagan administration's regulators—procrastinating and granting forbearance. These 12 years of Republican administrations has seriously compromised and compounded the S&L bailout costs that we are paying today.

VENTO INVITES RTC AND OTS TO PROVIDE FOR LONG-TERM SAVINGS—WISHFUL THINKING AND ESTIMATES OVERSHADOW THE HIGH STAKE GAMBLER

WASHINGTON, DC.—Calling the Bush administration's early resolution and open thrift strategies for dealing with failing thrifts a government "roll of the dice," Congressman Bruce Vento (D-MN) today released a review of these programs by the Congressional Budget Office [CBO]. Vento questioned the rationale of the Resolution Trust Corporation [RTC] and the Office of Thrift Supervision [OTS] and invited both the RTC and the OTS to provide hard data of long term savings rather than estimates.

"The open bank/open S&L policy path needs to be documented with hard data because the temptation to use the insurance fund and taxpayer dollars to bail out stockholders who should have their investment at risk, is very real," said Vento. "We hear a lot of cold talk about free enterprise and risk, but when the opportunity prevents itself these free enterprise speeches are put aside and the blanket of deposit insurance is used improperly to cover stockholder assets."

"The wishful thinking and estimates involved with open thrift assistance strategies do not take into account that the taxpayers are spending their hard-earned money for this government gamble," said Vento. "A plan for long term savings is the kind of leadership the American public deserve."

CONGRESSIONAL BUDGET OFFICE,

Washington, DC, July 6, 1992.

HON. BRUCE F. VENTO,
Committee on Banking, Finance, and Urban Affairs, Washington, DC.

DEAR CONGRESSMAN: As you requested, the Congressional Budget Office [CBO] has reviewed the material on open thrift assistance provided to you by the Office of Thrift Supervision [OTS]. You are correct that the data provided by OTS does not advance the debate over open thrift assistance. Rather, it provides a hypothetical case to support its position, without providing real data or exploring fully the alternatives. I am enclosing a memorandum prepared by CBO staff that examines the OTS material.

I hope that this memorandum is helpful to your evaluation of open thrift assistance.

Sincerely,

ROBERT D. REISCHAUER,

Director.

RESPONSE TO CONGRESSMAN VENTO'S LETTER
OF JUNE 15, 1992

The material provided by the Office of Thrift Supervision [OTS] is based on a hypothetical case of a weak thrift institution that is a candidate for the OTS's early resolution program. As with any example of this sort, the conclusions depend strongly on the assumptions. It is impossible to tell from the example how likely the assumptions are to hold in any particular real case or how frequently they may be met. In addition, the OTS example limits the options by ruling out the possibility that the weak thrift could be closed right away. Yet, prompt closure may be the least cost option. Despite these limitations, the example is instructive as to how the OTS views the problem of closing failed—or failing—thrifts.

The premise of the OTS example is that it is less expensive to resolve a "weak" (that is, financially troubled) thrift early when the thrift would be likely to deteriorate over time if left open. That proposition is virtually unassailable. The OTS's conclusion, however, that a specific form of early resolution—so-called open thrift assistance—is the best policy choice, is more open to question. The OTS conclusion is supported solely by the following two assumptions given in the example:

Shareholders will challenge in court any attempt to close an institution before it is insolvent on a book-value basis. Those court challenges will cost more than can be saved through early closure.

Closing some, but not all, weak thrifts before they become insolvent on a book-value basis would signal an informal increase in regulatory capital requirements as they apply to closure. Such a signal would make it more difficult for other thrifts to raise capital from external sources, thereby causing additional failures.

Because the OTS believes that it cannot successfully close an institution that is solvent on a book-value basis, it is left with essentially two choices: wait for the institution to deteriorate enough for it to become insolvent on a book-value basis, or provide a financial incentive to obtain shareholder assent to resolving the institution early. In addition to the problem of fending off court challenges, the OTS appears to believe that an early closing of institutions that are solvent on a book-value basis would create funding problems for the entire thrift industry because of a change in how the market perceives the regulator's minimum standards of capital. But this belief is not fully developed in the example, and it is hard to see how well-capitalized thrifts would be affected in the way suggested.

The fulcrum of the argument about early resolution is the question of whether the OTS should close a thrift that is solvent on a book-value basis but considered "weak." The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] strengthens the regulators' ability to close institutions that are currently solvent on a book-value basis, but it does not require closure. In addition to insolvency, FIRREA provides seven other grounds for placing an insured savings association into conservatorship; five of these relate to the likelihood of imminent failure. Because those criteria require subjective judgments concerning the safety and soundness of an institution's practices, the criteria are open to dispute and may be subject to judicial review by shareholders, who may seek compensation for "unjustified" closure.

In the OTS example, there is little doubt that the market value of the thrift's assets

is already well below an amount sufficient for it to cover its liabilities. The thrift has little chance of getting better on its own; if left open, it will continue to lose money—although it may not choose to book those losses as they occur. Indeed, that is the justification for resolving it early. However, in the example, acting early saves no money because of court challenges. A possibility exists that the thrift could be recapitalized from external private sources, through an acquisition arranged by the OTS. Such a recapitalization would be cheaper than closing the institution and having the RTC resolve it. But because the institution is not closed by the OTS, the acquisition requires agreement by shareholders. In the OTS example, agreement by shareholders can only be obtained at a cost to the government. There are several other potentially important variables in the example, such as the percentage of deposits that are insured and the franchise value of the weak thrift. However, these all play a relatively minor role in the conclusion.

Thus, the issue can be reduced to a question that can only be determined on a case-by-case basis: Do court challenges and other expenses incurred in closing a failing thrift outweigh the payment that would be made to shareholders and the acquirer if open thrift assistance is provided? Empirical evidence on this key question is mixed. The OTS has been successful in recapitalizing some weak thrifts from private sources or arranging their acquisition at little or no cost to the government. But the record of such recapitalizations or acquisitions supervised by regulators provides no definitive answers. Not all such actions are successful; some result in closing the recapitalized or acquiring institution.

In addition, the search for outside capital or partners to merge with has not always been successful. Such unsuccessful searches add to the costs of resolution by delaying closure. Although the OTS argues that supervisory actions taken against weakly capitalized or insolvent thrifts help avoid costly losses associated with delay, an analysis of RTC resolutions (and even the OTS's own example) suggests that some costs could be avoided by prompt action.

Evidence on the OTS's ability to close thrifts, such as the one in its example, is also mixed. On the one hand, the OTS has successfully closed thrifts that were solvent on a book-value basis just before closure. An easy way to avoid the technical question of solvency is for the OTS examiners to require a thrift to mark down shaky assets. Doing so makes the thrift insolvent on a book-value basis and avoids the technical problem of closing a "solvent" institution. In the OTS's example, the thrift has "high-risk loans" and "unacceptable risk assets," which have loss rates of 36 percent and 50 percent, respectively. Writing down these loans would more than offset the value of stockholder equity, thus showing the thrift to be insolvent and potentially precluding challenges by shareholders in court. On the other hand, stockholders have sued the OTS and its predecessor agency for forcing closure and creating losses. Although those suits have had mixed success in the courts, they are time-consuming, expensive, and create uncertainty as to the final outcome.

TIMES MEDIA CRITIC QUITS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most important parts of our Constitution is the first amendment with its guarantees of freedom of expression. This is sometimes frustrating some of us when we read, occasionally, newspaper stories which are very inaccurate. But increasing the role of judicial or other governmental intervention seems to many of us a proposed cure far worse than the illness involved.

What is clearly the best antidote to media inaccuracy is a willingness on the part of the media itself to engage in the same sort of critical analysis of each other which the media applies to people in public life and elsewhere in our society. And I believe we have too few examples of this. Professional courtesy unfortunately interferes.

I was, therefore, particularly pleased to note that the Washington Post has begun a policy of providing a forum for thoughtful media criticism by one of its own leading journalists, Howard Kurtz. And an example of how important this function is came in two recent articles by Mr. Kurtz in which he documented the biased way in which the Washington Times presented a profile of Bob Woodward.

We ought to note and express our admiration for the courage of Don Kowet, who resigned as the media critic of the Washington Times precisely because the newspaper had handled his material in such a biased fashion. The role of Mr. Kowet, and the chronicling of that by Mr. Kurtz provide important examples for those interested in the kind of media self-analysis which will serve our democracy well and for that reason I believe it is useful that this material be reprinted here.

[From the Washington Post, June 26, 1992]

TIMES MEDIA CRITIC QUITS—WOODWARD
PROFILE EDITED UNFAIRLY, KOWET SAYS
(By Howard Kurtz)

Don Kowet, the Washington Times' media critic for seven years, resigned yesterday, saying the paper's editors had "completely rewritten" his profile of Bob Woodward "to give it a far more negative spin."

"That piece has my signature on it, and it's not my piece," Kowet said in an interview. "I loved that paper, but I just can't work for them anymore. I want my byline to reflect what I write. . . . I want to be able to look at myself in the mirror when I get up."

Woodward, an assistant managing editor at The Washington Post, is a frequent target of Times Managing Editor Wesley Pruden, who refers to Woodward as "Mortuary Bob" in his column.

Pruden said he was "kind of astonished" at Kowet's account because "that's not what he told me. We discussed the editing of several of his pieces. He told me he was burned out on the media beat and he wanted to do other things."

"That's not true. . . . I specifically said I'm resigning over the Bob Woodward issue," Kowet replied. He said he complained that this was "part of a pattern" of unfair editing changes.

Kowet said Ken McIntyre, editor of the Life section, told him he had rewritten the

June 15 story; Kowet was on vacation at the time. He said McIntyre "indicated to me that he wasn't the only one involved in editing the piece." McIntyre's office referred questions to Pruden.

Pruden said he read the story before publication but did not recall making any changes himself. Asked if Kowet should have been consulted about wholesale changes in the article, he said: "I'm not going to get into a discussion of editing techniques."

In a note posted in the newsroom yesterday, Pruden said that Kowet had resigned "to pursue other projects on the horizons." Several staffers said they were upset about Kowet's resignation and protest.

The Times, which has a conservative editorial philosophy, maintains that its news columns are free of bias. "On certain sensitive stories my copy has been changed," Kowet said. "I detect a political correctness in some areas, which may be intensified" since Pruden succeeded Arnaud de Borchgrave as the paper's top editor last year.

In a similar controversy last fall, Dawn Weyrich Ceol quit the Times after Pruden rewrote her story about the Clarence Thomas-Anita Hill hearings in a way that she felt was unfair to Hill. Pruden said then that the Times is an "editor's newspaper."

Kowet, 54, is the author of 11 books, the former managing editor of Sport magazine and a former award-winning reporter for TV Guide. He said he considers himself a neoconservative on most subjects. The author of a book about Gen. William Westmoreland's libel suit against CBS, he has not been shy about criticizing the liberal press. Among other things, he has written that the PBS "Frontline" series is based on "left-wing bias and political paranoia."

Kowet's profile of Woodward, who with Carl Bernstein helped crack the Watergate scandal, was tied to the 20th anniversary of the break-in at Democratic headquarters.

Kowet said that 10 of the first 17 paragraphs were completely rewritten. According to Kowet:

Editors added that "the icon's credibility is under attack across the political spectrum. . . . Worse than the skepticism—of the now-classic Woodwardian reliance on anonymous sources, reconstructed conversations and interior monologues—is the ridicule."

This was followed by a reference to Pruden: "One columnist, noting Mr. Woodward's tendency to identify sources only after they are 'safely dead,' calls him Mortuary Bob."

Editors inserted the word "lurid" to describe Woodward's biography of John Belushi.

Editors added that The Post hired Woodward from the Montgomery Sentinel, where "he left the paper with a libel suit on its hands." Kowet said he believes the paper won the suit and saw no reason to mention it.

Editors inserted material from "Silent Coup," a book about Watergate that is sharply critical of Woodward.

Kowet had quoted University of Virginia political scientist Larry Sabato as saying: "When I read a piece by Woodward in The Post, I'm inclined to treat it very seriously because I know that he has some of the best contacts in Washington. But that doesn't mean I endorse all of his techniques. I find his stories insufficiently sourced sometimes. I think he asks the reader to trust him too much."

In the edited piece, the Sabato quote read: "I think that he asks the reader to trust him too much."

Kowet had quoted author Steven Weinberg as calling Woodward "one heck of a journalist. He understands how to look at an institution. And he knows how to ask the right question in just the right way." Weinberg also said that Woodward's use of anonymous sources sets "a terrible example" for other reporters.

The edited piece said, "Mr. Woodward may be 'one heck of a journalist,' agrees University of Missouri journalism professor Steven Weinberg, former director of the national group Investigative Reporters and Editors, but he 'sets a terrible example.'"

"There were dozens of things that skewed the piece to be negative," Kowet said. "To me, it was a 'hit.' . . . It was much meaner. . . . Quite frankly, when I started off, I had a fairly negative attitude toward Woodward." He said the original piece had been "tough but fair."

But Pruden said, "We were happy with the piece that ran. I don't think we've ever been unfair to Woodward. We've done some good reporting about Bob Woodward since he's become part of the story."

Kowet said minor editing changes were made before he and his fiancée went to Mexico on vacation. Because of the sensitivity of a piece involving the Times' main rival, he left his phone number and the hotel fax number and asked to be called if any changes were made. He said no editor called him, although a friend faxed him the piece the day it appeared.

Kowet, who turned down a transfer to the national staff, said he was tired of the media beat at the Times because "my main job seems to be to bash The Washington Post."

[From the Washington Post, June 30, 1992]

TIMES EDITOR AND EX-REPORTER AIR THEIR DIFFERENCES

(By Howard Kurtz)

It was one of those rare moments that only live television can provide: Don Kowet was on C-SPAN yesterday morning, explaining why he quit the Washington Times when a caller took him by surprise.

The man on the line was Wesley Pruden, the Times' managing editor. As Kowet sat shaking his head, Pruden declared that the reporter had just been through a divorce and was feeling "burned out." He is "not a very good writer," Pruden said, and his "stories have been rewritten constantly."

As for Kowet's charge that he resigned last week because the paper's editors had turned his profile of Bob Woodward into a hatchet job, Pruden said Kowet had been waiting "for the first suitable opportunity . . . to get his 15 seconds in the Style section of The Post, perhaps to enhance employment prospects at the expense of his colleagues here. . . ."

Kowet reached after the program, dismissed many of his ex-boss's comments as "a lie."

"I thought it was just trashy and sleazy for him to bring up my private life in order to smear me," said Kowet, who had been the Times' media critic for seven years. He added that "I never got rewritten on pieces that didn't have to do with politics."

Kowet rejected the suggestion that he milked the incident for personal reasons. He said he has no job lined up and that it was "the worst possible timing for me" because he is trying to sell his house and his fiancée is unemployed.

Pruden told The Post last week he was "kind of astonished" to hear Kowet's complaint about heavy-handed editing on the Woodward piece because "that's not what he

told me." On C-SPAN, however, Pruden said, "Don did in fact say he was very unhappy with the editing of the Bob Woodward story."

Pruden said Kowet turned down a transfer from the Life section to the national staff, saying Kowet had told colleagues that "he didn't think he could take the pressure of working for a hard-charging editor like Fran Coombs," the national editor.

"There was no attempt in this case to make your story less or more negative or positive about Bob Woodward. . . . If anything, it had more polemics in it than the one we edited down," Pruden told Kowet on the air.

When Kowet noted he had won a feature writing award—"I can't be that bad," he said—Pruden shot back: "Don, you know as well as I do that awards are given for the finished product."

Pruden acknowledged that the incident may have hurt the paper's credibility, but added: "The Washington Times is a very different kind of newspaper. We are not politically correct." The Post, he said, is "running scared" and "doing everything they can do to hit us as hard as they can."

COLUMBIA'S FIAT CONNECTION

Furio Colombo, an Italian journalist and author, has just completed his first year on the faculty of Columbia University's Graduate School of Journalism.

Colombo also has an unusual sideline for a journalism professor: He is chairman of Fiat U.S.A., the public relations arm of the Italian car manufacturer. And his chair in international journalism is being funded by a \$1.8 million grant from a state-owned bank in Italy.

Joan Konner, the school's dean, said yesterday that Colombo "is a recognized journalist. We checked his credentials with American and Italian journalists and found out he is indeed considered a fine journalist with a long list of credits."

Konner said she believed Colombo has retired from Fiat U.S.A., but a spokeswoman there said he is still the chairman.

The controversy came to light when Samantha Conti, a Columbia student, wrote a piece about it in the journal *Lingua Franca*. She quoted the head of foreign relations at Italy's San Paolo Bank as saying: "It was Furio Colombo's wish that we set up this professorship in international journalism."

Colombo, who has taught at other U.S. universities, could not be reached yesterday. He told the journal he had nothing to do with arranging the grant and did not see any conflict with his Fiat duties.

Konner said the journalism school would not have had the money to hire Colombo without the grant, but that it is a non-tenured position and "is not tied to any specific individual."

Karen Rothmyer, a Columbia journalism instructor, said she was troubled by the appointment because "nobody else was interviewed for this chair. . . . The money and the person came as one thing." She said she had read one of Colombo's books and considered it "a piece of junk. . . . I think they put a fast one over on the school."

As for Colombo's Fiat job, Rothmyer said the faculty was told that "they do things differently in Italy."

JULY 4TH SPEECH AT TRUMAN
LIBRARY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SKELTON. Mr. Speaker, this past Fourth of July, at the annual celebration at the Truman Library in Independence, MO, I had the occasion to hear an outstanding speech. It was delivered by Col. Ollie L. Tracy, U.S. Army, retired, of Kansas City, formerly from Higginsville.

Colonel Tracy's speech is entitled "Challenging Old Glory," and I insert it in the RECORD to share with the other Members of this body.

CHALLENGING OLD GLORY

(Speech by Col. Ollie L. Tracy)

Thank you, Doctor Zobrist, for that gracious introduction. Distinguished Guests; Ladies and Gentleman—Good Morning!

First, I want to say that it is an honor and a privilege for me to speak on this special occasion at the Harry S. Truman Library. When Dr. Zobrist invited me to make this presentation, he mentioned that Mr. Truman used to give these speeches on Independence Day until he was no longer able to do so because of ill health. I remembered that this is not the first time I've followed Mr. Truman at a speaker's podium. While you're looking me over, I'll tell you about it briefly.

Mr. Truman was invited to speak to the student body of about 1300 career officers at the Command & General Staff College, Fort Leavenworth in the fall of 1959 as I recall. I was on the faculty at the College at that time, and I was scheduled to lecture the same class at one p.m., following Mr. Truman's talk at 11 a.m. This was about the time that the Cuban Crisis was beginning to heat up in the international arena. Mr. Truman gave the class one of his rousing "give-em-hell" speeches, and the class responded in kind. I was backstage at the time of his finish, and as he was leaving I approached him and said, "Mr. President, that was a great speech; you're going to be a hard act to follow. I have a class-lecture with them at 1 p.m." He smiled and said he had the easy job. His was before lunch; you'll have them after lunch when they're ready for a nap. So, I'm pleased that this presentation is in the morning.

Before I begin my speech I would like to take this opportunity to congratulate the Kansas City American Legion Band for a job well-done. As a military man, that type of band music always inspires me. And, it brings back memories when I was a trumpet player in the Higginsville Municipal Band. We played many concerts for Fourth of July celebration.

Ladies and Gentleman, before me is a beautiful sight! High above us, in the background, is "Old Glory", waving majestically in the morning breeze, a striking emblem of our country, a symbol of everything that is good about our republic. I have a special feeling, today, for I have had the honor of serving under it both in war and peace, as have many of you. And today, our nation's birthday, is a special day for us to show that we are proud to be Americans, and richly blessed to have the privilege of living in America. What a priceless heritage has been left to us by those who have lived in the days gone by. They withstood the challenges of

their times; they persevered; they pledged their lives, their fortunes and their honor to build and maintain this nation founded on the principles of faith in God, freedom, justice, liberty, equality and a government that has served as a model of democracy to the world for over two centuries.

Here, by this ceremony, we commemorate the birth of our nation! The Declaration of Independence in 1776 proclaimed our status as an independent nation. The Constitution of 1787 established a system of free and popular government. Quote: "Never before in history of mankind has a group of men, in a limited period of time, set down in writing and won the acceptance of a blueprint for this new government. A government that declared man's natural rights, and at the same time instituted a legal framework for society that guaranteed that these rights would be preserved." That accomplishment is astounding! "Yet, too often we take it for granted, hardly understanding or caring just what Independence Day really means, or really comprehending just what the Constitution and Bill of Rights are, and what they accomplished".

What can we do, what must we do to keep these great blessings and privileges intact? How can we insure that these great principles and all these qualities of life will be here for our children and their children after we are gone? "For over 200 years now our citizens have had the obligation to make the Constitution work. It is a living document that must be interpreted by each new generation. We must constantly measure our current freedoms and responsibilities by its lofty criteria."

But today, our liberties are being threatened! "Old Glory" is being challenged again, not only by the indifference and apathy of millions of Americans, but by factors so insidious that many of us fail apparently to recognize the impacts of these invasions! Every day, in urban streets and rural communities alike, our rights and liberties are threatened by rampant crime, street violence aggravated by judicial irresponsibility, and eroded by special interest groups and undermined by moral and ethical shortcomings. A significant segment of our population seems to portray a startling lack of moral fiber and virtue! It has been suggested that some of our problems stem from the fact that we have virtually eliminated from the public schools and higher education, any effort to teach moral values. But perhaps the most important, in my opinion, is that our basic institutions—the Family, the Church and the Community, including certain components of the media and the entertainment industry, are not doing an adequate job of building character and promulgating responsibility!

While preparing for this talk, I ran across these words in a little booklet, titled "God Bless America": Quote: "The things that will destroy us are—Politics without principle; Pleasure without conscience; Wealth without work; Knowledge without character; Business without morality; Science without humanity; and Worship without sacrifice." How true those words!

Having said this, I hasten to add that these transgressions are reversible. Quote: "Most importantly, the American people as a whole are still best characterized as law-abiding, deeply patriotic and basically morally sound". Good solid Americans must, and will, meet these challenges of today, as we as a nation, have met previous challenges and proven time and again over two centuries our forefathers to be correct. "America has

prospered. Today we remain the strongest, freest and most prosperous country in the world, and we will remain so if we sustain the resolve manifested by the framers of our Constitution and the courage embodied by generations of Americans since that historic summer in Philadelphia."

As concerned Americans, we must teach our children and grandchildren, our history and heritage, and deeply impress upon them not only the privilege of that heritage, but the responsibility of perpetuating American spirit and strength. I strongly feel that we must teach our youth (our future leaders) respect for authority; acceptance of responsibility; simple honesty; self-discipline; and the work ethic! Our real strength, as always, lies in love of God, Country and Family!

You may have noted that I've used the word "responsibility" several times. The President of the Freedoms Foundation, Valley Forge, sounds this warning: "Too many Americans nowadays focus almost exclusively on their rights, seldom on responsibilities. Public dialogue is dominated by talk of rights while ignoring responsibilities". And one of our Supreme Court Justices states: "Responsibility is more than the other side of the coin of freedom; it is the foundation of freedom!". You cannot have rights without responsibility; it fits in with our "checks and balances" concept.

The Freedoms Foundation, under the chairmanship of the then Chief Justice Warren Burger, and with the involvement of a number of leading scholars from throughout the nation have created a document titled: "A Bill of Responsibilities." This document is not an attempt to further amend or change the Constitution. This document is only a means of promoting further discourse among the people and to emphasize our citizens' responsibilities to our nation and to fellow citizens. Here is a list of "responsibilities" as presented in this document: (1) "To be fully responsible for our own actions and for the consequences of those actions; (2) To respect the rights and beliefs of others; (3) To share with others our appreciation of the benefits and obligations of freedom; (4) To give sympathy, understanding and help to others; (5) To do our best to meet our own and our family's needs; (6) To respect and obey the laws; (7) To respect the property of others, both private and public; (8) To participate constructively in the nation's political life (for example, fulfill our duty to vote); (9) To help freedom survive by assuming personal responsibility for its defense; and (10) To respect the rights and meet the responsibilities on which our liberty rests and democracy depends."

Ladies and Gentlemen: I think you will agree that this uncomplicated document sets out a citizen's responsibility to our nation, and to each other, within the framework of our free society. No longer can we take our freedoms for granted. Therefore, we must never forget that each succeeding generation of citizens must accept the responsibility of preserving our hard fought-for independence, freedom and liberties. I am confident that the challenges to Old Glory will be met! But we must be involved! A current television commercial lead-in warns that we are more concerned about what we put into our car than what we put into our body. I suggest that we should be much more concerned about what is put into our head! That is to say: We must ask intelligent questions, but much more importantly, we must listen intelligently to the answers. Remember: "Eternal Vigilance is the price of liberty".

In closing, I want to repeat that it has been a privilege to speak here, to this fine

audience, on this celebrated occasion and at this historic site! I wish you and yours a most enjoyable and safe holiday on this glorious Fourth of July. As you leave this ceremony, take a long look at the "Stars and Stripes" still rippling gallantly in the morning breeze. Quote: "Think of it reverently, thank God for it and listen to its message of freedom and hope: Defend me! Never let my enemies tear me down from my lofty position lest I never return. Keep alight the fires of patriotism; strive earnestly for the spirit of democracy; worship God and keep His Commandments. Then, I shall remain the bulwark of peace and freedom for all mankind. I am your flag, the symbol of the spirit of America, the emblem for all the world to see, the one common bond for all Americans. I am Old Glory!" And finally, as you pay honor and respect to our flag, whether standing for the National Anthem or as the flag passes by, you should stand a little taller, hold your head a little higher and clasp your heart a little tighter—and be uplifted, be uplifted by the feeling of pride and confidence that our legacy will be sustained! The United States of America will remain the land of the free and home of the brave!

NORWAY FINDS A NEW WEAPON TO COMBAT BURMA'S TOTALITARIAN RULE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BEREUTER. Mr. Speaker, the people of Burma continue to be ruled by a ruthless totalitarian regime. The military dictatorship maintains control only by terrorizing the population, and they smother every hint of individualism with brutal efficiency. Anyone who dares question their dictatorial rule is arrested, or simply disappears.

This week marks the fourth anniversary of the arrest of Aung San Suu Kyi, the leader of the pro-democracy movement who despite her incarceration actually won a general election in May 1990. True to form, the military junta declared the election null and void, and kept Ms. San Suu Kyi under arrest.

With absolute control over all forms of information, the people of Burma are left totally in the dark. It would be understandable if they believed that no one was aware of their plight. They are offered no solace. They are offered no hope.

But this week the Norwegian Government has begun to broadcast to the people of Burma uncensored news, information, and cultural programming via shortwave radio. Delivered in their native tongue, this radio network serves as a voice for the democratic government in exile. It tells the Burmese people that they are not alone. Mr. Speaker, this Member applauds the initiative that the Norwegian Government has exhibited in initiating these radio broadcasts. While this body has approved a number of resolutions condemning the human rights abuses of the Burmese military junta, it is important that this issue continue to be raised at every opportunity.

Mr. Speaker, a recent editorial in the Lincoln Journal commends the efforts to the Norwegian Government to provide uncensored in-

formation to the people of Burma. It provides an instructive lesson in pro-active human rights policy. This Member would ask that the July 21, 1992, editorial from the Lincoln Journal, entitled "Broadcast in Burma's Behalf," be entered into the RECORD.

JUST STOP TESTING

President Bush's announcement the United States will halt producing plutonium and enriched uranium was no bold step.

This country ended processing nuclear-weapons-grade uranium 28 years ago. Plutonium production stopped in 1988. We've got a great abundance of the stuff on hand.

What would have been striking is a presidential order to end all nuclear weapons testing for a year. That is what governments in Moscow and Paris unilaterally decided upon, and are implementing.

The administration's posture, as developed in a letter earlier this month to Sen. J. Bennett Johnston, is that the number of nuclear weapons tests will be reduced to no more "than six tests per year over the next five years, or more than three tests per year in excess of 35 kilotons." And safety, or war-head reliability, is supposed to be the main purposes of those Nevada explosions.

Would the operational character of the nation's vast inventory of nuclear weapons be endangered if the United States matched the current Russian and French test moratoriums? No reputable scientist has said so. On the contrary, many take the opposing view.

The Senate should move on legislation cosponsored by 51 of its members directing a one-year testing recess. A bill to that effect carried in the House last month. Congress, not the executive, is on the right track about nuclear weapons testing.

BROADCAST IN BURMA'S BEHALF

Give Norway credit for creative diplomacy. Contradictory, too, some might say.

The Norwegian government maintains diplomatic relations with Burma's military government. But it admits its heart belongs to Aung San Suu Kyi, the Nobel Peace Prize winner who just completed three years under house arrest in her country. Her democracy movement won a national election two years ago but Burma's incumbent generals never allowed it to take office.

So, starting this week, Norway's government is allowing the democratic Burmese opposition to use the Norwegian Broadcasting Corporation's shortwave system one hour each day to beam a message to the people of Burma. The program broadcasts uncensored news, cultural programming, commentary and announcements from the dissident government in "internal exile."

The government of Oslo decided "we would do whatever we could . . . to help the democratic organizations of Burma," said Deputy Foreign Minister Jan Egeland. No doubt the broadcasts will enhance the stature of the opposition coalition. Egeland added: "I know of few other examples of any country going this far."

That's true. Lately the opposition has drawn some financial support from Canada and Europe, but mostly the world deplores the squelching of democracy in Burma without taking steps to remedy it. Washington is one of the capitals that has limited itself to hand-wringing. Last week our State Department issued a statement praising Aung San Suu Kyi's "courage and indomitable spirit." But it didn't even mention her government in exile, headquartered in rebel-held territory along the Thai border.

The Nobel laureate probably wishes a lake of oil would be discovered beneath her coun-

try. Then Washington would be lobbying the United Nations for action and placing its armed forces on alert. Meanwhile, Norway at least is doing something.

HOUSE RESOLUTION 516, PROVIDING FOR THE CONSIDERATION OF H.R. 2607

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. DINGELL. Mr. Speaker, I am providing this information for the RECORD to correct misstatements that were made during consideration of House Resolution 516 on Tuesday, July 21, 1992, by the House.

In his remarks on House Resolution 516, CONGRESSIONAL RECORD, July 21, 1992, page H6262, Representative RITTER, the ranking Republican of the Subcommittee on Transportation and Hazardous Materials, made statements that do not accurately reflect the intent of the committee with respect to the subject legislation. First, in addressing section 9 of the legislation, Representative RITTER stated that:

Section 9 of this bill, an administration-requested provision, merely clarifies safety enforcement authority in a situation where (sic) a railroad has delegated total obligation and accountability to an outside contractor for a continuous and ongoing operation performed by the railroad and its employees. An example would be a small railread (sic) contracting out its entire signal system maintenance program. Correlatively, there is no intention to bring within FRA's authority individual contracts performed to a railroad's specifications—for example, repair of a particular section of track under the railroad's direction. This provision is merely confirming the legal status quo, not expanding FRA's reach beyond rail carriers.

The gentleman from Pennsylvania is correct that the provision was included in the legislation at the request of the administration and that it is intended merely to clarify the current scope of FRA's safety authority. However, Mr. RITTER's statements draw a blatantly erroneous distinction between: First, situations where a railroad delegates "total obligation and accountability to an outside contractor for a continuous and ongoing operation normally performed by the railroad and its employees"—that are, according to Mr. RITTER, covered by FRA's statutory authority; and second, situations involving "individual contracts performed to a railroad's specifications"—that are, according to Mr. RITTER, not covered under FRA's statutory authority. Correlatively, the factual examples given by Mr. RITTER of each type of situation do not reflect the intent of the coverage of section 9 of the legislation.

The clear and unambiguous language of section 9, which amends similar provisions in various rail safety laws, provides that rules, regulations, orders, and standards issued by the Secretary apply to a number of different persons, including "any independent contractor providing goods or services to a railroad" and "any employee of such * * * independent contractor." There is no distinction made in the legislation between the types of contractors described in Mr. RITTER's statements.

In the Committee's report on H.R. 2607 (H. Rpt. 102-205), we stated that section 9 "simply makes the Secretary's current authority explicit." We are unaware of any pronouncement by the Department of Transportation or the Federal Railroad Administration that draws the distinction described by Mr. RITTER. If such a distinction has been drawn by the administration, I request that such information be submitted in writing to the committee immediately, with an explanation of the history and rationale therefor.

During the floor debate on House Resolution 516, Mr. RITTER also addressed section 7 of the legislation, the provision that requires so-called end of train devices on most trains—
CONGRESSIONAL RECORD, July 21, 1992, page H6262:

*** although the baseline standard will be the use of the new devices, this legislation carves out certain minimum exceptions, for example, for trains operated under 30 mile (sic) per hour. What I want to stress here, Mr. Speaker, is that although those exceptions are mandatory, they are not exclusive. Under the "public interest and consistency with rail safety" standard of this legislation, additional areas may well be exempted from the end of train requirement. One area that should be carefully examined in this regard are the operations of our short line and regional railroads, who through entrepreneurial grit have kept many marginal lines in operation, but who are not a deep pocket with a great ability to absorb increased regulatory costs.

While I believe the plain intent and meaning of section 7 is not in question, I will emphasize two points to clarify the intent of this provision. First, there are five categories of trains listed in new section 202(r)(4) that the Secretary is directed to exclude from the new regulations, including trains "that do not exceed 30 miles per hour and do not operate on heavy grades." However, categories of such 30-mile-per-hour trains may be subject to the regulations if they are "specifically designated by the Secretary." Thus, as to 30-mile-per-hour trains, the exclusion is not completely mandatory, as Mr. RITTER has stated, because the Secretary may designate categories of such trains that will be subject to, not excluded from, the requirements of the regulations.

Second, Mr. RITTER is correct that the Secretary, in addition to the five categories listed in new section 202(r)(4), as discussed above, may exclude "any category of trains or operations" from the regulations, if the Secretary determines "that such an exclusion is in the public interest and is consistent with railroad safety." This provision speaks for itself and I am confident the Secretary will apply both parts of the statutory formula—that is, public interest and consistency with railroad safety—to any specific category of trains or rail operations that the Secretary determines should be excluded from the regulations under this provision. The legislation—accurately reflecting our intent—does not direct the Secretary to consider any particular category of trains or rail operations in carrying out this provision nor does it address the degree of likelihood that the provision will be exercised by the Secretary in any respect.

OKLAHOMA SCHOOL OF SCIENCE AND MATHEMATICS

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. EDWARDS of Oklahoma. Mr. Speaker, we are all aware of the need to increase dramatically the mathematics and science skills of American students. I have long fought for higher standards of education and I am pleased to let other Members of Congress know about a public high school in my district that has achieved an extraordinary record of success in its 2 years of existence.

The school is called the Oklahoma School of Science and Mathematics, and it officially opened in September 1990. The inaugural class graduated in June of this year after compiling an impressive record.

I congratulate the Oklahoma School of Science and Mathematics, both faculty and students, for their excellence and want to share with my colleagues the following profile of the first graduating class.

OKLAHOMA SCHOOL OF SCIENCE AND MATHEMATICS

PROFILE

Class of 1992

An increase in ACT composite scores from 25.4 to 30.5.

A national Presidential Scholar.
Five national Presidential Scholar semifinalists.

Fourteen National Merit Finalists.
Thirteen National Merit Commended Scholars.

Seven Robert C. Byrd Scholars.
Six Academic All-Staters.
A Fleming Scholar.
Twenty who qualified for Oklahoma Higher Regents Scholarships.

Three students accepted into the OSU Engineering Scholars Program.

First Place in Oklahoma and Fifth Place in the nation for the President's Committee on Handicapped Concerns Journalism Scholarship.

Overall Outstanding Team Performance and Outstanding Written Presentation Team Award at the Oklahoma Meteorological Applied Problem Solving competition.

Governor's Commendation, winning school for the 1992 Ability Counts essay competition.

First Place, High School State Championship, Oklahoma Mathematics League.

First Place in state and Second Place in nation for Junior Engineering Talent Search Teams competition.

National Consortium of Schools Specializing in Science, Mathematics and Technology Scholar.

Howard Hughes Medical Institute Scholar.
Oklahoma Irish-American Society honoree.

Johnson Controls Incorporated Foundation Scholarship.

Oklahoma Elks Foundation Scholarship.
Ball Corporation John W. Fisher Scholarship.

Oklahoma Moose Lodge Scholarship.
American Airlines Scholarship.

Two Phi Beta Kappa Scholarships.
Vance Air Force Base Scholarship.

International Order of Foresters Scholarship.

Scottish Rite Scholarship.

Baptist Medical Center Scholarship.
ITT Hartford Insurance Group Scholarship.
Phillips 66 Corporation Scholarship.
Oklahoma Christian University Senior Day Examination Scholarship.

Ole Miss Honors Program and Alternate for the Ole Miss Chancellor's Leadership Class.

First Place, Buttram String Quartet Award.

Second Place, OU Fencing Tournament.

College acceptances include: Eight to MIT, four to Cal-Tech, and five to Rice. Other college acceptances include Boston University, U.C. at Berkeley, Duke, Dartmouth, Georgia Tech, Harvard, Notre Dame, Purdue, Stanford, Tulane, Yale, Vanderbilt, Washington University, Xavier University of Mississippi, University of Texas, USC, Texas A&M, OU, OSU, Tulsa University, OBU, OCU, Oklahoma Christian, Phillips, Southern Nazarene and the University of Central Oklahoma.

CONGRATULATING ANTHONY BARBIERI OF SAN JOSE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. MINETA. Mr. Speaker, some would have the American people believe that Government service is either home to perpetual mediocrity or a refuge for those who cannot find jobs in the private sector. I believe charges such as these to be myths perpetuated by cynics, and I am concerned that these cynics are having a negative impact on gifted young Americans who might consider a career in Government service.

Fortunately, Mr. Speaker, there are young Americans like Anthony Barbieri of San Jose. Recently, Mr. Barbieri was awarded a public service scholarship by the Public Employees Roundtable. This scholarship, 1 of 10 presented nationally, could not have been more deserved.

Mr. Barbieri wrote an essay about Government service to the Roundtable as part of his application for the scholarship. It is my pleasure to share that essay with you, Mr. Speaker, and my colleagues in the hope that it may help to stem the tide of cynicism about public service in America.

ESSAY BY ANTHONY JEROME BARBIERI

It has been said that "No man is an island, entire unto himself." This is very true, for each of us is a member of a greater continent of being, a society from which we receive benefit and unto which we owe our service. I have chosen a public service career because it offers me the opportunity to experience the three qualities I most desire in a career: civic participation, service to others, and personal fulfillment. The specific vocation to which I aspire is that of a community or state college professor.

First, I chose a career in public service because it gives me the chance to participate in the function of our great and multicultural society. I believe that the enduring cohesion and overall success of ours or any society depends on the active participation of its members. So many people complain of worsening conditions and structural deterioration in this country, but they refuse to accept responsibility on themselves. The greatest evil in a complex society is not the poli-

tician, but apathy on the part of the populace. Through a public service career in general, and specifically as a college teacher, I intend to actively participate in the greater arena of civic duty.

The second reason I have selected public service is that by very definition it presents me with the opportunity to serve my fellow man, to communicate to others the knowledge and talents I have acquired throughout my life. This is the key reason I have chosen to become a teacher. I have a passion for knowledge. I read constantly and am always eager to expand the horizons of my awareness. I have always wanted to communicate to others this passion, to try to inspire in them the same feelings of awe and connectedness I feel when I read a classic work of literature or open my mind to a previously unknown chapter in history. It is of fundamental and paramount importance in our society to encourage the age-old veneration of the teacher and his art, for I believe that to be a teacher is the greatest public service of all.

The third reason I chose a career in public service is that it gives me a greater sense of personal fulfillment than any other occupation I have undertaken. I have owned my own business; I have worked as a freelance writer; I have been a computer technician. But only when I was a teacher's aide did I feel a sense of reward or fulfillment at the end of each day. It was hard work, to be sure, but I felt that I was actually making a beneficial difference in someone's life. It is true that personal satisfaction may be the most selfish of my reasons, but it is a selfishness that takes joy in the selflessness of serving others.

I have attempted in this brief essay to demonstrate my justifications for selecting a career in public service. My belief is that public service offers me the greatest chance to experience civic participation, service to others, and personal satisfaction. The first step on my career path is to complete my B.A. degree in Asian and Islamic History at the University of Santa Cruz. I believe my goal is an honorable one, and I would greatly appreciate your financial assistance in helping me reach this goal.

HONORING OUR KOREAN WAR VETERANS—THE FORGOTTEN HEROES

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. KANJORSKI. Mr. Speaker, I am proud to pay tribute today to a very special organization of men and women from my district, the Korean War Veterans of Wyoming Valley. This Sunday, July 26, 1992, their dream of memorializing area servicemen who fought for their country in Korea, will become a reality, as hundreds of Korean War veterans and their families dedicate a monument on the grounds of the Luzerne County Courthouse. I am pleased to have been asked to participate in this important event.

The granite memorial, in four sections, contains the names of the 142 county residents who gave their lives for their country during the Korean conflict. Included in this list are the 33 members of the 109th Field Artillery who were tragically killed in a train wreck on Sep-

tember 11, 1950, en route to encampment. The monument will serve as a silent reminder of "The Forgotten War" for future generations.

The ceremony this Sunday will be the culmination of a 4-year project undertaken by the Korean War Veterans of Wyoming Valley under the distinguished leadership of Comdr. Bob Stochla. The dedication of Commander Stochla and ceremony chairman, Bob Alper, cochairmen, Earl Weigel and Marty Greenberg, as well as the committee members, Bob Mattern, Bill Stefancin, Jack Kline, John Washney, and Phil Weidner will long be remembered by all of the officers and membership of the Korean War Vets. I had the distinct pleasure of working with these fine men in helping to raise the funds needed to complete the project. All of these men exemplify patriotism in its purest form and I am proud to call them my friends.

Mr. Speaker, I would be remiss if I did not take a moment to pay special tribute to a man who was instrumental in waking up the entire Nation as the founder and coordinator of the acclaimed "Korean War Awareness Project," Tony Zdanavage of Berwick. Tony was held prisoner by the Chinese for 83 days. He relates the horror of his captivity in his book "Korea—The War America Forgot To Remember." Tony's relentless efforts have caused a national movement to erect a monument in our Nation's Capital. In Tony's own words, "All veterans should understand they are not alone with their feelings of being the forgotten survivors who lived through hell on Earth. We can be remembered."

In Korea, more than 1 million men and women fought to protect democracy and almost 55,000 gave their lives in a hopeless and unpopular war. I am pleased to have the opportunity to bring to the attention of my colleagues, and the Nation, the efforts of a small group of dedicated survivors, who are determined not to allow us to forget their sacrifice and courage. It is with great pride that I ask the Congress to join me in commending the Korean War Veterans of Wyoming Valley as they dedicate a permanent reminder for future generations, so that Korea will no longer be the forgotten war.

NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FEIGHAN. Mr. Speaker, in commemoration of the 50th anniversary of the Second World War, I would like to take the time to honor a native Clevelander Nathan Cook. Mr. Cook was the first American to land on the shores of New Zealand during the troop buildup preceding the Pacific operations of World War II.

Mr. Cook, a member of the 37th Infantry Division of the Ohio National Guard, exemplifies the dedication and patriotism that helped the United States and the Allied Forces win the war.

Deciding not to wait for the draft, Mr. Cook joined the Guard July 15, 1940, at the age of

30. Nathan Cook and his fellow U.S.S. Uruguay soldiers were a core group of the 500,000 New Zealand bound troops. These Allied forces proved crucial in the strike against Japan after the Pearl Harbor bombing.

It was no coincidence that Mr. Cook was the first down the gangplank. Realizing the historic nature of their journey, a soldier pointed out that Nathan shared the name of the English captain, James Cook, who in 1769 discovered New Zealand, remembered the English captain. With that in mind, Nathan's commander tapped him to be the first man ashore.

Mr. Speaker, it was 50 years ago on June 12 that our Pacific operations began, and we honor all the troops that fought in World War II, we should also honor and thank the man—Nathan Cook—with the special name and the special courage who started it all off for us.

At this point, I would like to insert in the RECORD a recent Cleveland Plain Dealer article featuring Mr. Cook, and I urge my colleagues to read it.

NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

(By Lou Mio)

Nathan Cook never figured to become a celebrity when he boarded a troop ship in California 50 years ago.

The USS Uruguay was jammed with troops from the 37th Infantry Division, the Ohio National Guard unit federalized by Washington and sent into action during World War II.

"I joined the guard July 15, 1940, before they were federalized," said Cook. "I was 30 at the time and figured, 'Why wait for the draft?'"

Four months later, the 37th became part of the Army. The Ohioans were shipped to Camp Shelby, Miss., for training, and by 1942 were en route to the war in the Pacific. Cook was a first sergeant in the 145th Infantry Regiment.

The 37th was headed for Auckland, New Zealand, and the Fiji Islands, part of the Allied buildup to strike back at the Japanese, unstoppable since the attack on Pearl Harbor and threatening to invade Australia.

"We didn't know our destination until a day and a half before we arrived in New Zealand," Cook said.

The troop commander on the Uruguay wanted to do something special since these were the first American soldiers to come ashore in New Zealand. Somebody on board had a sense of history and remembered the name of the English captain who discovered and charted all of New Zealand in 1769—James Cook.

"Because we had the same name, the troop commander designated me to be the first man to walk down the gangplank," said Cook, 82, of Triskett Rd. "I recall the day pretty well. It was June 12 (1942). I was company first sergeant and kept all the records."

"We docked at Princess Wharf," Cook recalled. "I remember the thrill of being the first soldier down the gangplank, the excitement of the soldiers and the enthusiasm of the people watching us disembark."

Cook and the others in the convoy were the vanguard of an estimated 500,000 Americans who passed through New Zealand. Last October, David Conway, an Englishman, and Del Sutton, his New Zealand wife, organized Operation U.S. Down-Under when they learned that the government had nothing planned to commemorate the American presence during the war.

"I started it and dragged David in," said Sutton, of Auckland. The couple got things

rolling with \$11,000 (about \$6,000 U.S.) of their own money, but little governmental support until Conway wound up being interviewed in New Zealand's largest newspaper.

"I gave the government a well-deserved blast for its meanness," he wrote in a letter to the 37th Division Association. "It had the desired effect, because we now have all the money we needed so desperately in October.

"We say that our project is a people-to-people expression of thanks from the people of NZ to the people of America for saving us from the unthinkable," he wrote.

"There were half a million Americans here during World War II," Conway said in a telephone interview from Auckland. "You people had quite an impact. Things like Coca-Cola and hamburgers."

Sutton and her family saw a lot of GIs up close. The Army set up Camp Euart on their farm.

"My wife thought all New Zealand girls grew up with 5,000 Americans in the back garden," Conway said.

Conway and Sutton learned that Cook was the first American down the gangplank. They wanted to find him and bring him to New Zealand for this week's commemoration.

"I found out this month they were looking for me," Cook said. "I was surprised. It seems they were trying to get hold of me for a long time. There was a notice in the 37th Division newspaper. Somebody knew I was still around and called."

The prime minister of New Zealand offered to pay for Cook's trip. He had to decline.

"I checked with my doctor," said a disappointed Cook, who has emphysema and heart problems. "He said I would never stand it."

Undaunted, Conway contacted Cook and asked if he would say a few words on videotape. The tape was made Friday and sent to Conway.

"We want to show it in the Civic Theater in Auckland," Conway said. "It's a place Americans would know. The American ambassador will be there. Eleanor Roosevelt spoke there once."

American troops paraded down Queen St., the main street in Auckland, on June 19, 1942. The focal point of this commemoration will be a parade down the same street—50 years later.

Cook didn't stay long in New Zealand. The 37th went into action about one month later and fought continuously for 23 days on the island of Munda in New Georgia. Torn ligaments from a knee injury playing sandlot baseball caught up with Cook, who had been promoted to second lieutenant.

He was sent home and eventually discharged in July 1944.

On the videotape, Cook came close to tears while talking about his stay in New Zealand and the friendliness of its people.

"Many families requested us to send six or seven soldiers for dinner," he recalled. "They were very hospitable people. Many of them threw parties for us and even hired entertainers."

"We were in New Zealand about five weeks," he said. "To a man, I can say we all loved New Zealand and its people. I think they thought the same of us."

CALIFORNIA RATIFIES THE MADISON AMENDMENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. LANTOS. Mr. Speaker, California has become the 40th State to ratify the Madison amendment. My good friend, State Senator Quentin L. Kopp, played an instrumental role in assuring its passage. I congratulate Senator Kopp for his fine work and I ask that Senate Joint Resolution 1, the bill calling for the ratification of the Madison amendment, be printed in today's RECORD:

SENATE JOINT RESOLUTION 1

Whereas the First Congress of the United States of America at its First Session, in both houses by a constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures to be valid to all intents and purposes, as part of the said Constitution, viz.:

"Articles in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

"Article the second—No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened"; and

Whereas this proposed amendment will be valid as part of the Constitution of the United States when ratified by the legislatures of three-fourths of the several states; and

Whereas this proposed amendment has already been ratified by the legislatures of the following states Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming: now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That this proposed amendment to the Constitution of the United States of America be and the same is hereby ratified by the Legislature of the State of California; and be it further.

Resolved, That the Secretary of the Senate transmit certified copies of this resolution to the Archivist of the United States, Wash-

ington, DC, the President of the United States Senate, and the Speaker of the House of Representatives of the United States, with the request that it be printed in full in the Congressional Record.

TRIBUTE TO MR. HAROLD KENDLER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. PALLONE. Mr. Speaker, I would like to take a minute to pay tribute to a constituent of mine, Mr. Harold Kendler, who passed away this week. Harold Kendler was a man of extraordinary integrity and persistence, as well as one of the leading advocates in the country for Social Security notch justice.

As a railroad union official, Mr. Kendler was a tireless advocate for the common working man. As a retiree, he continued his dedication to the working men and women who had been shortchanged by the Social Security system. He cofounded the group End Notch Discrimination [END] and traveled all over the country organizing and rallying notch victims into a loud and unified voice for change.

It is fitting that we memorialize Harold Kendler today, Mr. Speaker, because today would have been the day that he testified before the House Ways and Means Committee about the need for notch reform legislation. For nearly 10 years, Congress has been holding up legislation designed to redress the grievances of the Social Security recipients born between 1917-26. Largely through Harold's championing of the notch issue, we have gathered over 280 cosponsors on the bill in the House of Representatives and have forced legislation to the closet point of passage in years.

Mr. Speaker, the motto Harold Kendler chose for his organization was, "Don't wait until we die * * * End Notch Discrimination Now." I only hope that Congress will take the example of his life, and not wait until other notch victims pass without receiving the benefits they so justly deserve.

Harold Kendler was a caring, light hearted man who enriched everyone he came into contact with. Without his presence, the notch community will be missing a fierce fighter and a true friend. He will be sorely missed.

DRUNK DRIVER KILLS FOUR YOUNG PEOPLE IN WORST ACCIDENT IN SANTA MONICA'S HISTORY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. LEVINE of California. Mr. Speaker, it is with deep sorrow that I rise today to pay tribute to four young people; three whose lives were ended abruptly and one whose valiant struggle to live was both hopeful and inspiring. Rita Morgan, Julie Dicks, Rob Cash, and Christopher Baker were hit by a drunk driver

on the morning of June 7, 1992. This is the worst accident in Santa Monica's history.

Rita Morgan, the group's designated driver, had been in a coma since the accident. On June 30, 1992, she was disconnected from a respirator and began to breathe on her own. Unfortunately, she gradually weakened and she stopped breathing Sunday morning, July 12. Rita graduated from California State University at Northridge with a degree in physical therapy last May. She previously worked as a physical therapist for the Los Angeles Clippers. In addition to her educational and professional accomplishments, Rita had been a great asset to the community. Her greatest joy had been her community service work as a clown. Rita, also known as Titi the clown, performed extensively with the volunteer organization visiting convalescent homes, children's hospitals, and the Special Olympics.

Julie Dicks and Rita Morgan had been friends since they attended Notre Dame High School. Julie graduated from San Diego State University in May 1992. She served this past year as a resident assistant in her dormitory, helping the incoming freshmen to adjust to college life. Julie planned to continue her education in order to establish a career in teaching. Although Julie lived in San Diego while attending school, she drove home every Sunday to visit her family and friends. She was also active in her church, singing in the choir, and setting an example to all who knew her.

Rob Cash had returned home to Santa Monica on June 2, after spending a year studying and working in Germany. Fluent in German, Rob graduated from the School of International Training in Brattleboro, VT, in June 1992 after completing his course of study and internship under the world issues program at that institution. Before transferring to the School of International Training, Rob attended Santa Monica College. While living in Santa Monica, he worked as a teaching assistant at the neighborhood nursery school. "Mr. Rob," as he was known to the children, also volunteered much of his time to various programs at the local YMCA. He also processed great love for and talent in soccer, having competed in the sport for much of his life.

Christopher Baker spent his life teaching and caring for the children in the community. Christopher worked full-time as a teacher at the neighborhood nursery school. Known to the children as Mr. Chris, Christopher, along with Rob Cash, provided the nursery school children with the rare experience of having male role models at that level. Following his work each day at the nursery school, Christopher had a second job as a coach at St. Joan of Arc School teaching athletics. He also taught tumbling at the YMCA on a voluntary basis. Even more than teaching, however, Christopher loved baseball. Christopher was involved with Santa Monica Little League for 16 years. He was manager and coach of a number of teams throughout those years and took great pleasure in the achievements of all of his players. He also took time out to give the players extra practice session and batting practice and to provide transportation to and from the games if necessary. In addition, Christopher played on three different softball teams, one of which plays in the Santa Monica Men's League.

The loss of these three young people who made such great contributions to the community is particularly tragic. The families, friends, coworkers and countless children and young adults whose lives they touched feel a great loss. They have now rallied together to more powerfully convey the message that drunk driving will no longer be tolerated in their community.

Julie, Rob, and Chris will be sorely missed. They provide a vivid reminder of the human cost of the crime of drunk driving. Congress must continue to find ways to get drunk drivers off the road and punish anyone who continues to drink and drive. I urge my colleagues to join with me in sending our deepest sympathies to the families of these four young victims; may the contributions of their sons and daughters be revered and long remembered.

I would like to submit for the RECORD a copy of the speech given by one of Christopher Baker's colleagues from the Santa Monica Little League. Dr. Barry Weichman helped Christopher coach his 1992 team and made these remarks at the dedication of the new batting cages at Memorial Park in Santa Monica to Christopher R. Baker.

SPEECH BY DR. BARRY WEICHMAN

On Sunday I was informed of the tragic and senseless death of someone who had just recently become a friend and teacher, Chris Baker. Chris was my son Jeff's baseball coach this year. As assistant coach, I was fortunate to spend time with Chris both in the dugout and on the field. Chris knew baseball. Chris loved baseball. He imparted his knowledge of and love for the game with great zeal and great dignity. He was respectful of his players and would relish in their accomplishments. He had coached my oldest son, Jerry, as an allstar and he had befriended my youngest son, Joseph, whom he had hoped to coach in the future. Chris had no children of his own. He was 26 years old.

Chris Baker was the ultimate volunteer. He nearly always chose to say "yes." In a world of take, I only saw Chris give. From his players he asked only that they do their best. So in losing Chris, what answers have I found? My friends, life is short. No one can predict when or even if we as individuals will be able to impact the world in which we live.

From my perspective, Chris Baker impacted profoundly my life, my family's lives, as well as the lives of many other children and families in Santa Monica by doing something that he chose to do, by saying "yes" to coaching and teaching the children. It was not his job, he received no payment. Coaching the children was not a stepping stone to advance his career. He gave of himself because Chris Baker did not have a concept of his life in which he did not give. Sure, there were plenty of other things he could have done with his time and energy, but Chris' concept of himself included giving of himself to help others, and it felt good.

TRIBUTE TO THE COMMUNITY WEATHERIZATION PROGRAM IN YOUNGSTOWN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. TRAFICANT. Mr. Speaker, I proudly rise here today to honor a group of young men

and women in my 17th Congressional District who took part in a wonderful program. The Community Weatherization Program is a program which takes young kids off of the streets to help rebuild homes of the elderly.

Recently, I received a letter from a Mrs. Elizabeth DaSaro in Boardman, OH. She is 77 years old and disabled. Her husband, who passed away a few years ago, was a disabled American veteran. Mrs. DaSaro's illnesses drained her savings years ago. Currently, she lives in a mobile home at a trailer park.

Mrs. DaSaro wrote:

This wonderful group of young women and men pitched in with joy and gladness in their hearts to improve my mobile home. This to me was so welcome and heartwarming. I cried inside to be so richly blessed and rewarded.

Mr. Speaker, these young men and women are part of the Department of Energy's Weatherization Program that insulates and weatherizes homes for low-income families in Youngstown and in other communities nationwide. Part of the Youngstown Area Community Action Program, this program provides jobs and job training for 36 people. Many of the employees started as summer help and received practical job training.

Mr. Speaker, programs like this ultimately benefit the community in many ways. First, these programs provide tangible benefits such as jobs and job training. These programs weatherize homes for the winter. This conserves fuels and keeps fuel bills low.

Second, and most importantly, Mr. Speaker, this program shows those like Mrs. Elizabeth DaSaro, that somebody does care about their well being. Perhaps this is the most important benefit of all.

THE MARINE MAMMAL CAPTURE, EXPORT, AND PUBLIC DISPLAY PROTECTION ACT OF 1992

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BILIRAKIS. Mr. Speaker, today I am introducing a bill which will provide greater protection for our Nation's dolphin—and more broadly, marine mammal—population.

Simply put, more can be done to prevent the needless deaths of these animals. According to the Marine Mammal Commission 1991 Annual Report to Congress:

Over the past decade and a half, there has been an increase in the incidence of unusual marine mammal mortalities throughout the world. These incidents have occurred in widely separated areas and have involved a variety of marine mammal species, including monk seals in the northwestern Hawaiian Islands, harbor seals in New England, manatees in Florida, and humpback whales in Cape Cod. Among the largest and most publicized were the deaths of more than 700 bottlenose dolphins along the U.S. Mid-Atlantic coast in 1987 and early 1988, and more than 17,000 harbor seals in the North Sea later in 1988.

As noted in the previous annual report, there were two incidents of higher-than-normal bottlenose dolphin mortality in the Gulf

of Mexico in 1990. There also was a catastrophic die-off of striped dolphins in the Mediterranean Sea.

In light of these types of mass mortalities, Federal management of marine mammal protection laws must be taken even more seriously. Responsible policy must be established and enforced in an effort to respond to these mortalities and prevent needless deaths in the future.

Mr. Speaker, there is a dire need for the Federal Government to more strictly regulate the handling of marine mammals—the way they are captured and released, their transport between facilities, their care and handling in theme parks and oceanariums and their export to other nations. Dolphins and other marine mammals have died needlessly in captivity in the past, in numbers that are simply unacceptable, and we have a responsibility to address the reasons for these deaths. We cannot continue to carry on business as usual, but must carefully examine our procedures for dealing with marine mammals.

My bill would strengthen Federal law affecting the treatment of marine mammals in three main areas—capture, export, and public display. It would establish a tracking system in order to establish and maintain better records on the transfer of dolphins between facilities. Under this new tracking system, it would be easy to access an animal's health record, capture history, and other information vital to its handling. To stress the importance of such a tracking system, a moratorium would be established on the capture of marine mammals until this tracking system is in place.

Also, my bill would ban the export of marine mammals to other nations unless the animal is being exported in order to improve its health or well-being. It is simply not responsible policy to export dolphins captured in U.S. waters to other nations who may not enforce animal protection laws. It is inherently difficult to conduct oversight of other nations' enforcement of laws of this type, and unless oversight can be successfully achieved, the export of marine mammals is not responsible policy.

In addition, my bill would direct the Secretary of Agriculture to review the standards of care that must be adhered to by theme parks and other facilities that hold marine mammals in captivity. Many people have concerns that the environment in which marine mammals are placed in captivity differs too much from the environment from which they were taken. We have gained a great deal of knowledge about the needs and behavior of marine mammals in recent years, and this knowledge must be used to improve the quality of life of marine mammals held in captivity and prevent early deaths of these animals.

My bill also would require the Secretary of Agriculture to review standards established under the Animal Welfare Act for the care and habitat of marine mammals in captivity, and determine whether those standards are adequate, considering:

- First, the sizes of marine mammals;
- Second, current knowledge of marine mammal physiology and behavior, with respect to their need for exercise, auditory capabilities, and their pre- and post-natal requirements;
- Third, their psychological and physical well-being;

Fourth, their needs related to social grouping, including minimum group size, gender, mix, and age composition;

Fifth, interspecies compatibility; and

Sixth, environmental modifications that might allow for more normal behavior and social interaction.

In addition, permits for research on marine mammals would be limited to 2 years under this bill, unless the Secretary of Commerce issues a special extension for a long-term study. Also, guidelines would be set up for releases of marine mammals taken for research back into the wild—so that this is done in the most humane manner possible. For example, the bill requires that the animals be released in their original site of capture.

Civil and criminal penalties for those who break the animal welfare laws must be increased to maintain adequate compliance. The bill would raise the penalties for those who violate provisions of the Animal Welfare Act relating to marine mammals to be equal with the penalties under the Marine Mammal Protection Act. Civil penalties would be increased to not more than \$10,000 for each violation and criminal penalties for knowing violations would be increased to be not more than \$20,000 for each violation, and/or imprisonment for not more than 1 year.

I simply feel that these issues outlined in this bill must be examined by Congress as a body and in the committees of jurisdiction. These are serious issues, and current law affecting the handling of marine mammals needs to be debated, considered carefully, and amended.

VACLAV HAVEL: HERO OF THE VELVET REVOLUTION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BEREUTER. Mr. Speaker, the prodemocracy movement in East and Central Europe has produced a handful of genuine heroes—Lech Walesa in Poland, Boris Yeltsin in Russia, and Eduard Shevardnadze in the former Soviet Georgia. But this Member is convinced that there is no greater figure than President Vaclav Havel of Czechoslovakia. In 1989, he led the Czechs and Slovaks in a marvelous, wondrous, bloodless velvet revolution. And he has become one of the world's leading voices of reason.

Now, however, with the Slovaks splitting away from the Czechs, President Havel is stepping down from the Presidency of the Czech and Slovak Republic. But this quiet, gentle man deserves the heartfelt thanks of us all. This Member only hopes that the people of Slovakia and the Czechlands will, in time, rediscover the message of peace and unity that Vaclav Havel espoused.

This Member would ask that the July 22, 1992 editorial of the Omaha World Herald be entered into the RECORD. As the World Herald correctly notes, both the "Czechs and Slovaks owe him a debt of gratitude that would be difficult indeed to repay."

[From the Omaha World Herald, July 22, 1992]

HAVEL'S VELVET INTERLUDE

Vaclav Havel, the playwright and philosopher who led Czechoslovakia out of the collapsing communist orbit, is out. He was brought down by the ethnic divisions that have plagued his part of Europe since the dawn of recorded history.

Czechoslovakia now heads toward a breakup into Czech and Slovak republics. Havel, who had served as president of the united republic, was blocked from a second term in office. He has resigned several months before the end of his first term.

Havel has been an admirable leader during a difficult time. About three years ago, he and a group of other dissidents and artists assumed power in what has since been called the Velvet Revolution, a bloodless ouster of the communist regime. Since then, he has gained international respect for himself and his government.

Havel used the sheer force of his intellect to help bring down communism and get the new republic on track. He exercised a moral force that was due in part to his countrymen's respect for the years he spent in prison for his beliefs. His courage is unquestioned. His policies while president were mostly progressive and farsighted. And he brought a new humanist view to the once-repressive government.

But it was not to last. Havel worked hard to save the federation. He now concedes that the centuries-old ethnic resentments were so strong that the breakup of the country may have been inevitable once the heavy hand of communism was lifted.

Observers have predicted that the dissolution may be peaceful when it comes. The two states may simply break apart without a vote, each forming its own independent government and existing as neighbors. That would be in stark contrast to what was once Yugoslavia, where old ethnic resentments have erupted into a tragic series of civil wars.

But it is too bad that the Czechs and the Slovaks didn't respond to Havel's eloquent, responsible call to unity. Under his enlightened leadership, a united Czechoslovakia could have provided the rest of Europe an example of how different ethnic groups can get along—an example that can't be presented too often.

Factionalism is winning out over good sense, as it often does. But thanks to Havel, the transition from communism to freedom was smooth and bloodless. Czechs and Slovaks owe him a debt of gratitude that would be difficult indeed to repay.

IN MEMORY OF MAYOR LARRY VICTOR TALBOT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SKELTON. Mr. Speaker, recently, an outstanding Missourian, the mayor of Bagnell, MO, Mayor Larry Victor Talbot, met an untimely death. His contributions to his community will long be remembered.

Born in Montgomery City, MO, in 1926, Larry Talbot later moved to Shelby County, where he spent most of his life. In 1968, he married Carol McSorely.

Talbot worked in bridge construction most of his life. Most recently, he was the operator of

Camp Bagnell, 5 miles downstream from Bagnell Dam. He was a Baptist, a veteran of the Korean war and was a member of the Lake of the Ozarks American Legion.

Larry Talbot is survived by his wife, mother, 4 daughters, 2 stepdaughters, 2 half-brothers, 3 sisters, 1 half-sister, and 11 grandchildren. He will be missed not only by his family and friends, but by the community he served.

TELLING THE FBI'S STORY

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. OXLEY. Mr. Speaker, John Collingwood, the inspector in charge of the new Office of Public Affairs and Congressional Services at the Federal Bureau of Investigation, is an old friend from my hometown of Findlay, OH. I congratulate John, and I commend the following profile from yesterday's Washington Times to the attention of my colleagues:

TELLING THE FBI'S STORY

(By Jerry Seper)

The first arrest John Collingwood made as an FBI agent was the realization of a boyhood dream, even if it was a little less glamorous than he'd pictured it.

No international terrorists. No dangerous spies. No white-collar thieves or La Cosa Nostra crime bosses. No corrupt public officials.

It was hijackers. Trucks. Small trucks. They stole shrimp. It wasn't a very big case.

But, Mr. Collingwood says, that experience as a member of the FBI's major theft squad in Detroit taught him a big lesson. And he hopes to keep it in mind during his most recent assignment as the FBI's chief flak catcher.

"The real keepers of the image of the FBI are the agents on the street," he says. "That's the story we want to tell, the story that the American public and the Congress needs to hear."

"Cases are being solved by agents who continue to knock on doors and ask the right questions," he says. "They're responsible for what the FBI has been and what it will become."

Mr. Collingwood, a lawyer and 17-year veteran of the Federal Bureau of Investigation, took over Thursday as inspector-in-charge of the new Office of Public Affairs and Congressional Services Office. Created by FBI Director William S. Sessions, the office combines two others—the Office of Public Affairs, headed by Thomas F. Jones (since named agent-in-charge of the FBI field office in Cleveland), and the Office of Congressional Services, formerly headed by Mr. Collingwood.

The appointment came as no surprise to those who work with Mr. Collingwood. Or to those who have known the Findlay, Ohio, native during his 12 years at FBI headquarters, where he also has served in the Legal Research Unit and as chief of the bureau's Civil Litigation Program.

Soft-spoken and articulate, Mr. Collingwood, 44, has kept his head down in the dog-eat-dog climate of bureau headquarters. He is one of a handful of FBI executives with immediate access to Mr. Sessions. As a special assistant to the director for two

years, many believe he is one of Mr. Sessions' closest advisers.

"He has the director's ear, there's no question about that," one high-ranking FBI official says. "But more importantly, he knows when to use it and knows better than to abuse it."

"Genuinely likable and very charming," is another FBI executive's assessment. "He is determined, tireless, shows great self-discipline and has honed a no-nonsense management style that works."

That style may have been developed during his college days at Bowling Green University, where he received a bachelor's degree in 1970 from the School of Business. Or at the University of Toledo, where he got his law degree in 1975. Or at his family's Ford dealership in Ohio, where he worked for two years before entering law school.

In fact, he went to law school with the FBI in mind.

"I thought at the time that most everyone in the FBI was a lawyer and that it was the route to take if I wanted in the agency," he says. "So I took it."

The road to Washington began in 1975 at the FBI field office in Detroit, where he worked first on the major theft squad and later on the organized crime squad. (That first arrest in the great shrimp caper went down inside a brewery, but that's another story.)

In 1978, the bureau sent him to the Defense Language Institute in Monterey, Calif., a prestigious Pentagon facility. The school teaches more than a dozen languages to intelligence specialists and others, including the FBI. It is considered one of the most intense language courses in the country.

Mr. Collingwood's specialty was Cantonese, which he used on his next assignment at the FBI field office in Portland, Ore. He worked Asian gangs and foreign espionage cases. (Actually, he admits his first chance to use his newly acquired Cantonese came at a Chinese restaurant in San Francisco.)

Two years later, Mr. Collingwood arrived in Washington. He was coaxed here by John Mintz, former assistant director of the FBI's Legal Counsel Division. Mr. Mintz, during a visit to the Portland field office, was looking for agent/lawyers to bolster his legal staff.

"It was a good opportunity for me and I didn't hesitate to take it," recalls Mr. Collingwood, admitting that he and his wife, Mary Ann, also wanted to reduce the miles between them and their families in Ohio and Michigan.

"But I still miss being out in the field," he adds. "That's something that's ingrained in all agents. Solving crimes is what it's all about, and that's the story we hope to tell."

The Collingwoods live in Northern Virginia with son Mark, 10, and daughter Stephanie, 13.

In his spare time, Mr. Collingwood says, "I'm really into two things. My kids' sports—my life revolves around Little League and swimming—and the other thing is computers. You wouldn't expect a lawyer to be into computers, I guess, but I am."

Nothing fancy, just a regular personal computer he uses with on-line services and various kinds of software.

At work, his office's tasks are to tell the news media and the public what the FBI does and why; prepare FBI publications; respond to inquiries; manage congressional relations; oversee FBI testimony before congressional committees; and provide Congress with information on FBI operations, guidelines and accomplishments.

There is one particular story that many expect John Collingwood to try to tell, although without much fanfare.

A longtime loyalist, he is a staunch defender of Mr. Sessions—who recently has come under fire from inside and outside the bureau. In answering questions, Mr. Collingwood often defers to comments and policy statements his boss has made.

"The director is extremely motivated to do more and to better serve the public with the same or fewer resources.

"The director is a firm believer that Congress and the American public have every right to know what the FBI is doing. * * *

The defense is not contrite, nor does it appear to be planned. Mr. Collingwood believes Mr. Sessions' cheerful approach to problem solving is misinterpreted by critics as weakness or lack of interest.

"His record at the FBI is clear," the public affairs chief says, "He has waded into some of the stickiest issues ever confronting the agency without hesitation."

The media and others have questioned the FBI director's policies and management style. The most potentially damaging and divisive criticism, however, may be that coming from many of his own agents who are angry over what they see as moves to initiate a quota system in the hiring of minorities and women.

The predominantly white FBI Agents Association, which represents more than 60 percent of the FBI's 10,400 agents, is seeking a court order to force Mr. Sessions into revealing the contents of an agreement he signed in April with black agents. That agreement guarantees job assignments, promotions and training opportunities. Hispanic agents won a similar pact three years ago in a race discrimination lawsuit.

Female agents balked at a recent equal treatment. The women said they were "tired of the separatism and group interest that appears to be growing within the ranks of the FBI."

Mr. Collingwood won't discuss allegations of a quota system, saying the matter involves pending litigation. He does say, though, that Mr. Sessions has not been afraid to take on extremely difficult issues.

"His view is that he'll do what has to be done and that the facts will speak for themselves," Mr. Collingwood says, in his first official defense of the director.

Mr. Collingwood's efforts to tell the public and the media about the FBI and its accomplishments may be an easier task today than it was before. It's no secret that former Attorney General Dick Thornburgh, who wanted to name his own man as FBI director, often moved to control and limit the FBI's access to the media.

Mr. Thornburgh resigned in August to run unsuccessfully for a Senate seat from Pennsylvania. His successor, Attorney General William P. Barr, has not instituted similar constraints.

Mr. Collingwood has no comment on all this, except to say that his office will operate under "clear mandates" handed down by Mr. Sessions.

"Our job is to serve our customers. That includes the media, the public and Congress," he says. "We are the servants of the American public, and it has every right to know what the FBI is doing."

UNITED STATES LAWYERS ARE
WELCOMED BY RUSSIA

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SPRATT. Mr. Speaker, the Wall Street Journal recently ran an article describing the Central and East European Law Initiative [CEELI], a program which is sponsored by the American Bar Association. CEELI provides United States legal expertise to nations throughout Eastern Europe and the former Soviet Union as these nations restructure their legal systems. Critical to the success of CEELI is the principle that lasting political reform depends on a stable, respected, and well-functioning system of law.

CEELI attorneys have already helped to advise nations in the redrafting of commercial codes, judicial procedural rules, and even national constitutions. Even though CEELI does receive a modest amount of Federal funding, the cost to taxpayers is very small since all the American attorneys who participate in the program do so without compensation. CEELI is an excellent example of a public and private partnership providing an important service to new democracies. I support programs of this type which maintain America's role as the leader of the free world, and I encourage my colleagues to learn more about CEELI.

[From the Wall Street Journal, June 12, 1992]

UNITED STATES LAWYERS ARE WELCOMED BY
RUSSIA

(By Jonathan M. Moses)

American lawyers, often reviled at home, are getting a warm reception in Russia. Not to mention Romania, Lithuania and Bulgaria.

Increasingly, U.S. lawyers, judges and law teachers are offering their services to help write laws and constitutions for the newly emerging democracies of the former Soviet bloc. While many in the U.S. contend that U.S. lawyers have made a mess of their own legal system, novice lawmakers in countries with leftover Marxist legal systems apparently think American and West European lawyers have something to offer.

"Perhaps we're on a continuum, and the reputation of lawyers here in the U.S. is well-deserved," said U.S. Appeals Court Judge Richard L. Nygaard, who has advised constitution writers in Romania, Lithuania and Bulgaria. "But there, it's quite the opposite. They really, truly need more lawyers."

And the lawyers are coming. From committees sanctioned by the American Bar Association to law professors independently dispensing legal advice as they travel through Central and Eastern Europe, the source is as varied as the issues that need confronting.

Much of the work so far has been in such non-commercial areas as constitution writing. The topics are broad. Civil rights, the structure of the judiciary and the power of the legislative and executive branches are all on the constitutional agenda. Other efforts have included criminal and administrative law reform, as well as a sister-law school program involving at least 90 U.S. law schools and nascent schools in Central and Eastern Europe.

Andras Sajó, a Hungarian scholar specializing in international law and comparative

constitutions, says that the U.S. legal system also has been influential in technical areas such as environmental law, banking law and securities regulation. "These are systems that have never been seen before," said Prof. Sajó, who will be teaching at the newly created Central European University in Budapest.

Prof. Sajó, who was trained as a lawyer in Hungary, said that other, broader U.S. legal ideas are more difficult to transfer since the European Continental tradition has roots in Central and Eastern Europe. For example, he said, it is unlikely that the new republics will give up the European judicial system that limits the power of most judges in favor of a U.S.-style judiciary that gives most judges a crack at determining the constitutionality of laws.

One of the most active of the U.S. groups providing legal advice is the Central and East European Law Initiative, CEELI, of the American Bar Association. With a prestigious board that includes Associate Justice of the U.S. Supreme Court Sandra Day O'Connor, CEELI has been able to call on the elite of the American legal profession to participate in its programs.

Most of the legal advice is being provided without charge. To guard against conflicts of interest, CEELI requires participants in its programs to disclose any work that they or their law partners are doing in these countries and to agree not to promote their law firms in the course of providing advice. But many of the same firms also are looking toward the region to generate commercial business once the legal and political climates are ripe.

Often participants in CEELI programs offer line-by-line critiques of proposed laws or constitutions. Lawyers and legal scholars participating in these programs agree that some of the best advice they can offer is based on the experience they've had at home about what works and what doesn't. The U.S. experience shows up in suggestions such as those made by a legal counsel to the U.S. Senate that strict ethical rules be set up for legislators, and those made by a federal judge that women's rights be codified.

But the participants quickly reject the notion that they're pushing the U.S. system over others. "Frankly, I don't think our constitutional model is a very good model. I don't push it at all," says Herman Schwartz, a professor at American University Law School and a member of CEELI's advisory board.

Laurence Tribe, a professor at Harvard Law School who independently advises Central and East European nations, says it would be the height of "hubris" for U.S. legal scholars to view themselves as "wandering James Madisons." He adds that past experiences of legal scholars writing constitutions in new republics have proven to be a failure precisely because the U.S. authors imposed their own ideas over all others.

Indeed, the Central and East European lawmakers feel free to pick and choose from the varied choices on the world's constitutional menu. For example, most of the new republics appear to favor the specific language in Western European treaties on human rights, as opposed to the more general U.S. Bill of Rights. But it is the U.S. system of separation of powers, as opposed to the parliamentary systems of some West European countries, that is favored.

Even with the best legal advice the U.S. has to offer, there's no guarantee that a new constitution, or law, will be approved. Even Czechoslovakia, which has strong links with

Western intellectuals and which is viewed as one of the more constitutionally advanced of the Central and East European nations, hasn't approved its constitution because of disputes between Czechs and Slovaks over power sharing.

As for the feeling U.S. lawyers and legal scholars have that they're getting the respect in Central and Eastern Europe that they no longer get at home, Prof. Sajó says that his U.S. colleagues shouldn't let it go to their heads. "They talk to other lawyers there, that's where that idea is getting reinforced. They're not talking to ordinary folks."

DISCRIMINATION AGAINST ASIAN
AMERICANS IN COLLEGE ADMIS-
SIONS CONTINUES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. HUNTER. Mr. Speaker, recently the chancellor of the University of California at Berkeley in an op-ed article in the Los Angeles Times attempted to justify the admission policies of that university. He admitted to the amazing fact that even such an academically renowned institution such as Berkeley admits only 55 percent of its undergraduate students on the basis of academic merit.

He tries to justify subjective selection of the other 45 percent of its students as an attempt to encompass a broad diversity. He claims this is culturally sound. He asks if this is fair and answers: "We think so, and in that sense it is fair."

On July 16, the Los Angeles Times published a letter to the editor from our colleague DANA ROHRBACHER that demolishes this sophistry.

I insert in the RECORD Chancellor Tien's article and Congressman ROHRBACHER's letter to the editor.

I also ask permission to insert another letter published the same day from apparently an Asian-American high school student denied admission who tells what he thinks of Chancellor Tien's fairness.

Mr. Speaker, I also insert a letter from Congressman ROHRBACHER to Education Secretary Alexander setting forth the slowness of the Department in investigating Asian-American discrimination complaints pending at the Department.

Mr. Speaker, this is a continuing problem that the Department ought to act on immediately. I commend this correspondence to all who are interested in truly nondiscriminatory college admissions policies.

[From the Los Angeles Times, July 7, 1992]

A DIVERSE STUDENT BODY SERVES A DIVERSE
SOCIETY

(By Chang-Lin Tien)

After bidding farewell to 8,550 graduates, one of my most satisfying experiences, I am also faced at this time of year with one of my most unpleasant tasks: explaining to many parents why their fully qualified sons and daughters could not be admitted to UC Berkeley, their campus of first choice. I have calculated that each year since 1986, Berkeley has provided bad news to 12,000 families,

and it is likely that this number will continue to increase.

The rationing of a finite good, the cost of which is borne in part by taxpayers, must be done with care and openness. This process is fraught with pitfalls because it is based on fundamental values of a democratic society—equality and individual merit—that, at times, are at odds with one another. Our responsibility is to seek a proper balance between the two. This requires continual attention and refinement of our policies.

Fortunately, the Legislature and the Regents of the University of California have given us guidelines for this ever-changing balancing act. The Regents' Policy on Undergraduate Admissions states: "Mindful of its mission as a public institution, * * * the University seeks to enroll, on each of its campuses, a student body that * * * encompasses the broad diversity of cultural, racial, geographic and socio-economic backgrounds characteristic of California." The Master Plan for Higher Education provides further boundaries by stating that only the top 12.5% of a high school graduating class is eligible for admission to the University of California.

Here is how we currently seek the proper balance. About 55% of our total admissions are based on academic criteria, a combination of grade-point average and test scores. This rate is much higher than at leading private universities. In the remaining 45%, we seek to "encompass the broad diversity" necessary for a quality educational experience. In a variety of ways, preferential consideration is given to applicants based on: special talents in athletics, music or debate; race and socio-economic disadvantage; disability; rural school attendance, and non-traditional grading systems. But remember, we are talking about the very best high school graduates in all of these categories.

Why do we strike this balance? First, because this is educationally sound. We know that grades and test scores are not the only measures of excellence. Measures such as leadership and special talent are also important.

Second, this is also culturally sound. In the wonderful heterogeneous environment we live in, we must produce future leaders who are from diverse backgrounds and who themselves thrive on diversity. Quite apart from California's dramatic and swift demographic change, and our responsibility to serve the needs of all Californians, our students' focus of attention must be the world community.

Finally, this approach is consistent with the longstanding tradition and principles of public education in a democratic society, particularly with regard to racial and social integration and access for the poor.

Is this process fair? Those students who worked very hard, did well academically and were not admitted might say no. But even if we admitted the entire freshman class strictly on grades and test scores, we would still turn away 1,500 students with perfect grade-point averages. Is this process in the best interest of society? We think so, and in that sense it is fair.

Can the process be improved? Because the variables we must take into account are constantly changing and to some degree out of our control, we constantly seek improvement and refinement. We cannot control the number of students who accept our offer of admission. Nor do we have any real control over the rate of eligibility of various high school graduates by ethnicity.

Are we succeeding in meeting our educational and societal mission? Yes, without

any question. In what former UC President Clark Kerr has called the greatest experiment in higher education, UC Berkeley has succeeded in producing an undergraduate student body that surpasses any previous group in academic quality while at the same time being thoroughly heterogeneous. We have not only integrated the student body, our students are stronger academically than ever before. I see this every day as I talk with students around campus. I think this is a matter of great pride for the citizens of California.

[From the Los Angeles Times, July 16, 1992]

DISCRIMINATION AT UC BERKELEY

UC Berkeley Chancellor Chang-Lin Tien's column ("A Diverse Student Body Serves a Diverse Society," Commentary, July 7) is a thinly veiled excuse for racial discrimination.

It is disconcerting to discover only 55 percent of admissions decisions at UC Berkeley "are based on academic criteria." This travesty according to the chancellor is "educationally" sound, "culturally" sound and is consistent with a democratic society.

Nonsense! The chancellor left out "politically" sound, which is really the driving force behind his admissions policy. This is an example of racial politics, pure and simple, on the part of America's most prestigious academic institutions.

The chancellor is doing nothing less than bowing to the forces of political correctness, which insist on racial based decisions and admission quotas. Applications for admission to our universities should not include the name, age, sex or race of the applicant. The merit system and protecting individual rights are complementary to democracy, not juxtaposed goals. Everyone has an equal opportunity to compete and not to be discriminated against. That's what equality is all about. Unfortunately, Asian-American children are hurt the most by this racist imperative insisted upon by the liberal elite.

Chancellor Tien may serve as a good role model for young Asian-Americans, but he justifies discrimination that will keep those very same Asian-American children out of UC Berkeley only because of their race.

REPRESENTATIVE, DANA ROHRBACHER.

Long Beach.

As a recent high school graduate who was denied admission to the University of California, I completely disagree with Tien, who felt that the admission policies of UC Berkeley serve the needs of California. As a publicly funded institution, it is inexcusable that only 55 percent of all admitted applicants were based upon academic criteria while the remaining admitted students were admitted on any variety of the factors deemed necessary for the purpose of diversity.

Should Californians fully and blindly entrust these admission officers with the selection of students for this state's most prestigious university? How is this state served when thousands of hard-working, qualified students, who drudged through four years of high school, can be denied admission because one is unfortunate enough to be a member of the "improper" ethnicity? Is UC Berkeley a trophy case to display diversity?

I'd like to remind Tien and the UC regents that UC Berkeley belongs to the people of California, not the elite few who use our tax dollars to deny admission to thousands of fully qualified students so that they can realize their personal quest to bring salvation to society by creating the "perfect" student population.

ERIC LEUNG.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 25, 1992.

HON. LAMAR ALEXANDER,
Secretary, U.S. Education Department; Washington, DC.

DEAR MR. SECRETARY: Next week, July 1, 1992 is a triple anniversary in the long history of Asian quota college admissions discrimination cases pending in the Department's Office for Civil Rights.

On July 1, 1992 it will be four and a half years since the start of the investigation of discrimination against Asian American applicants to UCLA. To date no letters of findings on the undergraduate or special admit program have been issued even though the letters have been written for months.

On that same day it will have been one year and nine months since the "violation" letter of findings in the UCLA graduate math program was issued. I find it inconceivable that the Department would let a civil rights violation exist for 21 months without taking enforcement action.

On July 1, 1992 it will have been 9 months since I filed a complaint against what appears to be a quota system in the admissions policies at the University of California, San Diego. So far no letter of findings has been issued in this case either.

As you know I have corresponded with you and other Department officials and talked to you repeatedly about this situation, but nothing seems to happen.

Clearly something is wrong in the enforcement of civil rights in the Department.

I think it would be fitting for you, me and Michael Williams, the Assistant Secretary for Civil Rights, to sit down together on this anniversary day, July 1, and engage in a complete review of the status of these 3 severely delayed cases as well as the other 3 Asian American admission quota cases that have been pending at the Department for a long time.

I look forward to your favorable response to this request.

Sincerely,

DANA ROHRBACHER,
Member of Congress.

SALUTE TO LAUREL COUNTY SCHOOL SYSTEM

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. ROGERS. Mr. Speaker, I come before this body today to speak about the remarkable renaissance in education taking place in Laurel County, KY. Thanks to the work of the teachers, administrators, students, parents, and citizens in Laurel County, my district has been catapulted into the national spotlight as being a model for successful education reform. I want to take this time to give tremendous credit to the Laurel County school system for their success, and I urge my colleagues to look at their work as we work toward reforming education throughout the Nation.

True reform does not happen overnight, and the people of Laurel County have long been at the forefront of education reform. What has made Laurel County schools successful is the commitment of the people of Laurel County to improve the opportunities for their children.

There is no more committed community than Laurel County. Their commitment can be

measured by their success. And Laurel County's success is demonstrated by the fact that Laurel County schools have been singled out to participate in several exciting national pilot projects on education reform.

What this means for our children is the best quality education possible, not just in southern Kentucky, but throughout the Nation. I cannot tell you how proud I am of Laurel County for their work.

Reform is not easy, but with caring and commitment it can and will succeed. And, Mr. Speaker, that is what we have seen in Laurel County. I commend them for their work and hope my colleagues will join me in recognizing their success.

TAPPING THE DBOF SLUSH FUND

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. IRELAND. Mr. Speaker, in early July, during consideration of the fiscal year 1993 defense appropriations bill, I offered an amendment: First: Deny the use of \$1.9 billion in excess defense business operations (DBOF) cash to pay for two DDG-51 destroyers; and; second, transfer the cash to the Treasury to reduce the deficit.

The defense appropriations bill calls for using \$1.9 billion in excess DBOF cash to bankroll the purchase of two of the three DDG-51 destroyers funded in the bill.

Mr. Speaker, DBOF was set up in 1991 to better manage and account for the cost of purchasing spare parts, supplies and maintenance for the Armed Forces. Unfortunately, DBOF has been converted into another DOD slush fund. The idea of siphoning \$1.9 billion from the DBOF slush fund to finance two DDG-51 destroyers is totally inconsistent with the legislation governing DBOF, the defense authorization bill, and the President's budget. It is deceptive and misleading, and I wanted to do everything possible to stop it.

The DDG-51 destroyers were requested in the budget by the President. They were authorized. Three DDG-51 destroyers are in the defense appropriations bill. Why is \$1.9 billion in excess DBOF cash needed to pay for these ships?

The committee went outside of the bill to finance the destroyers. Two of the three destroyers were moved off budget—to the DBOF cash account—the preexisting cash pile. As a result, those destroyers are not counted in the \$5.5 billion appropriated for the Navy Shipbuilding Program. The money for the destroyers is to be spent instead on two amphibious assault ships, sealift ships, and a AOE supply ship—none of which were either requested or authorized.

My amendment was defeated by voice vote, but not on the merits.

My opponents successfully shifted the focus of debate away from the issue—the use of the DBOF slush fund to buy special interest items. They characterized my amendment as an attack on the Navy Shipbuilding Program. It would kill the DDG-51 program, they charged. It would eliminate the amphibious ship con-

struction capacity in the United States. It would put 11,000 shipyard workers on the street immediately. Moreover, scooping up excess defense dollars and reapplying them to a more efficient purpose, they claimed, is one of the historical functions of the Appropriations Committee.

Mr. Speaker, my amendment was neither directed at the DDG-51 destroyers nor at the Navy Shipbuilding Program. We are a maritime nation and depend on naval power for our national security. I want to make that crystal clear right now. My amendment was directed at the unethical and misleading way the DDG-51 destroyers are financed in the bill.

Scooping up excess defense dollars may indeed be one of the historical functions of the Appropriations Committee, but using excess DBOF cash to pay for special interest items is neither desirable nor appropriate. Excess, unneeded dollars, by their very nature, should be returned to the Treasury to reduce the mounting public debt.

Excess, unneeded dollars lying around the Pentagon—with little or no control and oversight—creates a dangerous situation. It is a recipe for abuse.

Slush funds, like DBOF and the M accounts, make it easy for the DOD money wizards to buy special interest items. Without slush funds, the DOD money wizards must endure the painful process of making offsets—cuts to make room for add-ons. DBOF simplifies and facilitates the process.

In order to understand why the plan to use \$1.19 billion in excess DBOF cash to pay for two DDG-51 destroyers is a bad idea, it is first necessary to understand how DBOF works, and particularly how the excess cash is generated.

WHAT IS DBOF?

DOD created DBOF in October 1991 by consolidating the nine existing industrial and stock funds along with other activities such as the Defense Finance and Accounting Service, Defense Commissary Agency under the DBOF umbrella.

DBOF is not an institution or an organization. It has no commander or headquarters building. It is a bookkeeping operation run by the DOD comptroller.

Clearly, there is nothing in the DBOF charter that authorizes the use of cash balances to purchase major weapons systems, such as ships and aircraft.

HOW DBOF WORKS

The military services receive billions of dollars annually in direct appropriations from Congress to make purchases from DBOF. Unit prices of items sold are based on the valuation of inventories being sold plus the cost of storing, handling and managing those inventories. DBOF managers attempt to maximize the dollar value of sales to generate huge cash balances by inflating and otherwise manipulating prices. Prices are regulated by the need for cash.

DBOF is a mechanism to jack up the cost of defense and lower readiness. It is a cash generator for special DOD special interest items. DBOF makes bad business sense.

HOW DBOF UNDERMINES COMBAT READINESS

I now want to explain how the DBOF price-fixing scheme works, because this is the crux to the issue.

A hypothetical example will help to put the whole issue into better perspective.

The Air Force submitted a budget request in January for replenishment spare parts of, say, \$1.7 billion. Included in that request is \$5 million to purchase 100 landing gear parts for the F-15 fighter. The requirement for F-15 landing gear replacement parts is based on the projected flying hour program, wearout rates, and a unit cost of \$50,000 per part. Congress reviews the request and approves \$5 million for 100 F-15 landing gear parts.

The Air Force presents \$5 million in appropriated funds to DBOF to purchase 100 F-15 landing gear parts. DBOF managers accept the \$5 million but agree to provide only 50 parts—even though the market price of each assembly is still \$50,000. DBOF purchases 50 assemblies for \$2,500,000 and has them shipped to the Air Force. DBOF pockets the difference—\$2,500,000—as the cost of doing business with DBOF—money allegedly needed to cover the cost of shipping, handling, and storing the assemblies. Capturing those costs is a laudable goal. Those costs must be paid in full. Unfortunately, that's not where the extra money goes. The \$2,500,000 goes into the DOD honey pot—to be tapped by the DOD money wizards to pay for special interest items.

The Air Force does not get the 100 F-15 landing gear parts it needs to execute the flying hour program. With only 50 in stock, the flying hour program has to be cut back. Instead, of the required 20 flight hours per month to maintain proficiency, F-15 pilots will get just 12 to 14 hours per month. Combat readiness goes down.

The F-15 landing gear parts price-fixing scheme is repeated 150,000 times a year or more. With annual sales of \$80 billion, it doesn't take long to accumulate billions in excess cash, and that's exactly where we are today.

In the short space of 8 months, price manipulation has generated a DBOF cash balance of \$5.4 billion as of June 12, 1991. We know that \$2.8 billion—or more than half the current cash balance—is excess. This includes the \$1.9 billion identified by the House Appropriations Committee, and another \$850 million identified by DOD in the fiscal year 1992 omnibus reprogramming measure submitted to Congress in May. How much more is excess?

What is the net effect of the DBOF price-fixing scandal. By agreeing to take \$1.9 billion in excess cash from DBOF to pay for the DDG-51, we rob the readiness accounts—money needed to maintain combat training and readiness—all to pay for special interest items. The cost of defense goes up and readiness goes down. DBOF weakens our national security.

I hate to say it, but I really believe this is the true purpose of DBOF. This is why DBOF was created by clever Pentagon bureaucrats—to generate excess cash to give the DOD money wizards flexibility—a substitute for discipline in the accounting and finance process.

DBOF is a bad idea for other reasons as well.

DBOF ALSO UNDERMINES ACCOUNTABILITY

DBOF breaks down the integrity of the various appropriation accounts. Procurement, R&D, military personnel, O&M, and military construction moneys are already being

pumped into DBOF, but the separation and identity of those accounts are not maintained in DBOF. Those moneys—once inside DBOF—are mixed and blended and then merged into one big pot as they were in the M accounts. As one Air Force financial manager put it, "Congress will no longer appropriate for specific purposes but simply ensure that the DOD Kmart is adequately capitalized." Once laundered through DBOF, the money can be used for anything. This is a recipe for abuse.

DBOF is nothing more than a mechanism for laundering congressional appropriations to allow DOD to cover a host of unauthorized activities beyond the purview of Congress.

I believe DBOF is inconsistent with sound financial management. It is inconsistent with congressional oversight. It is inconsistent with the law governing the use of appropriations—31 U.S.C. 1301(a).

DBOF SHOULD BE ABOLISHED

I had fully intended to offer an amendment to kill DBOF when the Armed Services Committee met to mark up its bill in May, but thanks to the hard work of Mr. HUTTO's fine staff, that did not seem necessary—at the time. The defense authorization bill, as passed by the House, imposes strict controls on DBOF—I thought. Section 331 of the bill, I thought, would keep DOD and Congress from using DBOF as a slush fund. How wrong I was.

A quick glance at the fiscal year 1992 omnibus reprogramming told me that more stringent controls are needed. DOD plans to use \$838 million in excess DBOF cash to bankroll the omnibus reprogramming measure. We do not know where the \$838 million came from, and we do not know where it will go. There is no audit trail. The DBOF laundry operation has washed it clean.

Then came the fiscal year 1993 defense appropriations bill and the proposal to take \$1.9 billion in excess DBOF cash to buy two DDG-51 destroyers. That was the straw that broke the camel's back in my mind. That convinced me that DBOF should be abolished.

Excess cash lying around the Pentagon puts the money wizards in the driver's seat.

Mr. Speaker, we can never hope to reduce the deficit nor can we hope to bring some real reform to the Department of Defense and Congress until all slush funds and the political engineers, who create and run them, are eliminated and removed from the scene. I know both the Armed Services and Appropriations Committees share my apprehension about DBOF. I only hope the two committees are able to act more decisively next year and shut it down.

**TRIBUTE TO SOUTHEAST QUEENS
COMMUNITY BAPTIST MINISTERS
ALLIANCE**

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FLAKE. Mr. Speaker, it was with great joy and respect that I stood before the House of Representatives on Wednesday, July 22,

1992, to present a group of visiting ministers from my district in southeast Queens.

There are many people who ask the question, "What is the church doing to revitalize, to rebuild, and to bring social and economic opportunities to the people of this Nation?" Many have concluded that the solutions can come only from Government. As I presented these ministers, I wanted my colleagues in the Congress to know that these clergy members are involved in community revitalization initiatives. These ministers participated in seminars conducted by Government agencies that provided them with invaluable information regarding community development, economic empowerment, improved health care services in urban communities, and broader educational opportunities.

Several of my colleagues in the Congress attended the luncheon and reception to meet this August body of clergy persons. The Members in attendance were: Representatives LUCIEN BLACKWELL of Philadelphia, WILLIAM CLAY of St. Louis, JOHN CONYERS of Detroit, RON DELLUMS of Oakland, BILL GREEN of New York City, CHARLES HAYES of Chicago, BARBARA KENNELLY of Hartford, JOHN LEWIS of Atlanta, RAYMOND MCGRATH of Valley Stream, MICHAEL McNULTY of Green Island, CHARLES RANGEL of New York City, THOMAS RIDGE of Erie, GUS SAVAGE of Chicago, CHARLES SCHUMER of Brooklyn, LOUIS STOKES of Shaker Heights, EDOLPHUS TOWNS of Brooklyn, MAXINE WATERS of Los Angeles.

Currently, this group, which came together in 1984 when I first ran as a delegate to the Democratic Convention, has stayed together, and has put together a 501(c)3 corporation. That corporation is now building 500 low-income housing units in the community in which I serve.

I am proud of them because they understand there is no separation in the role of prophecy and the role of performance. They have spoken. Now, through their performance, the community is better served. Their tireless efforts provide stability, housing, and an opportunity to give a level of community service that I think is worthy of relating to other communities throughout this Nation.

I am pleased that the Southeast Queens Clergy for Community Empowerment and the Baptist Ministers Alliance of Queens and Vicinity has come here today, and that Reverend Betts has shared with us the prayer this morning. The ministers in attendance were: Rev. Carl Baldwin, Godian Fellowship Church; Rev. Charles Betts, Morning Star Baptist Church; Rev. Freddie Brunswick, Salem Missionary Baptist Church; Rev. Alfred Cockfield, Battalion Pentecostal Church; Rev. Simon Cockfield, Battalion Pentecostal Church; Rev. Marie Cone, Hope Mountain Baptist Church; Rev. Edward Davis, Presbyterian Church of St. Albans; Rev. Steve King, Jr., Christ Gospel Baptist Church; Rev. James Missick, Antioch Baptist Church; Rev. Richard Moore, Holy Unity Church; Rev. Maxine Nixon, Morning Star Baptist Church; Rev. Charles Norris, Sr., Bethesda Missionary Baptist Church; Rev. Curtis G. Norton, Merrick Park Baptist Church; Rev. Martello Payne, Jr., First Church of God in Christ; Rev. M. Edward Reed, Mt. Carmel Baptist Church; Rev. Ernestine Sanders, Evangelical Christian Church; Rev. Lars

Silverness, JFK Protestant Chapel; and Rev. Gregory Tucker, One Way Church of God.

TRIBUTE TO REV. S.L. ROBERSON

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FORD of Michigan. Mr. Speaker, I want to offer congratulations to Rev. S.L. Roberson, who is this weekend celebrating his 38th anniversary as pastor of the Metropolitan Memorial Baptist Church of Ypsilanti, MI. He was born in Moundville, AL, to Garther and Estella Roberson. The family moved to Ypsilanti shortly after he was born. S.L. Roberson received his formal training in the public schools of Ypsilanti, went on to study at Detroit Bible College and Eastern Michigan University. He received his doctor of divinity degree from Urban Bible College, and then served our Nation in the Marine Corps.

In 1954, Reverend Roberson was called to the Metropolitan Memorial Baptist Church family, where he is still pastoring the congregation. He has performed uncounted weddings, funerals, baptisms, and other services for the people of his church. His ministry has been productive and spiritual, and as evidence of his leadership he built the edifice in which the congregation worships. His future plans include an education unit at the church, and he takes great pride as a founder of the Harriet Street Commerce Center which will bring prosperity to the entire community of Ypsilanti.

Reverend Roberson is married to Hollie Roberson; they are the parents of 4 daughters and 1 son, and have 12 grandchildren.

Over the years, Reverend Roberson has exemplified the spirit of commitment and dedication to this Church and his God, and he continues to be a productive contributor to the community. I wish Reverend Roberson and his family many more years of health and happiness in serving the people of Metropolitan Memorial Baptist church.

IN TRIBUTE TO LOUIS LEVINE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. HUGHES. Mr. Speaker, On Monday, July 27, a very special exhibit will be on display in the Rotunda of the Cannon Building. This exhibit is the art of Louis Levine, my friend and constituent. Louis was a well loved painter and personality in his native Atlantic City, and his adopted home of Mexico, where he spent much of his time.

When he was 15, Louis began his career by doing quick sketches of visiting tourists on the boardwalk in Atlantic City. Not long after, Louis earned the reputation of being the world's fastest artist at the 1939 World's Fair. Over the years Louis participated in many shows hosted by such well respected institutions as the Pennsylvania Museum of Fine Art in Philadelphia, the Academy of Fine Arts in

Philadelphia, and the prestigious Corcoran Gallery here in Washington, DC. Later, in San Miguel, Mexico, Louis concentrated on capturing the elusive spirit of Mexico and the character of its colorful people. He did this with uncommon ability and remarkable insight.

Sadly, Louis passed away a few weeks ago, before he could see his paintings displayed in the Rotunda. I know he was excited about this opportunity, and I am pleased that Louis' family and friends have carried out his plans for the exhibit. I hope you will visit the Cannon Rotunda between July 27 and August 7. I think you will agree that Louis Levin created a remarkable collection of vivid paintings that truly embody the beauty of Mexico.

HONORING IRA BORNSTEIN

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FAWELL. Mr. Speaker, I rise today to join the French Government in honoring Mr. Ira Bornstein for his achievements in improving the quality of graduate education. As director of the International Student Exchange Program at Argonne National Laboratory, Mr. Bornstein recently received the L'Ordre des Palmes Academiques, an award honoring outstanding service in education, presented by the French Minister of National Education.

Now in its 16th successful year, the International Student Exchange Program is a model of international scientific cooperation in education. The program is conducted under the auspices of Argonne National Laboratory, the American Nuclear Society, the European Nuclear Society, and the U.S. Department of Energy. American students work at summer jobs at leading research centers in France, West Germany, or Japan. In turn, students from those countries work on summer research assignments at Argonne National Laboratory.

Under Mr. Bornstein's leadership, the International Student Exchange Program has allowed talented graduate students to work directly with top researchers and gain valuable insight into future scientific careers. Nearly all of the participants in the program have gone on to graduate studies in nuclear science and technology, and have proven to be outstanding ambassadors for their countries. The program has helped to sow the seeds of international scientific cooperation and understanding among its participants.

Mr. Bornstein has indeed distinguished himself as a leader in graduate education programs, and I applaud his dedication to the students of this program, who represent the world's future in nuclear science and engineering.

A TRIBUTE TO GLADYS JANE O'NEILL

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I wish to pay tribute to the passing of a wonderful human being. Today we all mourn the loss of one of our community's most loving, nurturing, and feeling members, Gladys Jane O'Neill. Gladys was born in October 1938 to John and Caroline Tenczar in Chicopee Falls, MA. Although she left our world at a relatively young age, she graced us with her presence to leave a lasting impression on everyone she met.

Mr. Speaker, residing in the Pioneer Valley for all of her life, Gladys O'Neill has demonstrated admirable qualities and has proven to be an outstanding member of our community. The compassion, the charity, and the love she presented to others was almost breathtaking to experience. She was the type of person who was always more concerned with the people around her than herself. This selfless individual should be remembered by the community as someone who they should attempt to exemplify.

Gladys O'Neill had a very close family and always spent every holiday with her family. She married Robert Walter O'Neill in July 1957 and had three children over the first 14 years of their marriage. From her children, Gladys received four wonderful grandchildren. This caring woman was the epitome of what is known as someone who possessed family values. Spending hour after hour with her children in order to educate them on the importance of trust, love, and good citizenship, Gladys O'Neill was able to see her tireless efforts succeed as her children raised four beautiful and loving grandchildren.

Not only was she a loving mother, but Gladys also worked at the F.W. Sickles plant for close to 10 years. Gladys was able to balance the rigors of raising a family and performing admirably on a full-time assembly job by relying on her relaxed, easy-going nature to satisfy such demanding requirements. She had the patience and also the faith of a saint. As a member of St. George's Parish in Chicopee, she was able to attend mass daily. Trusting her measureless faith, Gladys was able to offer her loved ones the very best support in any type of situation.

Mr. Speaker, although we are all saddened to see such a wonderful and caring individual pass away from our lives, I know that everyone who has come into contact with Gladys O'Neill has been touched in a very special way. In addition, the members of the Ludlow Country Club who enjoyed Gladys' time and company on the course will miss Gladys a great deal. They realize that their time spent with Gladys has given them a rejuvenated outlook on life. Mr. Speaker, I would like to pay tribute to Gladys Jane O'Neill and recognize the importance of her loving and caring qualities to the Second District of Massachusetts.

EXPLANATION OF RELATIONSHIP WITH THE POST OFFICE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. MAVROULES. Mr. Speaker, I would like to commend my colleagues on the task force that investigated the House post office for their fine work. Since I was named in the minority report, I would like to inform my colleagues of my relationship with the post office.

Mr. Speaker, I was unaware that a member of my staff had set up a postal box at the Brentwood Post Office facility in Washington until the press inquired about the matter in April. When I was made aware of its existence, I immediately ordered the closure of the post office box.

I have since learned that on several occasions, perhaps five to six times per year, mail from the postal box was delivered to the congressional office. The office never once requested the post office to make the deliveries. No one associated with my office was aware that these deliveries could constitute an impropriety. In fact, the task force that investigated the House post office said in its report released July 22 that "the task force did not receive any evidence that a Member violated a Federal law or regulation, or House rule, in connection with the post office boxes."

CAPTIVE NATIONS WEEK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. DINGELL. Mr. Speaker, only 3 weeks ago, we, as Americans, celebrated the 216th anniversary of the birth of our Nation. Americans are blessed with a hard fought national freedom. However, many nations cannot achieve the precious freedom we enjoy in this country. As the oldest surviving democracy in the world, the United States recognizes these captive nations July 20-24 in the 33d observance of Captive Nations Week.

It is important for the American people to recognize Captive Nations Week. It enables we, the people, to voice support for the liberation of all people oppressed by totalitarian regimes. It gives us an opportunity to celebrate the new found freedoms gained by millions of people in Eastern Europe, Central Europe, and Central Asia and to give inspirational support to the remaining captive nations in their fight against oppression. During Captive Nations Week, we, Americans, must reaffirm our democratic tradition and extend a message of hope that the human spirit will prevail over the autocratic, tyrannical governments which continue to deny freedom to well over 1 billion people in nations such as Cuba, mainland China, North Korea, Tibet, North Caucasia, Cossackia, Idel-Ural, and the Far Eastern Republic. The list of captive nations remains long and discouraging, but we must continue to view it as a symbol that we do not accept the oppressive activities of the Communist dictatorship or other forms of imperial rule.

Let us use Captive Nations Week as an opportunity, once again, to reaffirm publicly our commitment to freedom and to continue to negotiate and work for freedom of all nations. I look forward to a time when the observance of Captive Nations Week is no longer necessary, and when the freedom of those suffering under oppressive governments can be restored. Until that victorious day we will continue to offer prayers and support for the liberation of all captive people.

TRIBUTE TO HUMAN RIGHTS
ADVOCATE MILTON TEPPER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BERMAN. Mr. Speaker, I rise today to salute a dear friend, valued adviser and extraordinary individual, Mr. Milton Tepper. Milton and I have been friends for many years and it gives me great pleasure to honor one of the San Fernando Valley's finest.

Throughout his life, Milton has been a pioneer in championing social and civil rights issues and is greatly admired and respected by all. Well recognized as an advocate for human rights and his single-minded determination to fight for what he believes, Milton has distinguished himself for his devotion to humanity and is a shining example of how important it is to help others.

He is a leading representative for virtually every senior group in the San Fernando Valley and has devoted time and energy to ensure that countless community organizations operate to their fullest potential. He has personally helped hundreds of older Americans to recognize the joy of living and the need to continue to live life to its fullest.

Milton works hard on numerous government advocacy committees and usually takes on the tough jobs himself, seeing them through to the end. He is a dedicated member of the Elder Abuse, Long Term Care, and Mental Health Task Forces. He has also been very active with the American Association of Retired Persons and was recently elected chairman of the local chapter. He is an outstanding ANDRUS volunteer and an active and hard working member of a long list of community organizations and advisory boards. His association with such a range of senior organizations makes him a fine representative of California's senior citizens.

I am personally grateful to Milton for his distinguished service as chairman of my senior advisory council, a council of senior leadership representative of the senior organizations in the San Fernando Valley community. During Milton's tenure as chairman he diligently worked to keep me updated on concerns of older Americans and the special needs of my constituency.

I am proud to be counted as one of Milton's friends and it is my distinct privilege and pleasure to ask my colleagues to join me in paying tribute to Milton Tepper.

TRIBUTE TO LT. LLOYD H.
HUGHES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to Lt. Lloyd H. Hughes, a man whose gallantry and bravery earned him the Nation's highest decoration, the Medal of Honor.

To many, the thought of actively participating in a full scale war is unfathomable. But to Lt. Lloyd H. Hughes, it was merely a symbol of patriotism, an unquestionable act of love for his country. After being stationed at a variety of Texas and southwest bases, Lieutenant Hughes was called to active duty in June 1943. He departed the United States for duty in the European area, and upon his arrival in Africa, was assigned as a pilot.

On August 1, 1943, Lieutenant Hughes served in the capacity of pilot of a heavy bombardment aircraft participating in a long and hazardous minimum altitude attack against the Axis oil refineries of Ploesti, Romania, launched from the northern shores of Africa. Approaching the target through intense and accurate anti-aircraft fire and dense balloon barrages at dangerously low altitudes, Lieutenant Hughes' aircraft received several direct hits causing serious physical damage. Despite the gasoline streaming from the left wounded wing of the aircraft, Lieutenant Hughes chose to continue his valiant mission fostered only by his unequivocal concept of duty. Rather than jeopardize the planned formation and sacrifice a successful attack, he unhesitatingly entered the blazing area and dropped his bomb load with commendable precision. After successfully bombing the objective, his aircraft emerged from the configuration with the left wing fully ablaze. It was then, and only then, that Lieutenant Hughes chose to forcefully land his aircraft, a crash landing that sent him to his death amidst the blazing fields on that August day in 1943.

Regardless of the consequences and utter disregard for his own life, Lieutenant Hughes' heroic decision to complete his call of duty rendered a meritorious and laudable service to our country in a time of battle. Though Lieutenant Hughes did not survive his mission, his admirable loyalty and devotion to his country will continue to live on in the everlasting annals of our Nation's history.

THE INCREASED RAILROAD
LOCOMOTIVE VISIBILITY ACT

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. GLICKMAN. Mr. Speaker, on February 14, three Kansas teenagers tragically died when their car was hit broadside by a freight train at a rural railroad crossing. Eyewitnesses to the accident say the car's brake lights did not even flash prior to the accident. It seems as if the teenagers had no idea the train was coming, despite the train's approaching headlight and sounding whistle.

Nothing has been done to stop this kind of needless death. These accidents are occurring all over the United States because motorists either do not see or do not recognize oncoming trains. Existing regulations requiring trains to have an illuminated headlight and to sound their whistles at all crossings are obviously not enough to warn motorists of an approaching train. Headlights are often mistaken for street lights and whistles cannot always be heard over blaring car radios.

Today I am introducing legislation to give motorists better warning of an approaching train. My legislation will require all locomotives to be equipped with lights known as "ditch lights," which illuminate both sides of the engine and the areas contiguous to the tracks. The new lights, when combined with the headlight above, create a triangle of light which would be difficult to mistake for anything but a moving locomotive. Installation of ditch lights is not prohibitively expensive. In fact, some railroads already use them.

I urge my colleagues to join me in supporting this important safety legislation, so we can put an end to the needless deaths caused by rail accidents all over America.

BUCK BUCHANAN: NATIONAL
CELEBRITY AND LOCAL HERO

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. WHEAT. Mr. Speaker, it is with sadness and profound regret that I report to my colleagues the death of Kansas City legend Buck Buchanan late last week. A Hall of Fame football great, a prominent community leader and a good friend, Buck was a genuine champion both on and off the playing field.

As an all-pro defensive lineman for the Kansas City Chiefs, Junious "Buck" Buchanan secured a lasting place in football history. A 1962 graduate of Grambling University, he helped lead the Kansas City Chiefs to two world championship games, including the first Super Bowl ever played in 1967 and a Super Bowl victory in 1970.

Characterized by his skill, strength and speed, Buck was also a member of six AFL All-Star Teams, two Pro Bowls, and was the Chiefs' most valuable player in 1965 and 1967. In 1990, he earned football's highest personal distinction when he was inducted into the Pro Football Hall of Fame.

Even though he could have comfortably retired to a life of leisure after his legendary football career, Buck chose to go forward and help tackle even bigger challenges facing his own community. And even though he had every right to boast about his Hall of Fame play, Buck remained a proud but unassuming man throughout his life.

A powerful advocate for minority business development, Buck was a founding member of the black Chamber of Commerce of Greater Kansas City and later served as that organization's president.

Through his leadership and enthusiasm, Buck almost singlehandedly organized a charity golf tournament in Kansas City to raise

funds for the black chamber of commerce scholarship fund.

He coaxed his friends, cajoled his coworkers, and persuaded his associates to join in the effort. And as a result of his work, the tournament brought in tens of thousands of dollars for needy college-bound students.

Buck could barely contain his excitement on the night that he turned the proceeds over to the scholarship fund. The elation in his glowing expression was unforgettable and reflected his profound commitment and utter joy in extending hope and opportunity to our youth.

Concerned and committed to improving his community and State, Buck was also a board of elections commissioner for the State of Missouri and was appointed last year to the Board of the Kansas City Downtown Minority Development Corp.

Proud to lend his name and efforts to attracting more people to the city he loved so well, Buck also served as a board member of the Greater Kansas City Convention and Visitors' Bureau.

Despite a 2-year battle with lung cancer, Buck never gave up his role as an active civic leader. Notwithstanding his hardship, Buck continued to serve as a powerful role model reaching out and enhancing the lives of countless individuals.

Never one to complain, Buck was one of the most outgoing, unpretentious and unfailingly cheerful persons that I have known.

He was gentle giant who will never be forgotten by his grateful community, his many friends and admirers, and his loving family. I extend my sincere sympathies to Buck's devoted wife, Georgia, his sons, Eric and Dwaine, and his daughter, Nicole.

Although his life was cut short by cancer, Buck Buchanan lives on as a symbol of pride and inspiration to all those who knew him. His compassion, drive, and tireless commitment will be sorely missed but fondly remembered.

TRIBUTE TO SOUTH CAROLINA PEACH PRODUCERS

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. DERRICK. Mr. Speaker, today is Peach Day. As I speak, literally thousands of fresh, sun-ripened South Carolina peaches are being delivered to Members of Congress and their staffs.

South Carolina, a State known for its rolling hills, sun-baked beaches and fertile farm land, is a leading producer of peaches. In 1991, in my district alone, the counties of Aiken, Edgefield, Allendale and Barnwell produced nearly 125,000 pounds of peaches.

Mr. Speaker, when our peach industry prospers so does our economy. The planting, nurturing, harvesting, distribution and sale of South Carolina peaches provide hundreds of jobs.

On this special day, I ask that my colleagues join me in recognizing the work of South Carolina's peach producers. The peach producers of South Carolina are proud to continue their tradition of offering a sampling of

the fruits of their fields to Members of Congress and their staffs.

THE 105TH ANNIVERSARY OF THE CITY OF COLTON

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BROWN. Mr. Speaker, it is with great pride that I recognize the 105th anniversary of the city of Colton, CA, which I proudly represent.

I would like to draw the attention of my colleagues to the following, taken from a piece written by Hazel E. Olson which describes the rich history of Colton and all that it has offered in the last 105 years.

The Colton area began as two large privately owned ranchos. The vast San Bernardino Rancho, granted to Jose De Carmen Lugo family in 1839, completely absorbed the southeast corner of the present city of Colton. The Lugo family retained their holdings until 1851 when they sold it to the Mormon Colony.

The second land grant in the Colton area was the Jurupa Rancho, acquired by Juan Bandini in 1838. It lay south of the Slover Mountain along the Santa Ana River between Colton and Riverside. This became the site where New Mexican traders met from Taos and Sante Fe.

In 1841, the Lugos offered land to some of the New Mexican traders and their families if they would help drive off the raiders from stealing their cattle and horses. Some 20 families returned between 1842 and 1843.

Starting in the 1860's the Colton area began growing with various manufacturing companies starting up in the area. In 1861, Colton Marble and Lime Co. opened a quarry on the south side of the mountain and operated until 1887. It was then succeeded by the California Marble Co.

In the beginning, cement was imported from Germany and England. It was shipped to Colton and then packaged in sacks and barrels. In May 1881, the California Portland Cement Co. started manufacturing cement in the United States. The cement plant eventually grew and in 1927 presented the city of Colton with a highly developed park with a concrete bandshell and other facilities.

In 1875 the Southern Pacific Railroad placed its headquarters in Colton. It was officially decided to name the town Colton in honor of Gen. David Colton, a railroad official and attorney.

On July 18, 1887, the county board of supervisors, in accordance with the law, officially proclaimed Colton to be a city of sixth class. A week earlier, 176 citizens went to the polls to determine whether or not Colton should be incorporated as a city. After counting the ballots, 119 voted in favor of incorporation, with 57 against. The city of Colton now covers an area of approximately 16.1 square miles. It is governed by four council members and an elected mayor operating a council-manager type of government.

NAVY MUST BE HELD ACCOUNTABLE

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. EWING. Mr. Speaker, some sailors in our Navy are missing the boat. During the Persian Gulf war, women in our Armed Forces won our admiration as we watched them work side by side with their male counterparts to achieve victory. They proved themselves honorably. Upon returning home, however, some women in the Navy found that while they had gained our respect, they had not gained the respect of all their fellow sailors. The events which transpired at last year's annual Tailhook Convention in Las Vegas show us that there is a problem.

It is disturbing to me that there appears to be an unwillingness to admit that there is a need for change. Investigators have been thwarted in their attempts to identify the guilty parties because officers present at the convention have closed ranks and refused to cooperate. It is time for Congress to send them a message.

I have cosponsored House Concurrent Resolution 344 which expresses our anger and expectation that a full, uncompromising investigation will be completed and that the guilty parties, whomever they may be, will be punished. It is important that our Armed Forces know that this type of behavior will not be tolerated. I would urge all my colleagues to support this resolution.

As equally unbelievable is the fact that Congress is exempt from sexual discrimination laws. Theoretically, events similar to the Tailhook scandal could occur in Congress, but nobody could be held accountable because the laws could not be applied to Congress. I hope that others who have criticized the Navy for the Tailhook scandal will join me in demanding that Congress apply sexual harassment laws to itself.

As we all know, the Congress exempts itself from practically every law it passes, including such landmark legislation as the Civil Rights Act. Unlike the Navy officers who were sexually harassed, congressional employees who have been discriminated against cannot seek justice in Federal courts, but must instead go to some in-house, Member-run body for redress. The defendant, in other words, serves as the judge, jury, and appeals panel.

There are several bills such as the Congressional Accountability Act which would force Congress to live by the same laws it passes. I know this is a new idea to some in Congress but it should not be. For all those Members who find the Tailhook incident appalling, I encourage them to look right here in this body and join our effort to make Congress accountable for its actions. Sexual harassment is wrong, whether the offender is a sailor or a Member of Congress.

TRIBUTE TO JOSEPH E. PODGOR,
JR.

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. LEHMAN of Florida. Mr. Speaker, in south Florida, many people spell clean water J-O-E P-O-D-G-O-R.

For almost two decades, Joe Podgor has been in the forefront of efforts to safeguard the Florida Everglades and the Floridan and Biscayne aquifers—the underground porous rock sponges that are the sole source of south Florida's drinking water supply.

When it comes to water quality issues, Joe has done it all: authored resolutions adopted by the Dade County Commission, creating model drinking water protection programs which are now being adapted for use around the country, testifying before congressional committees, serving on countless water quality study and advisory committees, and helping to draft regulations implementing water-related legislation.

Joe is currently executive director of Friends of the Everglades, Inc., one of Florida's most active and effective environmental groups.

It has been my pleasure to work with Joe Podgor over the past several years on water quality issues of importance to south Florida. Safe drinking water is crucial to the well-being of all of our citizens, and all of us are better off for Joe's efforts.

A BILL TO MAKE VARIOUS TECHNICAL AMENDMENTS TO CERTAIN FEDERAL INDIAN STATUTES

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. RHODES. Mr. Speaker, I rise today to introduce legislation to make two technical amendments to certain Federal Indian statutes.

The first amendment is a correction of a land description with respect to the Grand Ronde Indian Reservation in Oregon. The Grand Ronde Reservation Act, Public Law No. 100-425, 102 stat. 1594 (1988) (codified at 25 U.S.C. § 713f note) established a 9,811.32 acre reservation for the Confederated Tribes of the Grand Ronde Community pursuant to the provisions of the Grand Ronde Restoration Act, Public Law No. 98-165, 97 stat. 1064 (1983) (codified at 25 U.S.C. § 713 *et seq.*)

Under the terms of the Restoration Act, the selection of lands available for establishment of the reservation was limited to public lands administered under the Federal Land Policy and Management Act of 1976. The lands eventually chosen consisted of a large tract of Oregon and California Railroad grant lands in Yamhill County, about 6 miles north of the town of Grand Ronde, previously managed by the Bureau of Land Management. To compensate for the Bureau of Land Management's loss of this tract, section 4 of the Reservation

Act described and redesignated a series of Federal public domain land parcels in Yamhill and Tillamook Counties—a total of 12,035.32 acres—as Revested Oregon and California Railroad Grant lands. These lands were considered comparable to the new reservation lands in production of timber and annual revenues.

Section 4(b) of the act sets forth descriptions of 48 such land parcels. The 47th tract, however, is incorrectly identified by an incomplete subdivision measurement. This legislation would correct that oversight. It does not change the acreage of the tract, 185.8 acres, nor the total acreage of the redesignation.

There have been two prior corrections made to the land descriptions set forth in section 4(b): Act of November 1, 1988, Public Law No. 100-581, title II, § 202, 102 stat. 2938; and act of May 24, 1990, Public Law No. 101-301, § 4, 104 stat. 206. The Department of the Interior is fully supportive of the correction, as is the tribe.

The second proposed technical amendment is to the Ponca Restoration Act, Public Law No. 101-484, 104 stat. 1167 (1990) (codified at 25 U.S.C. § 983 *et seq.*) This act restored Federal recognition to the Ponca Tribe of Nebraska in 1990.

Section 10 of that act directs the Secretary of the Interior to establish an economic development plan with the tribe. Section 10(a)(3) directs that the Secretary submit the economic development plan to Congress within 2 years of enactment—by October 31, 1992.

The amendment would extend the 2 year deadline for submission by a year, and is necessary because the Ponca Act was signed into law on October 31, 1990, in the very early stages of fiscal year 1991. No appropriations were provided to fund the Ponca's economic development plan that year, and the tribe had to wait a full year—until fiscal year 1992—for the appropriation of its planning funds. By extending the submission deadline by 1 year, the tribe and the Secretary will be allowed a full 2 years to develop and submit the plan, in keeping with the original intent of the Congress.

Mr. Speaker, I am very pleased to note that Congressman AUCCOIN and Congressman BEREUTER—in whose districts the tribes affected by this legislation reside—both join me in sponsoring this legislation. I look forward to the support of the rest of my colleagues in moving it expeditiously through the House.

FUNDING FOR LA CROSSE NATIONAL FISH LAB

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. GUNDERSON. Mr. Speaker, for a couple of years now, I have come to the floor during consideration of the Interior appropriations bill to thank members of the committee for their support of the La Crosse National Fish Lab in La Crosse, WI. I am here today to repeat that exercise.

However, this year, in a time of big deficits, and big spending cuts, I want to point out that the committee has made an extra effort to

keep the mission of the lab on track as much as possible—not by increasing overall funding, but by prioritizing projects under the committee's jurisdiction. It is gratifying to know that the world-class work underway at the La Crosse Fish Lab warrants placement on the top of that priority list.

The single biggest aquatic problem facing the upper Mississippi River region today may very well be the threat of the zebra mussel. Last year, the species was found for the first time on the upper river, indicating that the threatening menace is descending from the Great Lakes region. There, it has caused millions of dollars of damage by clogging water intake pipes and valves, and killing other important aquatic wildlife.

Now, our region is threatened. Communities along the river stand to lose millions of dollars due to these same problems. The mussels can cause fouled water intakes, can hamper the gates and locks of our navigation dams, can possibly eliminate our native mussel population, and can cause tremendous economic loss to the towing and barge industry, due to resulting decreased fuel efficiency and massive maintenance problems.

Fortunately, the La Crosse lab has a comprehensive and targeted research program underway to combat the pest. In years past, I have made the case for funding this research at \$500,000, some of which is passed on to university cooperative research in Ohio. That base funding has been secured. Last year, I requested an additional \$350,000 for the research program, which was provided, for a total of \$850,000. That same amount was provided this year.

I remain very concerned about the projected worsening funding shortage for the lab's operations account—underfunding by \$250,000. But, given the tremendous pressure of budget constraints, I am hopeful the F&WS will make further adjustments in next year's budget request to meet these needs.

Thanks again to Chairman YATES, Representative REGULA, and members of the committee for tending to the needs of the La Crosse lab.

TRIBUTE TO FRED PALMER, JR.

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. HOLLOWAY. Mr. Speaker, I am proud to pay tribute to my constituent and good friend, Fred Palmer, Jr., of Gonzales, LA. Fred and I have known one another for years. He is an oil distributor and a plant nurseryman, whose place of business is known for raising phalaenopsis orchids, flowers which I consider to be among nature's most beautiful.

Fred served with distinction for some 10½ years in the U.S. Air Force. He piloted the B-17 in the 8th Air Force during World War II, was shot down, and was a POW in Stalag Luft I. During the Korean conflict, he was the first pilot to land in Korea after the war, the first to deliver ammunition, and he evacuated the wounded. In the end, Mr. Speaker, Fred Palmer flew the peace conference team in and out

of Tokyo and Seoul on many times. His service to his country, during times of war and peace, is a credit to him and his family.

Recently, Fred Palmer learned he only had a short time to live. He tried chemotherapy but in his own words, he gave it up "in a last ditch effort to regain some quality of life not possible under that possible life extending protocol."

I join with Fred's wife Mary and four children, Fred III, Mimi, Diane, and Vic, in paying tribute to him. He is truly a brave American hero. We would all do well to follow his example.

**CORDOVA BEACON CELEBRATES
FIRST ANNIVERSARY**

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SUNDQUIST. Mr. Speaker, on August 7, the Cordova Beacon will celebrate its first anniversary of publishing in one of the Memphis area's fastest growing communities.

I have found in my district that community newspapers contribute to an area's sense of place, and I want to commend the Beacon's publisher, Buddy Murchison, for a job well done. I look forward to seeing the Beacon grow along with the Cordova community.

GENERAL DE GALVEZ DAY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. COLEMAN of Texas. Mr. Speaker, it is a privilege for me to rise today to recognize a true friend of the American people and a hero of the War of Independence who has received little recognition for his contributions to this country. Gen. Bernardo de Galvez was born on this day and so it is especially fitting that we honor him.

I speak today on behalf of the El Paso Chapter of the Granaderos de Galvez who have made it their mission to rewrite history so it might more accurately reflect the contributions of this patriot.

De Galvez, a Spaniard who passionately believed in American independence was the youngest governor of the Spanish colonies when the Revolutionary War erupted. In the early stages of the war, de Galvez provided cattle, money, munitions, and uniforms to American freedom fighters. And he would play a truly historic role in the war's conclusion.

As General Washington battled the British in the north hoping to corner them and force a surrender, his only concern was that British troops in the south might arrive to reinforce his foe. De Galvez seized the opportunity and personally led Spanish troops against British troops in the Louisiana Territory. He and his soldiers fought valiantly and drove the British from the territories back to the Gulf of Mexico. De Galvez efforts prevented reinforcements from reaching Yorktown enabling General

Washington to secure his final War of Independence victory at Yorktown.

Mr. Speaker, Bernardo de Galvez is but one example of the many American patriots of culturally diverse backgrounds who have contributed so greatly to this country. Unfortunately, some of these citizens have been overlooked in favor of more traditional Anglo-Saxon heroes. Let us recognize today that all Americans have an appreciation of their history and the role their ancestors have played in shaping our Nation. I salute the Order of Granaderos and Damas de Galvez in their efforts to have this great man's birthday honored as a national holiday.

TRIBUTE TO RICHARD HOVORKA

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. JOHNSON of South Dakota. Mr. Speaker, I'm pleased today to be able to honor a man who brought a great deal of credit to his community, State, and Nation: South Dakota State American Legion Com. Richard Hovorka, from Tabor, SD.

Richard honorably served his country in the Korean war, serving in the Army Signal Corps from 1952 to 1954. His activities in the American Legion have included serving as a past post commander, past Bon Homme County commander, past District 7 commander, past State vice commander, and was elected to the post of State Legion commander on June 16, 1992 at Watertown, SD.

Richard has been a farmer for 35 years, has served as the treasurer of his local school board, as Bon Homme County A.S.C.S. country committeeman for 18 years, and is a proud member of South Dakota Farmers Union.

He married Sharleen Kaiser in 1956, and that union has produced three sons and one daughter; they also are the proud grandparents of seven grandchildren.

Additionally, Richard has five brothers who all served in World War II, Lloyd, Willard, Lester, Cletus, and Alvin.

Richard's community of Tabor is honoring him on Saturday, August 29, with a parade at 2 p.m., a program at 3 p.m., and a free pork barbeque to follow, with the music provided by the Tyndall Accordion Club.

Our Nation is much greater because of the sacrifice of men like Richard Hovorka, Mr. Speaker, and it is my pleasure to honor him in this forum today.

**TRIBUTE TO REV. EDMUND K.
CHENEY, S.J.**

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. EARLY. Mr. Speaker, I rise today to pay tribute to Rev. Edmund K. Cheney, S.J., who recently observed the 50th anniversary of his ordination in the Society of Jesus. Father Cheney, a native of Lowell, MA, who resides in

Worcester, was ordained a Roman Catholic priest on June 13, 1942, and has spent these five decades as an outstanding educator, missionary, social activist/reformer, and chaplain while traveling throughout the world.

Prior to his ordination, Father Cheney spent 3 years studying and teaching in the Middle East, studying Arabic in Damascus, Syria in 1936 and 1937 and teaching chemistry at Baghdad College from 1937 to 1939.

His most noteworthy accomplishment began shortly after his ordination, when he was assigned to St. Mary's Mission at Above Rocks in the parish of St. Catherine in Jamaica and initiated a social, economic, and educational revolution. With the help of the village's inhabitants, Father Cheney set to work constructing schools and community centers. He first trained villagers in the building trades, then supervised the construction as architect, contractor and engineer while these villagers contributed the labor. Father Cheney spent 15 years at Above Rocks and his work and guidance helped produce a day school, a boarding school, a trade and crafts center for vocational training, a community dispensary, a convent, and a rectory. St. Mary's College, the equivalent of an American secondary school, was the first such Catholic school on the island in nearly 50 years and perhaps represents his finest achievement.

Additionally, Father Cheney oversaw growth in manufacturing, founded a credit union, developed a poultry cooperative and served on two school boards, as chaplain of the St. Vincent de Paul Society and as a member of the board of the directors for the Jamaica Social Welfare Commission. His contributions were recognized by Queen Elizabeth II and Princess Margaret, who received him during visits to Kingston in 1953 and 1955, respectively. The Holy See sent him as its observer to the U.N. Food and Health Commission Meeting in Trinidad in 1958.

Father Cheney returned to the United States in 1960, serving 4 years as chaplain at Boston City Hospital and 16 years as chaplain at Worcester City Hospital. He has served in various capacities in a number of fraternal and community organizations and remains active in his retirement, serving as head chaplain of the New England Region of the Order of Alhambra. His missionary work has continued as well, taking him to the Bahamas for parts of the last 5 years and to the Indian reservation in Perry ME. In April of this year, he made a pilgrimage to the Jesuit shrines of Rome.

Mr. Speaker, distinguished colleagues, please join me in recognizing Father Cheney for his lifelong devotion to the church, to missionary work and to people worldwide.

**COMMENDATION FOR VERA WILEY
AND DIANNE VAUGHN**

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SUNDQUIST. Mr. Speaker, I want to share with my colleagues a real success story. It is the story of a young woman and her mother, both of whom took advantage of the

Job Training Partnership Act in Columbia, TN, and completed their high school educations.

I have been proud to support JTPA over the years because of success stories like this one in my district. I want to commend Vera Wiley and Dianne Vaughn on their diplomas, and Elaine Newcomb and her staff at JTPA in Maury County, and I ask that this article from the Daily Herald be reprinted in its entirety in the CONGRESSIONAL RECORD.

[From the Daily Herald]

FORMER DROPOUTS, MOTHER, DAUGHTER GRADUATE TOGETHER
(By Gayle Coulter)

Dianne Vaughn and her mother, Vera Wiley know what it's like to be without both a job and a high school diploma.

But they found the gumption and the help they needed to do something about it.

Vaughn, 38, said she dropped out of school when she was in the 10th grade. Wiley, 60, dropped out when she was in the ninth grade.

Both mother and daughter made the decision to seek their GEDs through the Job Training Partnership Act program in the fall of last year without knowing of the other's plan.

Vaughn had heard about the program from her case worker at the Department of Social Services. Wiley heard about it when she was working at the soon to-be-closed-down Weather Tamer factory and JTPA officials came in to outline special services offered to displaced workers.

JTPA was established by federal law in 1982 to provide economically disadvantaged individuals the training they need to hold good jobs in the private sector.

To qualify for JTPA programs, people must be out of work or earning low incomes. Many people who join the program are receiving governmental aid such as Aid to Families with Dependent Children (AFDC), food stamps or worker's compensation.

There is also a special Dislocated Worker program designed to provide new job skills for those who have lost their jobs through no fault of their own.

The various JTPA programs offer skills assessment testing, job search assistance, relocation assistance, basic education training, on-the-job training, specific industry skills training and vocational skills training.

In many cases, the JTPA can even help provide people who qualify for the programs with child care while they receive their training during the day.

Vaughn's three children were in school during the day, so child care wasn't a problem for her. She said the only part of the program that gave her any problem at all was algebra.

"I didn't understand algebra," she said. But I enjoyed geometry. I would never have taken it in high school—just the name alone would have scared me—but I really enjoyed it."

Both mother and daughter agreed classes were more fun the second time around.

"They (JTPA teachers) made it fun and interesting," Vaughn said. "We brought home

report cards. My kids would laugh and say, 'Do I get to sign your report card, mother?'"

Wiley, who worked for WeatherTamer for 22 years, became interested in JTPA because she learned about the program for displaced workers before she became one.

"A lot of things have changed since I was in school," Wiley said. "I just went up there and had fun while I was learning."

She said she was "excited, scared and shaking" when she walked across the stage to receive her GED in May. But she was "thrilled" when it was placed in her hand.

"Not many people can say, 'My grandchildren watched me graduate,'" Wiley said.

Now, at 60, she said she is continuing her education with JTPA and learning computer and typing skills.

Both women said they would definitely advise young people to finish high school and give serious thought to their career plans.

"The kids in school now ought to stay and get their diplomas," Wiley said.

"You used to could find a job in a week's time. Now you can look for a year and still not find one," Vaughn agreed.

Vaughn said she had a friend who had graduated from high school who was beaten out of a job as a dog catcher by an applicant with a college degree in "husbandry."

"There's a lot more competition and not enough jobs to go around," Vaughn said. "The more education you have, the better off you are."

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